

Renewable Energy Electricity Generating Cooperatives

In general, this Act represents agreement between property owner/generation interests and utilities that small renewable generators may be connected to the grid and the power sold. For the small electric utilities, this is a major step forward in promoting renewable generation in rural states.

Specifically, this legislation:

- Authorizes the formation of renewable generation cooperatives. This will permit landowners whose land is not leased for wind farms to aggregate their surplus generation and collectively market that power in the wholesale marketplace;
- Requires the state corporation commission, in cooperation with the state's utilities and renewable generation interests, to develop standardized interconnection criteria. This will eliminate conflict between small rural electric coops and individual property/generation owners; and
- Provides an alternative financing option for transmission line upgrades and new construction.

Submitted as:

Kansas

HB 2018

Status: Enacted into law in 2003.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as “The Renewable Energy Electricity
2 Generating Cooperative Act.”

3
4 Section 2. [*Definitions.*] As used in this Act:

5 (a) “Cooperative” means any corporation organized under the renewable energy electric
6 generation cooperative act or which becomes subject to the renewable energy electric generation
7 cooperative act in the manner hereinafter provided.

8 (b) “Person” means any natural person, firm, association, corporation, limited liability
9 company, business trust or partnership.

10 (c) “Renewable attributes” has the meaning provided in [insert citation].

11 (d) “Renewable resources or technologies” means wind, solar, thermal, photovoltaic,
12 biomass, hydropower, geothermal, waste incineration and landfill gas resources or technologies.

13
14 Section 3. [*Nonprofit Cooperatives/Membership Corporations.*] [Five] or more people
15 may organize a cooperative, nonprofit, membership corporation under the provisions of The
16 Renewable Energy Electric Generation Cooperative Act for the purposes of conducting or
17 promoting any lawful business under the [general corporation] laws of the state, generating
18 electricity from renewable resources and technologies and transmitting and selling such
19 electricity at wholesale.

20

21 Section 4. [*Powers of Renewable Energy Electric Generation Cooperatives.*]

22 (a) In addition to the powers conferred on all corporations under [insert citation], a
23 cooperative organized under this Act shall have power to:

24 (1) Sue and be sued in its corporate name;

25 (2) Have perpetual existence;

26 (3) Adopt a corporate seal and alter the same;

27 (4) Generate, either as the cooperative or as individual members of the
28 cooperative, electricity from renewable resources or technologies and transmit and sell such
29 electricity at wholesale;

30 (5) Sell renewable attributes of the cooperative or of members of the cooperative;

31 (6) Construct, purchase, lease, equip, maintain and operate, and to sell, assign,
32 convey, lease, mortgage, pledge or encumber electric transmission lines or systems, electric
33 generating plants, and lands, buildings, structures, easements and rights-of-way and equipment,
34 and any other real or personal property, tangible or intangible, necessary to accomplish the
35 purpose for which the cooperative may be organized hereunder;

36 (7) Purchase, lease as lessee or otherwise acquire, and use, and exercise and to
37 sell, assign, convey, mortgage, pledge or otherwise dispose of or encumber, franchises, rights,
38 privileges, licenses and easements;

39 (8) Borrow money and otherwise contract indebtedness, and to issue notes, bonds
40 and other evidences of indebtedness, and to secure the payment thereof by mortgage, pledge, or
41 deed of trust of, or any other encumbrance upon, any or all of its then-owned or after-acquired
42 real or personal property, assets, franchises, revenues or income;

43 (9) Construct, maintain and operate electric transmission lines along, upon, under
44 and across publicly owned lands and public thoroughfares, roads, highways, streets, alleys,
45 bridges and causeways in conformity with the laws of this state;

46 (10) Become an incorporator, promoter, manager, member, stockholder or owner
47 of other corporations or cooperatives, and conduct its business and exercise its powers within
48 this state and to participate with other persons in any corporation, limited liability company,
49 cooperative, partnership, limited partnership, joint venture or other association of any kind, or in
50 any transaction, undertaking or arrangement which the participating person would have power
51 to conduct by itself, whether or not such participation involves sharing or delegation of control
52 with or to others;

53 (11) Adopt, amend and repeal bylaws; and

54 (12) Do and perform any other acts and things, and to have and exercise any
55 other powers which may be necessary, to accomplish the purpose for which the cooperative is
56 organized.

