

SENATE BILL No. 310

By Committee on Utilities

1-15

10 AN ACT relating to public utilities; concerning the subsidization of non-
11 regulated affiliates.

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

14 Section 1. (a) The state corporation commission shall ensure that a
15 public utility, as defined in K.S.A. 66-104, and amendments thereto, does
16 not use regulated operations to subsidize nonregulated activities of such
17 utility or to subsidize activities of an affiliated entity. ~~The commission~~
18 ~~shall ensure that the nonregulated activities of a public utility or affiliated~~
19 ~~entity do not materially impair the finances or credit of a public utility.~~
20 ~~The commission shall have full power and authority to adopt all reason-~~
21 ~~able and necessary rules and regulations and orders for carrying out this~~
22 ~~section. **Nothing in this section shall affect any authority of the state**~~
23 ~~**corporation commission with regard to any member or consumer**~~
24 ~~**owned public utility or to a telecommunications public utility.**~~

25 *(b) The commission shall ensure that the nonregulated activities*
26 *of a public utility or affiliated entity do not materially impair the*
27 *finances or credit of a public utility.*

28 *(c) The commission shall have full power and authority to adopt*
29 *all reasonable and necessary rules and regulations and orders for*
30 *carrying out this section.*

31 ~~(b)~~ *(d)* As used in this section:

32 (1) "Affiliate" or "affiliated entity" means any person, including an
33 individual, corporation, firm, partnership, limited liability partnership,
34 limited liability company, corporation or firm, corporate entity or subsidi-
35 ary, ~~and or~~ nonutility business unit which is not a public utility and which
36 directly or indirectly, through one or more intermediaries, is controlled
37 by or is under common control with a public utility.

38 (2) "Control", including the terms "controlled by" and "common con-
39 trol", means the direct or indirect possession of the power to direct or
40 the ability to cause the direction of the management or policies of an
41 entity. Control may exist whether the power to direct or ability to cause
42 the direction is exercised alone, through one or more intermediary enti-
43 ties or in conjunction with or pursuant to an agreement with one or more

1 other entities. Control may be exercised through a majority or minority
2 ownership or voting of securities, common directors, officers or stock-
3 holders, voting trusts, holding trusts, affiliated entities, contract or any
4 other direct or indirect means. The beneficial ownership of 10% or more
5 of voting securities or partnership interest of an entity constitutes control
6 for purposes of this article.

7 (3) “~~Nonutility~~ **Nonregulated** activity” means all business activities,
8 whether performed by the public utility or an affiliate, not involving the
9 utility business for which the public utility is certificated.

10 (4) “Nonutility business unit” means any division, business unit, em-
11 ployee or group of employees of a public utility conducting a ~~nonutility~~
12 **nonregulated** activity.

13 Sec. 2. This act shall take effect and be in force from and after its
14 publication in the statute book.