

Approved: Feb. 5, 1997
Date

MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Pat Ranson 1:30 p.m. on January 29, 1997 in Room 123-S of the Capitol.

All members were present

Committee staff present: Lynne Holt, Legislative Research Department
Fred Carman, Revisor of Statutes
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:
Emery Biro, member, Gas Gathering Task Force
David Pierce, Professor, Washburn University School of Law

Others attending: See attached list

Chairperson Ranson called the meeting to order and recognized Sen. Sallee for introduction of bills as recommended by the Task Force on Gas Gathering. Sen. Sallee explained one proposal involves disclosure on gas payment stubs, and the second involves the complaint process for gas gathering operations. Sen. Sallee made a motion the bills be introduced, and it was seconded by Sen. Morris; the motion passed.

Sen. Ranson introduced Emery Biro, who appeared to give the Minority Report from the Task Force on Gas Gathering (Attachment 1). Mr. Biro, Attorney for Anadarko Petroleum Corporation, explained that even though Anadarko Petroleum is a Houston Corporation, they have invested \$30 million dollars in capital investments in 1995 and produced 89 million cubic feet of natural gas in Kansas. He stated that Anadarko has had a gathering system in place in Southwest Kansas since 1988, and that 41% of their production comes from Kansas.

Mr. Biro asked the committee to make modifications to the proposed complaint-based regulation. He also stated that the majority of the Task Force did not agree that regulating gas gathering as a public utility was the right way to proceed and that it is time consuming and expensive. Mr. Biro concluded his presentation by stating it is incumbent upon this committee to have compelling arguments for regulating gas gathering, and urged them to look to the Resource Conservation Statute, if they consider regulation. Sen. Ranson thanked Mr. Biro for returning to give the Minority Report and suggested when the committee considers the gas gathering bills, he bring proposed language for committee consideration. It was also noted there were two Minority Reports to the Task Force.

Chairperson Ranson introduced David Pierce, who briefed the committee on the fundamentals of gas gathering by showing slides and walking the committee through the past fifty years of facts regarding the interstate and intrastate transportation of gas. He also discussed the Natural Gas Act, which gave states the authority to regulate gas gathering. He also submitted gas gathering background information (Attachment 2).

Committee members questioned Mr. Pierce regarding **HB 2041-contractor/subcontractor has six months to file lien against nonresidential property**, regulation by FERC, linkage in the energy field, and spin-downs and spin-offs. Sen. Lee questioned regulating gas gathering as a common carrier vs regulating it under the complaint-based concept. Sen. Barone asked if there is litigation pending to test the validity of either concept, and Mr. Pierce answered there is none that he knows of. He also stated the difficulty in defining a "small operator" and suggested that Don Schnacke might be able to furnish statistics to the committee, and Mr. Schnacke agreed to do so. Sen. Ranson and Mr. Pierce discussed the natural monopoly aspect, and Mr. Pierce stated that FERC expects the states to regulate gas gathering, and that the committee should realize that no gathering system is the same. She also asked Mr. Pierce if, under Chapter 66, the authority to regulate includes gathering systems, and he replied that it could.

Meeting adjourned at 2:30

Next meeting is scheduled for January 30, 1997.

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: JAN. 29, 1997

NAME	REPRESENTING
EMERY J. BIRRO	ANADARKO PETROLEUM CORP
DAVID E. PIERCE	WASHBURN U. LAW SCHOOL
Whitney Dameron	Anadarko Petroleum Corp.
Roger Touval	KGC
Brenda Parks	Jonathan Small
John Kowalch	
Don Schwack	ICIOGN
Doug Smith	SWKROA
Samartha Bowman	Sen. Ransom
Scott Liljgren	Sen. Bond
William Wix	Ks. Corp. Comm
Nancy Heinz	" " "
Joe Staskal	Williams Field Services
Bernard E. Nordling	SWKROA
Russ Bishop	Pan Energy Corp.
Jack Graves	Pan Energy - KN + Oxy
Montgomery Escue	C.C.E.
Shirley Lusco-Strong	SHERMAN JONES (WASHBURN)
DANA B SCHLOSSER	PETE MCGILL & ASSOC

ATTACH 1

TO: Senator Pat Ranson, Chair
and the Senate Utilities Committee

FROM: Mr. Emery J. Biro, III
Senior Attorney
Anadarko Petroleum Corporation
17001 Northchase Drive
Houston, Texas 77060
(281) 874-3205

Member, Governor's Task Force on Natural Gas Gathering

RE: Natural Gas Gathering

DATE: January 29, 1997

As a member of the Governor's Gas Gathering Task Force and a co-sponsor of the Task Force Minority Report, I would like to make the following observations and recommendations to the members of the Senate Utilities Committee:

- I. **THERE HAS BEEN NO DEMONSTRATED NEED BEFORE THE TASK FORCE FOR GAS GATHERING REGULATION.**
 - A. Testimony before the Task Force consisted primarily of unsubstantiated claims by several small producers of unwarranted gathering rate increases, with no opportunity for rebuttal or explanation by the relevant gatherer.
 - B. In many cases, increases in gathering rates are associated with the installation of compression which is necessary to offset declining reservoir pressures in the Hugoton.
 - C. A significant amount of gathering in Kansas has never been subject to FERC regulation, yet has taken place largely without incident.
 - D. Despite FERC's default contract requirement, the vast majority of gathering contracts for service on spun-down or spun-off facilities have been mutually agreed upon by producers and gatherers.
 - E. Default contracts are being offered/honored by gatherers despite the federal court remand to FERC.