57 (b) No cooperative organized under The Renewable Energy Electric Generation
58 Cooperative Act nor any member of such cooperative shall:

59 (1) Enter into any contract for parallel generation services pursuant to [insert
60 citation], and amendments thereto, with regard to power generated by such cooperative or
61 member from renewable resources;

62 (2) Sell electricity at retail or have a certificated territory in this state;

63 (3) Transfer or distribute electricity to any other member of the cooperative; or

64 (4) Resell electricity provided to the cooperative or member by the cooperative's
65 or member's provider of last resort.

66
67 Section 5. [*Names of Renewable Electric Generation Cooperatives.*] The name of an
68 electric generation cooperative organized under The Renewable Energy Electric Generation
69 Cooperative Act shall include the words "renewable," "generation" and "cooperative" and the

70 abbreviation “Inc.”. The name of an electric generation cooperative shall be distinct from the
71 name of any other cooperative or corporation organized under the laws of, or authorized to do
72 business in, this state. Only a cooperative doing business in this state pursuant to The
73 Renewable Energy Electric Generation Cooperative Act shall use all of the following words in
74 its name: “renewable,” “generation” and “cooperative.”
75

76 Section 6. [*Articles of Incorporation of a Renewable Energy Electric Generation*
77 *Cooperative.*]

78 (a) The articles of incorporation of a cooperative organized under this Act shall recite
79 that they are executed pursuant to this Act and shall state:

- 80 (1) The name of the cooperative;
- 81 (2) The address of its principal office;
- 82 (3) The names and addresses of the incorporators;
- 83 (4) The names and addresses of its directors; and
- 84 (5) The purposes for which it is organized.

85 (b) The articles of incorporation of a cooperative organized under The Renewable
86 Energy Electric Generation Cooperative Act may contain any provisions, not inconsistent with
87 The Renewable Energy Electric Generation Cooperative Act, which are deemed necessary or
88 advisable for the conduct of the business of the cooperative.

89 (c) The articles of incorporation shall be signed by each incorporator.
90

91 Section 7. [*Bylaws of a Renewable Energy Electric Generation Cooperative.*] The board
92 of directors shall adopt the first bylaws of a cooperative to be adopted following an
93 incorporation, conversion, merger or consolidation. Thereafter the members shall adopt, amend
94 or repeal the bylaws by the affirmative vote of a majority of those members voting thereon at a
95 meeting of the members. The bylaws shall set forth the rights and duties of members and
96 directors and may contain other provisions for the regulation and management of the affairs of
97 the cooperative not inconsistent with The Renewable Energy Electric Generation Cooperative
98 Act or with the cooperative’s articles of incorporation.
99

100 Section 8. [*Membership of a Renewable Energy Electric Generation Cooperative.*]

101 (a) Each incorporator of a cooperative shall be a member thereof. No person shall
102 become a member of the cooperative unless such person operates generation facilities which use
103 renewable resources and have a capacity of at least [100] kilowatts and agrees to generate
104 electricity using such facilities and:

- 105 (1) Transmit and sell at wholesale through the cooperative any such electricity in
106 excess of that used by the person;
- 107 (2) Sell through the cooperative renewable attributes; or
- 108 (3) Both.

109 (b) Any member of a cooperative who so agrees shall cease to be a member of the
110 cooperative if such member does not comply with the terms of the agreement within two years
111 after such person becomes a member, or such lesser period as the bylaws of the cooperative may
112 provide. A husband and wife may hold a joint membership in a cooperative. Membership in a
113 cooperative shall not be transferable, except as provided in the bylaws. The bylaws may
114 prescribe additional qualifications and limitations in respect of membership.
115

116 Section 9. [*Meetings of Members of a Renewable Energy Electric Generation*
117 *Cooperative.*]

118 (a) An annual meeting of the members of a cooperative shall be held at such time and
119 place as shall be provided in the bylaws of the cooperative.

120 (b) Special meetings of the members may be called by the president, by the board of
121 directors, by any [three] directors or by not less than [10%] of the members.

