

3  
4 **SENATE BILL No. 177**

5  
6 By Committee on Utilities

7  
8 1-31

9  
10 AN ACT concerning certain electric generation facilities; relating to reg-  
11 ulation and taxation thereof; amending K.S.A. 2000 Supp. 66-104 and  
12 79-5a01 and repealing the existing sections.

13  
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2000 Supp. 66-104 is hereby amended to read as  
16 follows: 66-104. (a) The term "public utility," as used in this act, shall be  
17 construed to mean every corporation, company, individual, association of  
18 persons, their trustees, lessees or receivers, that now or hereafter may  
19 own, control, operate or manage, except for private use, any equipment,  
20 plant or generating machinery, or any part thereof, for the transmission  
21 of telephone messages or for the transmission of telegraph messages in  
22 or through any part of the state, or the conveyance of oil and gas through  
23 pipelines in or through any part of the state, except pipelines less than 15  
24 miles in length and not operated in connection with or for the general  
25 commercial supply of gas or oil, and all companies for the production,  
26 transmission, delivery or furnishing of heat, light, water or power. No  
27 cooperative, cooperative society, nonprofit or mutual corporation or as-  
28 sociation which is engaged solely in furnishing telephone service to sub-  
29 scribers from one telephone line without owning or operating its own  
30 separate central office facilities, shall be subject to the jurisdiction and  
31 control of the commission as provided herein, except that it shall not  
32 construct or extend its facilities across or beyond the territorial boundaries  
33 of any telephone company or cooperative without first obtaining approval  
34 of the commission. As used herein, the term "transmission of telephone  
35 messages" shall include the transmission by wire or other means of any  
36 voice, data, signals or facsimile communications, including all such com-  
37 munications now in existence or as may be developed in the future.

38 (b) The term "public utility" shall also include that portion of every  
39 municipally owned or operated electric or gas utility located outside of  
40 and more than three miles from the corporate limits of such municipality,  
41 but nothing in this act shall apply to a municipally owned or operated  
42 utility, or portion thereof, located within the corporate limits of such  
43 municipality or located outside of such corporate limits but within three

1 miles thereof except as provided in K.S.A. 66-131a, and amendments  
2 thereto.

3 (c) Except as herein provided, the power and authority to control and  
4 regulate all public utilities and common carriers situated and operated  
5 wholly or principally within any city or principally operated for the benefit  
6 of such city or its people, shall be vested exclusively in such city, subject  
7 only to the right to apply for relief to the corporation commission as  
8 provided in K.S.A. 66-133, and amendments thereto, and to the provi-  
9 sions of ~~K.S.A. 66-131a~~ and K.S.A. 2000 Supp. 66-104e, and amendments  
10 thereto. A transit system principally engaged in rendering local transpor-  
11 tation service in and between contiguous cities in this and another state  
12 by means of street railway, trolley bus and motor bus lines, or any com-  
13 bination thereof, shall be deemed to be a public utility as that term is  
14 used in this act and, as such, shall be subject to the jurisdiction of the  
15 commission.

16 (d) The term “public utility” shall not include any activity of an oth-  
17 erwise jurisdictional corporation, company, individual, association of per-  
18 sons, their trustees, lessees or receivers as to the marketing or sale of  
19 compressed natural gas for end use as motor vehicle fuel.

20 (e) *At the option of an otherwise jurisdictional entity, the term “public*  
21 *utility” shall not include any activity or facility of such entity as to the*  
22 *generation, marketing and sale of electricity generated by an electric gen-*  
23 *eration facility or addition to an electric generation facility which:*

24 (1) **Is newly constructed and placed in service on or after January**  
25 **1, 2001;**

26 ~~(2) (A) is coal fired; or (B) uses natural gas to generate electricity;~~  
27 and

28 ~~(3) (2) is not in the rate base of: (A) An electric public utility that is~~  
29 ~~subject to rate regulation by the state corporation commission; (B) any~~  
30 ~~cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or~~  
31 ~~any nonstock member-owned cooperative corporation incorporated in~~  
32 ~~this state; or (C) a municipally owned or operated electric utility.~~