SENATE UTILITIES
1-29-97
ATT. 1

II. PUBLIC UTILITY REGULATION IS AN UNWORKABLE AND UNDESIRABLE FORM OF GATHERING REGULATION.

- A. All segments of the natural gas industry, including small independent producers, oppose public utility regulation of gathering because of the time and expense involved.
- B. Additionally, public utility regulation is inappropriate for gathering because:
 - 1. Gatherers do not operate in franchised service territories which are legally protected from competition, and are not guaranteed a minimum rate of return on their investment.
 - 2. Gathering rates are not susceptible to advance determination in a manner which will not require subsidization of some producers by other producers.
 - 3. Public utility, cost-of-service regulation may well result in increased costs, as illustrated by public utility rates for irrigation gas service.

III. THE COMPLAINT-BASED REGULATION PROPOSED BY THE TASK FORCE IS UNWORKABLE, AND WILL NECESSARILY LEAD TO UNNECESSARY AND COUNTERPRODUCTIVE GOVERNMENT INVOLVEMENT IN THE NATURAL GAS INDUSTRY.

- A. There is no meaningful distinction between the basis for a complaint under the resource conservation statute and a complaint under the public utility statute.
- B. The standards incorporated in the proposed resource conservation statute are overly vague (eg., "unfair" gathering fees) and will result in excessive and expensive litigation before the KCC.
- C. Unlike the Oklahoma approach which recognizes limited protections for gatherers against frivolous complaints, the Task Force proposal contains no such protections, even where competitive gathering conditions exist.

IV. THE LEGISLATURE MUST DETERMINE WHETHER THERE IS A COMPELLING NEED FOR GATHERING REGULATION IN KANSAS AT THIS TIME. IF SUCH A DETERMINATION IS MADE, THEN A REASONABLE APPROACH TO COMPLAINT-BASED REGULATION UNDER THE RESOURCE CONSERVATION STATUTE SHOULD BE CONSIDERED.

Gas Gathering Background Information

by

David E. Pierce
Professor of Law
Washburn University School of Law

* Pre-1938

Interstate transportation of gas, and the sale of gas for resale, were subject to exclusive federal regulation. State regulation was preempted by the Commerce Clause.

* 1938

Congress passed the Natural Gas Act to regulate interstate transportation of gas and the sale of gas for resale. However, the Act specifically excluded from federal regulation the following activities:

- 1) Intrastate transportation of gas.
- 2) Sales of gas that are for use and not resale.
- 3) Local distribution of gas.
- 4) Production of gas.
- 5) Gathering of gas.

* 1938 to 1985

The federal regulatory agency administering the Natural Gas Act (Federal Power Commission (FPC) until 1977 and the Federal Energy Regulatory Commission (FERC) since 1977) regulated all aspects of the transportation and sale of gas as a "public utility."

"Public utility" generally refers to situations in which the activity possesses "monopoly" characteristics that require regulation to ensure adequate service at reasonable rates and terms of service.

"Monopoly" refers to situations in which the supplier of a good or service is not subject to the normal economic forces of supply and demand. The focus in public utility regulation is on the "natural monopoly" where the first party entering the market, because of substantial sunk costs, has a distinct advantage over subsequent would-be entrants that want to try and compete.

The traditional remedy for natural monopoly is to allow the market to be served by a single firm with its terms of service regulated: public utility regulation.

"Public utility regulation" generally refers to the process of controlling who can provide the service ("entry" restrictions imposed by requiring a "certificate of public convenience and necessity"), specifying the minimum level of service (the "service" obligation) and the rates and terms of service (rates are typically based upon what it costs the utility to provide the service plus the opportunity to earn a reasonable rate of return on their investment). Typically the utility must also obtain permission to "exit" the service ("abandonment"). In addition to ensuring the terms of service are reasonable, and that rates are not excessive, utility regulation also seeks to ensure persons similarly situated are treated the same (no "discrimination").

* 1938 to 1995

The FPC, and later the FERC, elected to regulate gathering systems owned and operated by the interstate pipelines as part of an integrated transportation system.

* 1985

The FERC began to identify those portions of the gas business which, although regulated as a natural monopoly for decades, were not truly natural monopolies. First, it was recognized that the sale for resale of natural gas is not a natural monopoly and therefore does not require a public utility approach to set prices and terms of service. Since the sale for resale of natural gas is structurally competitive, there is no justification for treating it as a public utility.

The FERC recognized that to make its "deregulatory" approach work, it must continue to regulate, as a natural monopoly, the transportation function. Open, non-discriminatory access to transportation services, at reasonable rates, would permit the FERC to rely upon market forces to "regulate" (or "deregulate") the sale of gas for resale.

* 1995 to Present

Interstate pipelines have been divesting the pipeline systems that "gather" gas in the field of production and transport it to a central connection, or connections, on the interstate pipeline. The FERC has indicated it will not regulate these intermediate pipeline systems once they are no longer owned by the interstate pipeline.

Under the Natural Gas Act, the states have exclusive jurisdiction over the regulation of these gas "gathering" systems.