122 (c) Except as otherwise provided in The Renewable Energy Electric Generation
123 Cooperative Act, written or printed notice stating the time and place of each meeting of the
124 members and, in the case of a special meeting, the purpose or purposes for which the meeting is
125 called, shall be given to each member, either personally or by mail, not less than [10 days] nor
126 more than [35 days] before the date of the meeting. If mailed, such notice shall be deemed to be
127 given when deposited in the United States mail, with postage prepaid, addressed to the member
128 at the member's address as it appears on the records of the cooperative.

129 (d) Unless the bylaws prescribe the presence of a greater percentage or number of the
130 members for a quorum, a quorum for the transaction of business at all meetings of the members
131 of a cooperative shall be [5%] of all members, who must be present in person. If less than a
132 quorum is present at any meeting, a majority of those present in person may adjourn the meeting
133 without further notice.

134 (e) Each member shall be entitled to one vote on each matter submitted to a vote at a
135 meeting of the members. Voting shall be in person but, if the bylaws so provide, may also be by
136 proxy or by mail, or both. If the bylaws provide for voting by proxy or by mail, they shall also
137 prescribe the conditions under which voting shall be permitted. No person shall vote as proxy
138 more than three members at any meeting of the members.

139 (f) Any person entitled to notice of a meeting may waive such notice in writing either
140 before or after such meeting. If any such person shall attend such meeting, such attendance shall
141 constitute a waiver of notice of such meeting unless such person participates therein solely to
142 object to the transaction of any business because the meeting has not been legally called or
143 convened.

144

145 Section 10. [*Business Directors of a Renewable Energy Electric Generation*
146 *Cooperative.*]

147 (a) The business of a cooperative shall be managed by a board of not less than [five]
148 directors, each of whom shall be a member of the cooperative. The bylaws shall prescribe the
149 number of directors, their qualifications, other than those prescribed in The Renewable Energy
150 Electric Generation Cooperative Act, the manner of holding meetings of the board of directors
151 and of electing successors to directors who resign, die or are otherwise incapable of acting as a
152 director. The bylaws may also provide for the removal of directors from office and for the
153 election of their successors. Directors shall not receive any salary for their services as directors
154 and, except in emergencies, shall not be employed by the cooperative in any capacity involving
155 compensation without the approval of the members. The bylaws may provide that a fixed fee
156 and expenses of attendance may be allowed to each director for attendance at each meeting of
157 the board of directors and for other functions duly authorized for and on behalf of the
158 cooperative.

159 (b) The directors of a cooperative named in any articles of incorporation, consolidation,
160 merger or conversion shall hold office until the next annual meeting of the members and until
161 their successors are elected and qualify. At each annual meeting or, in case of failure to hold the
162 annual meeting as specified in the bylaws, at a special meeting called for that purpose, the
163 members shall elect directors to hold office until the next annual meeting of the members,
164 except as otherwise provided in The Renewable Energy Electric Generation Cooperative Act.
165 Each director shall hold office for the term for which elected and until a successor is elected and
166 qualifies.

167 (c) Instead of electing all the directors annually, the bylaws may provide for half of the
168 directors, or a number as near thereto as possible, to be elected to serve until the next annual
169 meeting of the members and that the remaining directors shall be elected to serve until the
170 second succeeding annual meeting. Thereafter, as directors' terms expire, the members shall
171 elect successor directors to serve until the second succeeding annual meeting after their election.

172 (d) Instead of electing the directors in the manner provided in subsection (b) or (c), the
173 bylaws may provide that the members shall be elected at such annual meetings to serve for
174 terms of [three years], except that the terms of the first directors elected pursuant to this
175 subsection may be fixed in such bylaws for a number of years not exceeding [three] and, upon
176 the expiration thereof, all members thereafter to be elected for terms of [three years].

177 (e) A majority of the board of directors shall constitute a quorum.

178 (f) If a husband and wife hold a joint membership in a cooperative, either one, but not
179 both, may be elected a director.

180
181 Section 11. [*Officers of a Renewable Energy Electric Generation Cooperative.*]

182 The officers of a cooperative shall consist of a president, vice-president, secretary and
183 treasurer. The offices shall be elected annually by and from the board of directors. When a
184 person holding any such office ceases to be a director, the person shall cease to hold such office.
185 The office of secretary and the office of treasurer may be held by the same person. The board of
186 directors may also elect or appoint such other officers, agents or employees as the board deems
187 necessary or advisable and the board shall prescribe the powers and duties of such officers,
188 agents or employees. Any officer may be removed from office and a successor elected in the
189 manner prescribed in the bylaws.

