

**CHAPTER 4****(HB 275)**

AN ACT relating to the sale of electric power from cooperatives to nonmembers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 279.120 is amended to read as follows:

- (1) Except as provided in subsections (2), ~~and~~ (3), **and (4)** of this section, corporations formed under this chapter shall supply electric energy, furnish services and sell personal property, except that transferred in part payment for other personal property, to their members only.
- (2) Except as provided in **subsections** ~~subsection~~ (3), **(4), and (5)** of this section and in KRS 279.125, any corporation formed under this chapter may supply electric energy, furnish services and sell property, to the extent of not more than forty-nine percent (49%) of its total business, to nonmembers of the corporation, including any federal agency, any state, and any county, city or political subdivision.
- (3) A corporation formed under this chapter may sell and lease back any part or all of its property free of the restrictions contained in subsections (1) and (2) of this section, or any other section of the Kentucky Revised Statutes except that such sale shall be subject to KRS 279.140.
- (4) *A corporation formed under this chapter on or before December 31, 2005, may supply electric energy to a nonmember of the corporation free of the restrictions contained in subsections (1) and (2) of this section only if:*
  - (a) *The hourly amount of electric energy supplied is produced by a generator owned or leased by the corporation; and*
  - (b) *The hourly amount of electric energy supplied was previously used by a member of the corporation, which is also a corporation formed under this chapter on or before December 31, 2005, to provide electric service to a retail customer with an annual hourly peak electric energy requirement of more than two hundred (200) megawatts.*
- (5) *A sale of electric energy authorized by subsection (4) of this section shall be considered member business for purposes of subsection (2) of this section.*
- (6) *A corporation formed under this chapter that is supplying electric energy to a nonmember of the corporation under subsections (4) and (5) of this section may acquire a new base load generating facility for its system by purchase, lease, or construction only if, at the time the corporation enters into a binding commitment for the acquisition of the new base load generating facility, the number of megawatts the corporation is supplying to nonmembers of the corporation is forty-nine percent (49%) or less of the total number of megawatts that the corporation is supplying to all persons.*

**Approved February 23, 2006.**