Holloway
ATTACH

KCC General Jurisdictional Authority of Electric and Natural Gas Utilities

[Note: the following applies to all statutes and portions of statutes illustrated here: Computer Service - Document Retrieval System Kansas Statutes Annotated * This is not an original document * Mar 14, 1996]

Definition of a Public Utility

66-104. Utilities subject to supervision; exceptions. The term "public utility," as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, ... or the conveyance of oil and gas through pipelines in or through any part of the state, except pipelines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil,..... and all companies for the production, transmission, delivery or furnishing of heat, light, water or power.

The term "public utility" shall also include that portion of every municipally owned or operated electric or gas utility located outside of and more than three miles from the corporate limits of such municipality, but nothing in this act shall apply to a municipally owned or operated utility, or portion thereof, located within the corporate limits of such municipality or located outside of such corporate limits but within three miles thereof except as provided in K.S.A. 66-131a, and amendments thereto.

Except as herein provided, the power and authority to control and regulate all public utilities and common carriers situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people, shall be vested exclusively in such city, subject only to the right to apply for relief to the corporation commission as provided in K.S.A. 66-133, and amendments thereto, and to the provisions of K.S.A. 66-131a, and amendments thereto.

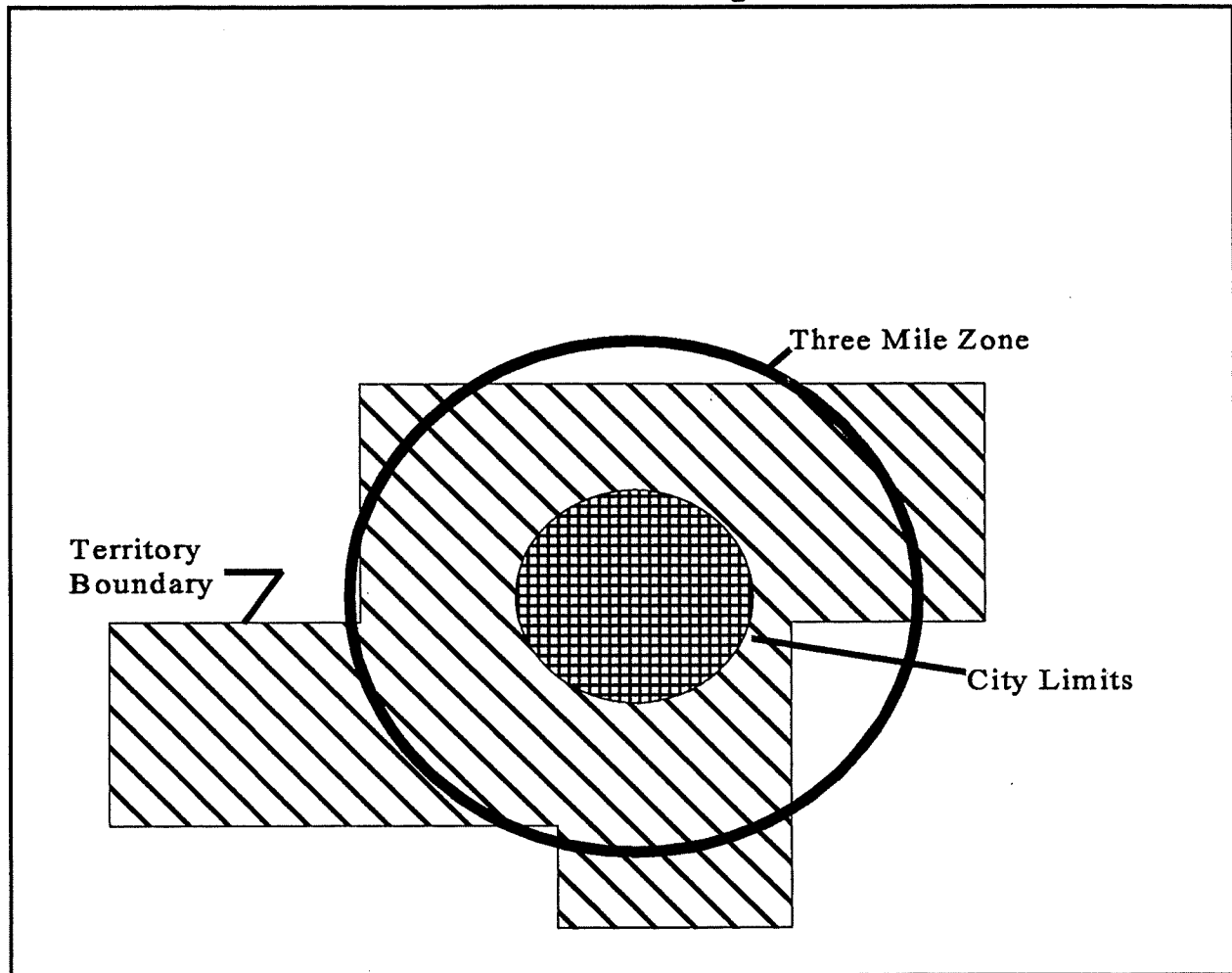
The term "public utility" shall not include any activity of an otherwise jurisdictional corporation, company, individual, association of persons, their trustees, lessees or receivers as to the marketing or sale of compressed natural gas for end use as motor vehicle fuel.