190
191 Section 12. [*Amending the Articles of Incorporation of a Renewable Energy Electric*
192 *Generation Cooperative.*] A cooperative may amend its articles of incorporation in any manner
193 not inconsistent with The Renewable Energy Electric Generation Cooperative Act by complying
194 with the following requirements: The proposed amendment shall be presented to a meeting of
195 the members, the notice of which shall set forth or have attached the proposed amendment. If
196 the proposed amendment, with any changes, is approved by the affirmative vote of not less than
197 [2/3] of those members voting at such meeting, articles of amendment shall be executed on
198 behalf of the cooperative by its president or vice-president and attested by its secretary. The
199 articles of amendment shall recite that they are executed pursuant to The Renewable Energy
200 Electric Generation Cooperative Act and shall state:

- 201 (1) The name of the cooperative;
202 (2) The address of its principal office; and
203 (3) The amendment to its articles of incorporation. The president or vice
204 president executing such articles of amendment shall make and annex thereto an affidavit stating
205 that the amendment was submitted and adopted in compliance with the provisions of this
206 section.

207
208 Section 13. [*Changing the Location of the Principal Office of a Renewable Energy*
209 *Electric Generation Cooperative.*] A cooperative, upon authorization of its board of directors or
210 its members, may change the location of its principal office to any place within this state by
211 filing, in the [office of the secretary of state], a certificate which recites such change of principal
212 office and which is executed by the cooperative's president or vice-president and attested by the
213 cooperative's secretary.

214

215 Section 14. [*Merger or Consolidation of Renewable Energy Electric Generation*
216 *Cooperatives.*]

217 (a) Any [two or more] cooperatives organized under The Renewable Energy Electric
218 Generation Cooperative Act may merge into a single cooperative, which may be any one of the
219 constituent cooperatives, or may consolidate into a new cooperative formed by the
220 consolidation, by complying with the following requirements:

221 (1) The proposition for the merger or consolidation of the cooperatives and
222 proposed articles of merger or consolidation shall be submitted to a meeting of the members of
223 each merging or consolidating cooperative, the notice of which shall have attached a copy of the
224 proposed articles of merger or consolidation; and

225 (2) If the proposed merger or consolidation and the proposed articles of merger or
226 consolidation, with any amendments, are approved by the affirmative vote of not less than [2/3]
227 of the members of each merging or consolidating cooperative voting at each such meeting, the
228 articles of merger or consolidation in the form approved shall be executed on behalf of each
229 merging or consolidating cooperative by its president or vice president and attested by its
230 secretary.

231 (b) Voting on the proposed articles of merger or consolidation shall be in accordance
232 with subsection (e) of section 9, and amendments thereto.

233 (c) The articles of merger or consolidation shall recite that they are executed pursuant to
234 The Renewable Energy Electric Generation Cooperative Act and shall state:

235 (1) The name of each merging or consolidating cooperative and the address of its
236 principal office;

237 (2) The name of the surviving or new cooperative and the address of its principal
238 office;

239 (3) A statement that each merging or consolidating cooperative agrees to the
240 merger or consolidation;

241 (4) The names and addresses of the directors of the surviving or new cooperative;
242 and

243 (5) The terms and conditions of the merger or consolidation and the mode of
244 carrying the same into effect, including the manner in which the members of the merging or
245 consolidating cooperatives may or shall become members of the surviving or new cooperative.
246 Such articles may contain any provisions, not inconsistent with The Renewable Energy Electric
247 Generation Cooperative Act, which are deemed necessary or advisable for the conduct of the
248 business of the surviving or new cooperative.

249 (d) The president or vice-president of each merging or consolidating cooperative
250 executing the articles of merger or consolidation shall make and annex thereto an affidavit
251 stating that such articles were submitted and approved in compliance with the provisions of this
252 section.

253 (e) In the case of a consolidation, the existence of the consolidating cooperatives shall
254 cease and the articles of consolidation shall be deemed to be the articles of incorporation of the
255 new cooperative. In case of a merger, the separate existence of the merging cooperatives shall
256 cease and the articles of incorporation of the surviving cooperatives shall be amended to the
257 extent, if any, that changes therein are necessary in the articles of merger.

