

As Amended by House Committee

Session of 2006

HOUSE BILL No. 2932

By Representative Kuether

2-14

10 AN ACT concerning utilities; relating to jurisdiction of the state corpo-
11 ration commission; amending K.S.A. 2005 Supp. 66-104 and repealing
12 the existing section.
13

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

15 Section 1. K.S.A. 2005 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. 66-104e, and amendments thereto. A transit system prin-
10 cipally engaged in rendering local transportation service in and between
11 contiguous cities in this and another state by means of street railway,
12 trolley bus and motor bus lines, or any combination thereof, shall be
13 deemed to be a public utility as that term is used in this act and, as such,
14 shall be subject to the jurisdiction of the commission.

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

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

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

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

31 (f) Additional generating capacity achieved through efficiency gains
32 by refurbishing or replacing existing equipment at generating facilities
33 placed in service before January 1, 2001, shall not qualify under subsec-
34 tion (e).

35 (g) For purposes of the authority to appropriate property through
36 eminent domain, the term “public utility” shall not include any activity
37 for the siting or placement of wind powered electrical generators or tur-
38 bines, including the towers.

39 **(h) The term “public utility” shall not include a wind powered**
40 **electric generation facility which is not in the rate base of: (1) An**
41 **electric public utility that is subject to rate regulation by the state**
42 **corporation commission; (2) any cooperative, as defined by K.S.A.**
43 **17-4603, and amendments thereto, or any nonstock member-**

- 1 **owned cooperative corporation incorporated in this state; or (3) a**
- 2 **municipally owned or operated electric utility.**
- 3 Sec. 2. K.S.A. 2005 Supp. 66-104 is hereby repealed.
- 4 Sec. 3. This act shall take effect and be in force from and after its
- 5 publication in the statute book.