History: L. 1911, ch. 238, 3; R.S. 1923, 66-104; L. 1949, ch. 335, 1; L. 1951, ch. 366, 1; L. 1968, ch. 333, 6; L. 1974, ch. 262, 1; L. 1975, ch. 339, 1; L. 1978, ch. 263, 2; L. 1992, ch. 69, 1; April 16.

SECTION 1

KCC General Jurisdictional Authority of Electric and Natural Gas Utilities

Jurisdiction of Municipal Utilities



KCC Jurisdiction for Municipal Energy Efficiency Standards

66-131a. Jurisdiction of commission over certain utilities with respect to heat loss standards and energy efficiency ratios of certain appliances. Every municipally owned or operated electric or gas utility, and every electric or gas utility operating wholly and solely within the legal boundaries of any municipality and within three (3) miles of any municipal boundary, shall be deemed a "public utility" as defined in K.S.A. 66-104, for the purpose of filing tariffs and rules and regulations restricting connections or attachments to their systems of residential, commercial or industrial structures with respect to such heat loss standards and energy efficiency ratios for air-conditioners and heat pumps as the state corporation commission shall from time to time adopt.

History: L. 1978, ch. 263, 1; March 23.

KCC General Jurisdictional Authority of Electric and Natural Gas Utilities

History of Thermal Treatment Standards¹

1975 Special Committee on Energy and Natural Resources adopts proposal No. 62.

This proposal established statewide minimum building codes affecting new construction and any remodeling or reconstruction in excess of 25% of the gross area of the existing building. An architect or an engineer had to certify the energy compliance of each design prior to receiving a building permit in any locale. It would have set a maximum annual BTU /gross square foot of floor area energy use for residences and schools, offices and commercial buildings, hospitals, and assembly and mercantile buildings (the actual number for each category would be determined by ASHRAE Standard 90P). The director of state architectural services would be authorized and directed to promulgate and adopt rules and regulations to enforce and insure compliance with the provisions of the act. Provisions would be provided to allow exemptions of up to 20% over the maximum usage on a case by case basis.

HB 2669 (formerly Proposal #62) 1976 legislative session

The proposal was changed to adopt ASHRAE Standard 90-75, lower the exemption allowance to 10%, and to apply to any new addition or reconstruction of outside roof, walls and floor. In addition several exemptions were provided including any residential building outside city limits, any farm building, any remodeling or repair costing less than \$30,000, or buildings constructed by the owners or by builders for their own use. This bill was defeated in committee.

HB 2435 1977 legislative session

This bill was a weakened version of the previous session's HB 2669. It adopted insulation standards only in communities that already had building codes and building inspectors. In addition it was not mandatory, but instead allowed anyone who didn't wish to comply to pay a charge on excess energy used by not complying. After some consideration this bill was tabled by the sponsor based on the KCC opening a docket to consider heat loss standards.

Docket # 110,766-U - KCC hearings in April, 1977

This was a show cause order concerning all electric and natural gas utilities in reference to changes in tariffs to restrict connections in new residential dwellings and new commercial buildings to those meeting insulation requirements. The existing order was issued and placed in

¹ From a brief review of the minutes of the House and Senate and Special Committee on Energy and Natural Resources' minutes for the years 1975 through 1978, as well as the transcripts for the KCC docket 110,766-U.

KCC General Jurisdictional Authority of Electric and Natural Gas Utilities

effect beginning November 1, 1977. At this time the KCC had no jurisdiction over municipal electric and gas utilities for the purposes of establishing these requirements.

HB 2698 1978 legislative session

This bill adopted KSA 66-131a. This statute gave the KCC jurisdiction over municipal owned and operated electric and gas utilities for the purposes of restricting connections to their systems with respect to heat loss standards.

Petitioning the Commission on Municipal Ordinances

66-133. Municipal franchises and ordinances; taxpayer's complaint to commission; bond for costs of hearing complaint. Every municipal council or commission shall have the power and authority, subject to any law in force at the time and to the provisions of K.S.A. 66-131a, to contract with any public utility or common carrier, situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people, by ordinance or resolution, duly considered and regularly adopted:

(1) As to the quality and character of each kind of product or service to be furnished or rendered by any public utility or common carrier, and the maximum rates and charges to be paid therefor to the public utility or common carrier furnishing such product or service within said municipality, and the terms and conditions, not inconsistent with this act or any law in force at the time under which such public utility or common carrier may be permitted to occupy the streets, highways or other public property within such municipality.

(2) To require and permit any public utility or common carrier to make such additions or extensions to its physical plant as may be reasonable and necessary for the benefit of the public, and may designate the location and nature of such additions and extensions at the time within which such shall be completed, and the terms and conditions under which the same shall be constructed.

(3) To provide a reasonable and lawful penalty for the noncompliance with the provisions of any ordinance or resolution adopted in pursuance with the provisions hereof. No ordinance or resolution granting or extending any right, privilege or franchise shall be in force or effect until thirty days after the same shall have been duly published; nor if any complaint be made, as hereinafter provided for, shall said ordinance or resolution be in effect while any proceedings to review before said commission or action or appeal in any court in relation thereto shall be pending.