258 (f) All the rights, privileges, immunities and franchises and all property, real and
259 personal, including applications for membership, all debts due on whatever account and all other
260 choses in action, of each consolidating or merging cooperative shall be deemed to be transferred
261 to and vested in the new or surviving cooperative without further act or deed.

262 (g) The new or surviving cooperative shall be responsible and liable for all liabilities and
263 obligations of each consolidating or merging cooperative and any claim existing or action or

264 proceeding pending by or against any of the consolidating or merging cooperatives may be
265 prosecuted as if the consolidation or merger had not taken place, but the new or surviving
266 cooperative may be substituted in its place.

267 (h) Neither the rights of creditors nor any liens upon the property of any such
268 cooperative shall be impaired by such consolidation or merger.

269

270 Section 15. [*Dissolving a Renewable Energy Electric Generation Cooperative.*]

271 (a) A cooperative which has not commenced business may be dissolved by delivering to
272 the [secretary of state] articles of dissolution which shall be executed on behalf of the
273 cooperative by a majority of the incorporators and which shall state:

274 (1) The name of the cooperative;

275 (2) The address of its principal office;

276 (3) That the cooperative has not commenced business;

277 (4) That any sums received by the cooperative, less any part thereof disbursed for
278 expenses of the cooperative, have been returned or paid to those entitled thereto;

279 (5) That no debt of the cooperative is unpaid; and

280 (6) That a majority of the incorporators elect that the cooperative be dissolved.

281 (b) A cooperative which has commenced business may be dissolved in the following
282 manner:

283 (1) The members at any meeting shall approve, by the affirmative vote of not less
284 than [2/3] of those members voting on such proposal at such meeting, a proposal that the
285 cooperative be dissolved. Upon such approval, a certificate of election to dissolve shall be
286 executed on behalf of the cooperative by its president or vice-president and attested by its
287 secretary. Such certificate shall state:

288 (A) The name of the cooperative;

289 (B) The address of its principal office; and

290 (C) That the members of the cooperative have duly voted that the
291 cooperative be dissolved. Such certificate shall be submitted to the [secretary of state] for filing,
292 together with an affidavit, made by the cooperative's president or vice-president executing the
293 certificate, stating that the statements in the certificate are true.

294 (2) Upon the filing of the certificate and affidavit by the [secretary of state], the
295 cooperative shall cease to carry on its business except to the extent necessary for the winding up
296 thereof, but its corporate existence shall continue until articles of dissolution have been filed by
297 the [secretary of state]. The board of directors shall immediately cause notice of the dissolution
298 proceedings to be mailed to each known creditor of and claimant against the cooperative and to
299 be published [once a week for two successive weeks] in a newspaper of general circulation in
300 the county where the principal office of the cooperative is located. The board of directors shall
301 wind up and settle the affairs of the cooperative, collect sums owing to it, liquidate its property
302 and assets, pay and discharge its debts, obligations and liabilities, and do all other things
303 required to wind up its business, and after paying or discharging or adequately providing for the
304 payment or discharge of all its debts, obligations and liabilities, shall distribute any remaining
305 sums among its members and former members in proportion to the patronage of the respective
306 members or former members during the [seven years] next preceding the date of the filing of the
307 certificate by the [secretary of state] or, if the cooperative has not been in existence for such
308 period, then during the period of its existence prior to such filing. The board of directors shall
309 thereupon authorize the execution of articles of dissolution, which shall be executed on behalf of
310 the cooperative by its president or vice-president, and attested by its secretary.

311 (3) The articles of dissolution shall recite that they are executed pursuant to The
312 Renewable Energy Electric Generation Cooperative Act and shall state:

- 313 (A) The name of the cooperative;
314 (B) The address of its principal office;
315 (C) The date on which the certificate of election to dissolve was filed by
316 the secretary of state;
317 (D) That there are no actions or suits pending against the cooperative;
318 (E) That all debts, obligations and liabilities of the cooperative have been
319 paid and discharged or that adequate provision has been made therefore; and
320 (F) That the preceding provisions of this subsection have been duly
321 complied with.

322 (c) The president or vice-president executing the articles of dissolution shall make and
323 annex thereto an affidavit stating that the statements made therein are true.