33 **(f) Additional generating capacity achieved through efficiency**  
34 **gains by refurbishing or replacing existing equipment at generating**  
35 **facilities placed in service before January 1, 2001, shall not qualify**  
36 **under subsection (e).**

37 New Sec. 2. (a) As used in this section, “independent power pro-  
38 ducer property” means **all or any portion of** property used solely in the  
39 generation, marketing and sale of electricity generated by an electric gen-  
40 eration facility described in subsection (e) of K.S.A. 66-104, and amend-  
41 ments thereto.

42 (b) For all taxable years commencing on or after January 1, 2001,  
43 independent power producer property is commercial and industrial prop-

1 erty assessed at the rate of 25% for the purposes of taxation of real prop-  
2 erty and tangible personal property.

3 **(c) For purposes of property and ad valorem taxes, independent**  
4 **power producer property of the nature itemized in federal energy**  
5 **regulatory commission plant accounts (1) 312, 313, 314, 315 and**  
6 **316; (2) 322, 323, 324 and 325; (3) 332, 333, 334, 335 and 336; or**  
7 **(4) 342, 343, 344, 345 and 346 of the code of federal regulations**  
8 **(18 C.F.R. 101), shall be tangible personal property.**

9 Sec. 3. K.S.A. 2000 Supp. 79-5a01 is hereby amended to read as  
10 follows: 79-5a01. (a) As used in this act, the terms “public utility” or  
11 “public utilities” shall mean every individual, company, corporation, as-  
12 sociation of persons, lessees or receivers that now or hereafter are in  
13 control, manage or operate a business of:

14 (1) A railroad or railroad corporation if such railroad or railroad cor-  
15 poration owns or holds, by deed or other instrument, an interest in right-  
16 of-way, track, franchise, roadbed or trackage in this state;

17 (2) transmitting to, from, through or in this state telegraphic  
18 messages;

19 (3) transmitting to, from, through or in this state telephonic messages;

20 (4) transporting or distributing to, from, through or in this state nat-  
21 ural gas, oil or other commodities in pipes or pipelines, or engaging pri-  
22 marily in the business of storing natural gas in an underground formation;

23 (5) generating, conducting or distributing to, from, through or in this  
24 state electric power;

25 (6) transmitting to, from, through or in this state water if for profit  
26 or subject to regulation of the state corporation commission;

27 (7) transporting to, from, through or in this state cargo or passengers  
28 by means of any vessel or boat used in navigating any of the navigable  
29 watercourses within or bordering upon this state.

30 (b) The terms “public utility” or “public utilities” shall not include:

31 (1) Rural water districts established under the laws of the state of Kansas;

32 or (2) any individual, company, corporation, association of persons, lessee  
33 or receiver owning or operating an oil or natural gas production gathering

34 line which is situated within one county in this state and does not cross  
35 any state boundary line; (3) any individual, company, corporation, asso-

36 ciation of persons, lessee or receiver owning any vessel or boat operated  
37 upon the surface of any manmade waterway located entirely within one

38 county in the state; ~~or~~ (4) for all taxable years commencing after Decem-  
39 ber 31, 1998, any natural gas distribution system which is owned and

40 operated by a nonprofit public utility described by K.S.A. 66-104c, and  
41 amendments thereto, and which is operated predominantly for the pur-

42 pose of providing fuel for the irrigation of land devoted to agricultural  
43 use; or (5) for all taxable years commencing on or after January 1, 2001,

1 *at the option of the taxpayer, the taxpayer's business of generating, mar-*  
2 *keting and selling electricity generated by an electric generation facility*  
3 *described in subsection (e) of K.S.A. 66-104, and amendments thereto.*

4 Sec. 4. K.S.A. 2000 Supp. 66-104 and 79-5a01 are hereby repealed.

5 Sec. 5. This act shall take effect and be in force from and after its  
6 publication in the statute book.

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43