Upon any complaint being made, within fifteen days after the publication of any such ordinance or resolution, to the corporation commission by any such public utility or common carrier, or by ten or more taxpayers of any such municipality a bond to pay the costs of the hearing having first been filed by the complainant with and approved by the said commission, that any right, privilege or franchise granted, or ordinance or resolution or part of any ordinance or resolution adopted, by any municipal council or commission is unreasonable, or against public policy, or detrimental to the best interests of the city, or contrary to any provisions of law, the corporation commission

KCC General Jurisdictional Authority of Electric and Natural Gas Utilities

shall set a date for the hearing of such complaint, not less than ten days after date of filing thereof, and shall cite the parties interested to appear on a date named which date shall be not less than ten days after the fixing of the date of the hearing, and on that date, or at a time agreed upon by the interested parties, or a date fixed by the corporation commission, the complainant shall present such evidence as they or it may have in support thereof, and show why such complaint should be sustained, and the corporation commission may inquire into the allegations in such complaint, and may subpoena witnesses, and take testimony to ascertain the truth of the allegations contained therein in contemplation of bringing an action as hereinafter provided; and if said commission shall find that any provision of any such ordinance or resolution is unreasonable, or against the public welfare or public interest, or has reason to believe that the same may be contrary to law, said corporation commission shall, within ten days, advise and recommend such changes in the ordinance or resolution as may be necessary to meet the objections set forth in the complaint and protect the public interest, and to remove any unreasonable provision therefrom; and if such municipal council or commission shall not within twenty days thereafter amend such ordinance or resolution to conform to the recommendations of said corporation commission, the corporation commission may, in the name of the state of Kansas, within thirty days after such finding, commence proceedings against such municipal council or commission and common carrier or public utility governed by the provisions of this act in any court of competent jurisdiction, to set aside any ordinance or resolution, or part thereof, because of its unreasonableness or illegality, or because the same is not for the promotion of the welfare and best interests of said municipality, which action and proceedings shall be in conformity with the provisions of this act.

History: L. 1911, ch. 238, 33; R.S. 1923, 66-133; L. 1978, ch. 263, 4; March 23.

Jurisdiction Exemption for Small Nonprofit Public Utilities

66-104c. Certain nonprofit public utilities not subject to commission jurisdiction. (a) Except as otherwise provided in subsection (b), no nonprofit public utility shall be subject to the jurisdiction, regulation, supervision and control of the state corporation commission if the utility meets the following conditions: (1) Every customer, household or meter owner is an automatic owner of the utility and has an equal vote on matters concerning the utility; (2) the utility employs no full-time employees; and (3) the utility has no more than 50 customers.

(b) The state corporation commission shall retain jurisdiction and control over the service territory of a utility described in subsection (a) and over all matters concerning natural gas pipeline safety.

History: L. 1990, ch. 239, 1; July 1.

KCC's Public Utility Certification Authority

66-131. Permit to transact business required; exceptions; limitations on commission's authority and jurisdiction. No common carrier or public utility, including that portion of any municipally owned utility defined as a public utility by K.S.A. 66-104, governed by the provisions of this act shall transact business in the state of Kansas until it shall have obtained a certificate

KCC General Jurisdictional Authority of Electric and Natural Gas Utilities

from the corporation commission that public convenience will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state. In no event shall such jurisdiction authorize the corporation commission to review, consider or effect the facilities or rates charged for services or in any way the operation of such municipally owned or operated electric or gas utility within the corporate limits or outside but within three (3) miles of the corporate limits of any city, or facilities, or rates charged for services or in any way the operation of facilities or their replacements now owned by any such utility except as provided in K.S.A. 66-131a. No prescribed rates, orders or other regulatory supervision of the corporation commission shall be contrary to any lawful provision of any revenue bond ordinance authorizing the issuance of revenue bonds to finance all or any part of the municipally owned or operated electric or gas utility so subjected to the jurisdiction of the corporation commission. This section shall not apply to any common carrier or public utility governed by the provisions of this act now transacting business in this state, nor shall this section apply to the facilities and operations of any municipally owned or operated utility supplying electricity or gas outside of the corporate limits of any municipality where such facilities and operations are in existence on the effective date of this act, but any extension of such facilities or any new facilities located outside of and more than three (3) miles from the municipality's corporate limits, shall be subject to the requirements of this section, nor shall this section apply to any municipally owned or operated electric or gas utility furnishing electricity or gas to a facility owned or jointly owned by such municipality and located outside the corporate limits of such municipality.

History: L. 1911, ch. 238, 31; R.S. 1923, 66-131; L. 1968, ch. 333, 7; L. 1978, ch. 263, 3; March 23.

Commission's General Public Utility Accident Investigation Authority

66-132. Accidents; notice to commission; investigations. Every common carrier and every public utility governed by the provisions this act, whenever an accident attended with loss of human life or serious personal injury occurs upon its premises within this state, shall give immediate notice thereof to the commission by telegraph, telephone or telecopy. If notice is given by telephone, such notice shall be followed by a written notice sent by certified or registered mail. In the event of any such accident, if the commission determines that the public interest requires an investigation to be made with the secretary of human resources, such investigation shall be held in the locality of the accident, unless for greater convenience of those concerned, the commission orders such investigation be held at some other place. Such investigation may be adjourned from place to place as may be found necessary and convenient. The commission shall notify an officer or agent of the public utility or common carrier of the time and place of the investigation in a timely manner.

History: L; 1911, ch; 238, 32; R.S. 1923, 66-132; L. 1991, ch. 204, 1; July 1.