324
325 Section 16. [*Presenting Certain Articles to the Secretary of State.*]

326 Articles of incorporation, amendment, consolidation, merger, conversion or dissolution,
327 when executed and accompanied by such affidavits as required by applicable provisions of The
328 Renewable Energy Electric Generation Cooperative Act, shall be presented to the [secretary of
329 state] for filing in the records of the secretary's office. If the [secretary of state] finds that the
330 articles presented conform to the requirements of the renewable energy electric generation
331 cooperative act, the secretary, upon the payment of the fees provided by The Renewable Energy
332 Electric Generation Cooperative Act, shall file such articles in the records of the [secretary's]
333 office. Upon such filing the incorporation, amendment, consolidation, merger, conversion or
334 dissolution shall be in effect. The provisions of this section shall also apply to certificates of
335 election to dissolve and affidavits executed in connection with such certificates of election to
336 dissolve pursuant to subsection (b) of section 17, and amendments thereto.

337
338 Section 17. [*Distributing Revenues of a Renewable Energy Electric Generation*
339 *Cooperative.*]

340 (a) Except as otherwise determined by a vote of the members of the cooperative,
341 revenues of a cooperative for any fiscal year in excess of the following shall be distributed by
342 the cooperative to its members in accordance with the bylaws of the cooperative:

343 (1) Amounts necessary to defray the expenses of operation and maintenance of
344 facilities of the cooperative during such fiscal year;

345 (2) Amounts necessary to pay interest and principal obligations of the
346 cooperative coming due in such fiscal year;

347 (3) Amounts necessary to finance, or to provide a reserve for the financing of, the
348 construction or acquisition by the cooperative of additional facilities to the extent determined by
349 the board of directors;

350 (4) Amounts necessary to provide a reasonable reserve for working capital;

351 (5) Amounts necessary to provide a reserve for the payment of indebtedness of
352 the cooperative in an amount not less than the total of the interest and principal payments in
353 respect thereof required to be made during the next following fiscal year.

354 (b) Nothing herein contained shall be construed to prohibit the payment by a cooperative
355 of all or any part of its indebtedness prior to the date when the same shall become due.

356
357 Section 18. [*Pledging the Assets of a Renewable Energy Electric Generation*
358 *Cooperative.*]

359 (a) The board of directors of a cooperative shall have full power and authority, without
360 authorization by the members thereof, to authorize the execution and delivery of a mortgage or
361 mortgages or a deed or deeds of trust of, or the pledging or encumbering of, any or all of the

362 property, assets, rights, privileges, licenses, franchises and permits of the cooperative, whether
363 acquired or to be acquired, and wherever situated, as well as the revenues and income
364 therefrom, all upon such terms and conditions as the board of directors shall determine, to
365 secure any indebtedness of the cooperative.

366 (b) A cooperative may not otherwise sell, mortgage, lease or otherwise dispose of or
367 encumber all or a substantial portion of its property unless such sale, mortgage, lease or other
368 disposition or encumbrance is authorized by the affirmative vote of not less than a majority of
369 all the members of the cooperative.

370

371 Section 19. [*Liability of Renewable Energy Electric Generation Cooperative Members*
372 *for Cooperative Debts.*] No member of a cooperative shall be liable or responsible for any debts
373 of the cooperative and the property of the members shall not be subject to execution therefor.

374

375 Section 20. [*Mortgages, Deeds or Trusts or Other Instruments Executed by a Renewable*
376 *Energy Electric Generation Cooperative Doing Business in this State.*] Any mortgage, deed or
377 trust or other instrument executed by a cooperative doing business in this state pursuant to The
378 Renewable Energy Electric Generation Cooperative Act, which affects real and personal
379 property and which is recorded in the real property records in any county in which such property
380 is located or is to be located, shall have the same force and effect as if the mortgage, deed of
381 trust or other instrument were also recorded, filed or indexed as provided by law in the proper
382 office in such county as a mortgage of personal property. All after-acquired property of such
383 cooperative described or referred to as being mortgaged or pledged in any such mortgage, deed
384 of trust or other instrument, shall become subject to the lien thereof immediately upon the
385 acquisition of such property by such cooperative, whether or not such property was in existence
386 at the time of the execution of such mortgage, deed or trust or other instrument. Recordation of
387 any such mortgage, deed of trust or other instrument shall constitute notice and otherwise have
388 the same effect with respect to such after-acquired property as it has under the laws relating to
389 recordation, with respect to property owned by such cooperative at the time of the execution of
390 such mortgage, deed of trust or other instrument and therein described or referred to as being
391 mortgaged or pledged thereby. The lien upon personal property of any such mortgage, deed of
392 trust or other instrument, after recordation thereof, shall continue in existence and of record for
393 the period of time specified therein without the refiling thereof or the filing of any renewal
394 certificate, affidavit or other supplemental information required by the laws relating to the
395 renewal, maintenance or extension of liens upon personal property.