Statutes Enabling KCC Jurisdiction for 1978 Federal Legislation

KCC General Jurisdictional Authority of Electric and Natural Gas Utilities

66-1,185. Jurisdiction of commission to comply with certain federal legislation. (a) The state corporation commission shall have such jurisdiction as is required to provide compliance with and carry out the requirements of the provisions of the federal natural gas policy act of 1978 and the provisions of the public utility regulatory policies act of 1978 and with the rules and regulations adopted by federal agencies pursuant to such acts, and the state corporation commission shall adopt such rules and regulations deemed necessary for such purpose including those needed for the establishment of necessary fees.

(b) The state corporation commission may apply for, receive and disburse any federal funds made available to state regulatory agencies to provide compliance with such acts.

History: L. 1979, ch. 170, 1; Feb. 22.

Summary Chart of Customer Input to Rates and Services of Electric and Natural Gas Utilities

Customer's electric or gas utility	KCC regulates prices and services	Customer elects representation
Investor Owned Utility	X	
Regulated Cooperative *	X	X
Deregulated Cooperative *	P	X
Municipal - inside the city		X
Municipal - outside the city inside the three mile zone		
Municipal - outside the city outside the three mile zone	X	

Note: * electric only

P - KCC can be petitioned by customer

Outline of KCC Electric Utility Jurisdiction

66-104

Deregulation of Electric Cooperatives

“Alfalfa Law”

Electric Cooperative Exempt from Commission Jurisdiction if All of the Following:

- Less than 25% of facilities in Kansas
- Headquarters are in another state
- Subject to jurisdiction of another bordering state
- Kansas customers charged the same rates and provided the same services
- KCC jurisdiction remains for certified service territory, wire stringing and transmission line siting

Coop Deregulation by Customer Election

Requirements

- Less than 15,000 customers
- Primarily a retail power provider

Method to Deregulate or Reregulate

SEC 2

- Petition for a vote by at least 10% of the members
- Must be approved by a majority vote of the members

Remaining KCC Jurisdiction over Deregulated Cooperatives

- Wire stringing rules
- Charges for transmission service
- Sales of power for resale
- Certified territory
- Transmission line siting

Deregulated Cooperative Customer’s Ability to Seek KCC Investigation of Rates

- Petition by 5% of all the cooperative’s customers
- Petition by 3% of cooperative’s customers from any rate class

Outline of KCC Electric Utility Jurisdiction

General Statutes Specific to Electric Utilities

KCC Authority Over Electric Utilities

- Full power, authority and jurisdiction
- Services, facilities, rules, classifications, regulations, rates, tolls and charges
 - just, reasonable, nondiscriminatory, efficient and sufficient requirement
 - publication required
 - investigation allowed
 - investigation without complaint
- Orders in effect 30 days after serving
- Liberal construction of authority
- General supervision and inspection allowed

Retail Electric Service Territory Requirements

Public Policy

- Avoid wasteful duplication of facilities
- Avoid unnecessary encumbrance of landscape
- Prevent waste of materials and natural resources
- Facilitate public convenience and necessity
- Minimize disputes between retail electric suppliers

Modifications to Certified Territories

- Upon agreement of affected suppliers and Commission approval
- When territory is annexed by a city with it's own utility or a different franchised utility
- Municipalization of utilities within city limits

Affected Electric Utilities

- All retail electric utilities
- Municipal electric utilities outside the city limits

Outline of KCC Electric Utility Jurisdiction

Wire Stringing Requirements

- Public utilities required to string and maintain wires to avoid unreasonable injury
- Public utilities required to prevent interference with wires of other utilities
- KCC duty to prescribe rules and regulations
- KCC to investigate complaints related to wire stringing
- Penalty for noncompliance
- Municipal electric utilities within 3 mile zone would not be KCC jurisdictional

Generation Siting Act

Requirements of Act

- KCC approval prior to beginning construction or exercising eminent domain
- Public hearing after due notice
- Landowner representation
- Reconsideration and judicial review
- KCC authority to obtain generation forecast information

Affected Generation Owners

- Public utilities
 - IOUs
 - Coops if resale is involved
 - munis outside 3-mile zone
- Independent power producers - if for resale
- Out of state locations by utilities that operate in Kansas if:
 - state does not have siting requirements, more than 10% of customers in Kansas, or more than 15,000 Kansas customers
- Note: renewable generators 100 megawatts and less are exempt

Parallel Generation Act

- Each public utility required to connect with and purchase customer owned generation
 - does not include munis inside 3 mile limit and deregulated coops
- Customer must meet safety and technical requirements
- Utility supplies meters
- Services under contract subject to rules and regulations filed with the KCC

Outline of KCC Electric Utility Jurisdiction

Transmission Line Siting Act

- Applies only to electric transmission lines 230 KV or greater and 5 miles or longer
- Does not apply to municipal electric utilities within the 3 mile limit
- KCC permission required before construction is started or eminent domain exercised
- Public hearing with notice required
- KCC must decide on reasonableness and necessity of line
- Provisions for judicial review
- Utility required to restore land after construction

Summary Table of Jurisdiction

	IOU	Muni - inside city limit	Muni - 3 mile zone only	Muni - outside 3 miles	Coops	Dereg Coops	Ind Power Producer
Coop Dereg	NA	NA	NA	NA	Election*	Election*	NA
Rates & Services	KCC	Elected Officials	None	KCC	KCC	Elected Board - KCC by petition	NA
Inspect	KCC	City	City	KCC	KCC	Coop	NA
Retail Territory	KCC	City	KCC	KCC	KCC	KCC	NA
Wire Stringing	KCC	City	City	KCC	KCC	KCC	NA
Gen Siting	KCC	City	City	KCC	KCC	KCC	KCC
Parallel Gen	KCC	City	City	KCC	KCC	Coop	NA
Trans Siting	KCC	City	City	KCC	KCC	KCC	NA