396

397 Section 21. [*Action or Suits Affecting an Easement or Lease Against a Renewable*
398 *Energy Electric Generation Cooperative or its Agent, Servant or Employee.*] No action or suit
399 affecting an easement or lease may be brought against a cooperative doing business in this state
400 pursuant to The Renewable Energy Electric Generation Cooperative Act, or against any agent,
401 servant or employee thereof, by reason of the maintenance of electric transmission lines on any
402 real property after the expiration of a period of [two years] of continuous maintenance of such
403 lines without the consent of the person or persons legally entitled to object to such maintenance.

404

405 Section 22. [*Taking Acknowledgments.*] No person who is authorized to take
406 acknowledgments under the laws of this state shall be disqualified from taking
407 acknowledgments of instruments executed in favor of a cooperative or to which it is a party, by
408 reason of being an officer, director or member of such cooperative.

409

410 Section 23. [*Jurisdiction and Control over a Renewable Energy Electric Generation*
411 *Cooperative.*]

412 (a) Cooperatives doing business in this state pursuant to The Renewable Energy Electric
413 Generation Cooperative Act shall be subject to the jurisdiction and control of the [state
414 corporation commission] of this state in those provisions of [insert citation] applicable to
415 electric utilities.

416 (b) No merger or consolidation of any cooperative organized under the provisions of The
417 Renewable Energy Electric Generation Cooperative Act shall become effective until approved
418 by the [state corporation commission].

419

420 Section 24. [*Provisions of State Securities Act as Applied to Renewable Energy Electric*
421 *Generation Cooperatives.*] The provisions of the [state securities act] shall not apply to any
422 note, bond or other evidence of indebtedness issued by any cooperative doing business in this
423 state pursuant to The Renewable Energy Electric Generation Cooperative Act to the United
424 States of America or any agency or instrumentality thereof, or to any mortgage, deed of trust or
425 other instrument executed to secure the same. The provisions of such [state securities act] shall
426 not apply to the issuance of membership certificates by any cooperative.

427

428 Section 25. [*Annual Report of a Renewable Energy Electric Generation Cooperative.*]

429 (a) Every cooperative organized under The Renewable Energy Electric Generation
430 Cooperative Act shall make an annual report in writing to the [secretary of state], showing the
431 financial condition of the cooperative at the close of business on the last day of its tax period
432 next preceding the date of filing, but if any such cooperative's tax period is other than the
433 calendar year, it shall give notice thereof to the [secretary of state] prior to [December 31] of the
434 year it commences such tax period. The report shall be filed on or before the [15th] day of the
435 [fourth] month following the close of the tax year of the electric cooperative. An extension for
436 filing the annual report may be granted upon the filing of a written application with the
437 [secretary of state] prior to the due date of the report, except that no such extension may be
438 granted for a period of more than [90] days. The report shall be made on a form provided by the
439 [secretary of state], containing the following information:

440

(1) The name of the cooperative;

441

(2) The location of the principal office of the cooperative;

442

(3) The names and addresses of the president, secretary, treasurer and directors of
443 the cooperative;

444

(4) The number of members of the cooperative;

445

(5) A balance sheet showing the financial condition of the cooperative at the
446 close of business on the last day of its tax period next preceding the date of filing; and

447

(6) The change or changes, if any, in the particulars made since the last annual
448 report.

449

(b) The annual report shall be signed by the president, vice-president or secretary of the
450 cooperative, sworn to before an officer duly authorized to administer oaths, and forwarded to
451 the [secretary of state]. At the time of filing such annual report, the cooperative shall pay an
452 annual franchise tax of [\$20].