* note: out of state coops may be deregulated without action

KCC's Jurisdictional Authority of Electric Utilities

[Note: the following applies to all statutes and portions of statutes illustrated here: Computer Service - Document Retrieval System Kansas Statutes Annotated * This is not an original document * Mar 14, 1996]

Statutes Deregulating Electric Cooperatives

"The Alfalfa Law"

SEC. 3

66-104b. Electric cooperative public utilities not subject to commission jurisdiction; conditions; exceptions. (a) Except as otherwise provided in subsection (b), no electric cooperative public utility, which is a nonprofit membership corporation, shall be subject to the jurisdiction, regulation, supervision and control of the state corporation commission if it meets the following conditions:

(1) The original cost of its electric public utility facilities located in the state constitutes less than 25% of the total original cost of all its electric public utility facilities located everywhere;

(2) the electric cooperative public utility does not have its headquarters office in this state;

(3) the electric cooperative public utility is subject to the jurisdiction, regulation, supervision and control of a regulatory authority existing under the laws of any state bordering upon this state;

(4) the electric cooperative public utility certifies to the state corporation commission that a regulatory authority of a bordering state has asserted jurisdiction, regulation, supervision and control over its electric operations; and

(5) customers of the electric cooperative public utility in this state are charged the same rates and are provided service under the same terms and conditions as are its customers located in similar areas in a bordering state.

(b) The state corporation commission shall retain jurisdiction and control over any such electric cooperative public utility necessary to insure compliance with the condition that customers of the electric cooperative public utility in this state are provided service under the same terms and conditions as are its customers located in similar areas of a bordering state and may, in its discretion, require any such utility to furnish copies of documents filed with the appropriate regulatory authority of the appropriate bordering state which demonstrate its compliance with the condition. Nothing in this section shall be construed to affect the single certified service territory of an electric cooperative public utility or the authority of the state corporation commission over an electric cooperative public utility with regard to service territory, wire stringing and transmission line siting pursuant to K.S.A. 66-131, 661-170 et seq., 66-183, 66-1,177 et seq., and amendments to such sections. Nothing herein shall affect the jurisdiction of the state corporation commission over sales of power for resale.

History: L. 1985, ch. 223, 1; April 25.

Coop Deregulation by Customer Election

66-104d. Certain electric cooperative public utilities not subject to commission jurisdiction; conditions; exceptions. (a) As used in this section, "cooperative" means any cooperative, as

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defined by K.S.A. 17-4603 and amendments thereto, which has fewer than 15,000 customers and which provides power principally at retail.

(b) Except as otherwise provided in subsection (f), a cooperative may elect to be exempt from the jurisdiction, regulation, supervision and control of the state corporation commission by complying with the provisions of subsection (c).

(c) To be exempt under subsection (b), a cooperative shall poll its members as follows:

(1) An election under this subsection may be called by the board of trustees or shall be called not less than 180 days after receipt of a valid petition signed by not less than 10% of the members of the cooperative.

(2) The proposition for deregulation shall be presented to a meeting of the members the notice of which shall set forth the proposition for deregulation and the time and place of the meeting. Notice to the members shall be written and delivered not less than 21 nor more than 45 days before the date of the meeting.

(3) If the cooperative mails information to its members regarding the proposition for deregulation other than notice of the election and the ballot, the cooperative shall also include in such mailing any information in opposition to the proposition that is submitted by petition signed by not less than 1% of the cooperative's members. All expenses incidental to mailing the additional information, including any additional postage required to mail such additional information, must be paid by the signatories to the petition.

(4) If the proposition for deregulation is approved by the affirmative vote of not less than a majority of the members voting on the proposition, the cooperative shall notify the state corporation commission in writing of the results within 10 days after the date of the election.

(5) Voting on the proposition for deregulation shall be by mail ballot.

(d) A cooperative exempt under this section may elect to terminate its exemption in the same manner as prescribed in subsection (c).

(e) An election under subsection (c) or (d) may be held not more often than once every two years.

(f) Nothing in this section shall be construed to affect the single certified service territory of a cooperative or the authority of the state corporation commission, as otherwise provided by law, over a cooperative with regard to service territory, charges for transmission services, sales of power for resale, wire stringing and transmission line siting, pursuant to K.S.A. 66-131, 66-183, 66-1,170 et seq. or 66-1,177 et seq., and amendments thereto.

(g) (1) Notwithstanding a cooperative's election to be exempt under this section, the commission shall investigate all rates, joint rates, tolls, charges and exactions, classifications and schedules of rates of such cooperative if there is filed with the commission, not more than one year after a change in such cooperative's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates, a petition signed by not less than 5% of all the cooperative's customers or 3% of the cooperative's customers from any one rate class. If after investigation, the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefor such rates, joint rates, tolls, charges and exactions, classifications or schedules of rates as are just and reasonable.

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(2) The cooperative's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates complained of shall remain in effect subject to change or refund pending the state corporation commission's investigation and final order.