453

454 Section 26. [*Payment of Costs of Use of Distribution and Transmission Systems by a*
455 *Renewable Energy Electric Generation Cooperative.*] A cooperative organized under The
456 Renewable Energy Electric Generation Cooperative Act shall pay the costs of use of distribution
457 and transmission systems by the cooperative to transmit electricity, the costs of a generation
458 interconnect study to the extent required by the standard provisions for agreements for

459 interconnection and the costs of transmission system improvements, other upgrades and
460 metering necessary for system operation. The cooperative shall negotiate with the owners of
461 distribution and transmission systems for the purpose of determining such costs.
462

463 Section 27. [*Retail Electric Supplier Fees to a Renewable Energy Electric Generation*
464 *Cooperative.*] If a member of a cooperative organized under The Renewable Energy Electric
465 Generation Cooperative Act is located within the certificated territory of a retail electric
466 supplier, such supplier may charge such member of the cooperative a monthly fee which reflects
467 the cost of providing standby electric service, distribution system repair and maintenance and
468 other reasonable costs of being the provider of last resort.
469

470 Section 28. [*Agreements between a Renewable Energy Electric Generation Cooperative*
471 *and the Owner are Subject to Safety and Reliability Criteria.*] Any agreement between a
472 cooperative organized under The Renewable Energy Electric Generation Cooperative Act and
473 the owner of distribution or transmission lines directly interconnecting with generation facilities
474 of members of such cooperative for use of such lines by the cooperative shall require that all
475 safety, system reliability and other appropriate issues shall have been satisfactorily resolved by
476 the parties prior to the cooperative's first delivery of electricity.
477

478 Section 29. [*Using Bonds to Build or Upgrade Electric Transmission Lines and Related*
479 *Appurtenances.*]

480 (a) As used in this section:

481 (1) "Appurtenances" means all substations, towers, poles and other structures and
482 equipment necessary for the bulk transfer of electricity.

483 (2) "Electric transmission line" means any line or extension of a line which is at
484 least [five miles] long and which is used for the bulk transfer of electricity.

485 (b) The state [development finance authority] is hereby authorized to issue revenue
486 bonds in amounts sufficient to pay the following described costs of construction, upgrading and
487 acquisition, including any required interest on the bonds during such construction, upgrading
488 and acquisition, plus all amounts required for the costs of bond issuance and any required
489 reserves on the bonds:

490 (1) Construction or upgrading of electric transmission lines and appurtenances to
491 be used for the transfer of 69 kilovolts or more of electricity;

492 (2) Acquisition of the right-of-way on which transmission lines and
493 appurtenances to be used for the transfer of 69 kilovolts or more of electricity are to be
494 constructed; and

495 (3) Upgrading of electric transmission lines and appurtenances to be used for the
496 transfer of 69 kilovolts or more of electricity. The bonds, and interest thereon, issued pursuant to
497 this section shall be payable from revenues derived from use of the transmission lines.

498 (c) The provisions of [insert citation] shall not prohibit the issuance of bonds by the state
499 [development finance authority] for the purposes of this section and any such issuance of bonds
500 is exempt from the provisions of [insert citation] and amendments thereto, which would operate
501 to preclude such issuance.

502 (d) Revenue bonds, including refunding revenue bonds, issued hereunder shall not
503 constitute an indebtedness of this state, nor shall they constitute indebtedness within the
504 meaning of any constitutional or statutory provision limiting the incurring of indebtedness.

505 (e) Revenue bonds, including refunding revenue bonds, issued hereunder and the income
506 derived therefrom are and shall be exempt from all state, county and municipal taxation in this
507 state, except state [estate taxes].

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Section 30. [*Agreements and Fees for Interconnecting Facilities of an Electric Public Utility with A Renewable Energy Electric Generator.*] On or before [insert date], the [state corporation commission] shall establish standard provisions, including applicable fees, for agreements providing for interconnection between the facilities of an electric public utility, as defined by [insert citation], and a generator which generates electricity from renewable resources or technologies, as defined by section 2 of this Act, and amendments thereto.

Section 31. [*Severability.*] [Insert severability clause.]

Section 32. [*Repealer.*] [Insert repealer clause.]

Section 33. [*Effective Date.*] [Insert effective date.]