(3) Any customer of a cooperative wishing to petition the commission pursuant to subsection (g)(1) may request from the cooperative the names, addresses and rate classifications of all the cooperative's customers or of the cooperative's customers from any one or more rate classes. The cooperative, within 21 days after receipt of the request, shall furnish to the customer the requested names, addresses and rate classifications and may require the customer to pay the reasonable costs thereof.

(h) (1) If a cooperative is exempt under this section, not less than 10 days' notice of the time and place of any meeting of the board of trustees at which rate changes are to be discussed and voted on shall be given to all members of the cooperative and such meeting shall be open to all members.

(2) Violations of subsection (h)(1) shall be subject to civil penalties and enforcement in the same manner as provided by K.S.A. 75-4320 and 75-4320a, and amendments thereto for violations of K.S.A. 75-4317 et seq. and amendments thereto.

History: L. 1992, ch. 231, 1; July 1.

General Statutes Specific to Electric Utilities

66-101. Electric public utilities; power, authority and jurisdiction of state corporation commotion. The commission is given full power, authority and jurisdiction to supervise and control the electric public utilities, as defined in K.S.A. 66-101a, doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

History: R.S. 1923, 66-101; L. 1969, ch. 302, 2; L. 1981, ch. 255, 1; L. 1985, ch. 224, 1; L. 1985, ch. 225, 7; July 1.

66-101a. Same; definitions. As used in this act:

(a) "Electric public utility" means any public utility, as defined in K.S.A. 66-104, and amendments thereto, which generates or sells electricity.

(b) "Commission" means the state corporation commission.

History: L. 1985, ch. 225, 1; July 1.

66-101b. Same; services, facilities, rules, classifications, regulations, rates, tolls and charges.

Every electric public utility governed by this act shall be required to furnish reasonably efficient and sufficient service and facilities for the use of any and all products or services rendered, furnished, supplied or produced by such electric public utility, to establish just and reasonable rates, charges and exactions and to make just and reasonable rules, classifications and regulations. Every unjust or unreasonably discriminatory or unduly preferential rule, regulation, classification, rate, charge or exaction is prohibited and is unlawful and void. The commission shall have the power, after notice and hearing in accordance with the provisions of the Kansas administrative

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procedure act, to require all electric public utilities governed by this act to establish and maintain just and reasonable rates when the same are reasonably necessary in order to maintain reasonably sufficient and efficient service from such electric public utilities.

History: L. 1911, ch. 238, 10; R.S. 1923, 66-107; L. 1985, ch. 225, 13; L. 1988, ch. 356, 219; July 1, 1989; L. 1995, ch. 10, 1; July 1.

66-101c. Same; publication and filing of rates, tolls and charges; copies of regulations and contracts; printing and filing of regulations.

Every electric public utility doing business in Kansas over which the commission has control shall publish and file with the commission copies of all schedules of rates and shall furnish the commission copies of all rules, regulations and contracts between electric public utilities pertaining to any and all jurisdictional services to be rendered by such electric public utilities. The commission shall have power to prescribe reasonable rules and regulations regarding the form and filing of all schedules of rates and all rules and regulations of such electric public utilities, including such protection of confidentiality as requested by the electric public utility, and the utility's suppliers and customers, for contracts entered into by them, and a the commission determines reasonable and appropriate.

History: L. 1911, ch. 238, 11; R.S. 1923, 66-108; L. 1985, ch. 225, 19; L. 1995, ch. 10, 2; L. 1995, ch. 21, 1; March 16.

66-101d. Same; investigation of rates, tolls, charges and services; orders of commission; hearing.

It shall be the duty of the commission, either upon complaint or upon its own initiative, to investigate all schedules of rates and rules and regulations of electric public utilities. If after investigation and hearing the commission finds that such rates or rules and regulations are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to establish and order substituted therefor such rates and such rules and regulations as are just and reasonable.

If after investigation and hearing it is found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, unreasonably inefficient or insufficient, unduly preferential, unjustly discriminatory, or otherwise in violation of this act or of the orders of the commission, or if it is found that any service is inadequate or that any reasonable service cannot be obtained, the commission shall have the power to substitute therefor such other regulations, measurements, practices, service or acts, and to make such order respecting any such changes in such regulations, measurements, practices, service or acts as are just and reasonable. When, in the judgment of the commission, public necessity and convenience require, the commission shall have the power to establish just and reasonable concentration or other special rates, charges or privileges, but all such rates, charges and privileges shall be open to all users of a like kind of service under similar circumstances and conditions.

Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

History: L. 1911, ch. 238, 13; R.S. 1923, 66-110; L. 1985, ch. 225, 25; L. 1988, ch. 356, 220;

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July 1, 1989; L. 1995, ch. 10, 3.; July 1.

66-101e. Same; investigation with or without complaint.

Upon a complaint in writing made against any electric public utility governed by this act that any of the rates or rules and regulations of such electric public utility are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, or both, or that any regulation, practice or act whatsoever affecting or relating to any service performed or to be performed by such electric public utility for the public, is in any respect unreasonable, unfair, unjust, unreasonably inefficient or insufficient, unjustly discriminatory or unduly preferential, or that any service performed or to be performed by such electric public utility for the public is unreasonably inadequate, inefficient, unduly insufficient or cannot be obtained, the commission shall proceed, with or without notice, to make such investigation as it deems necessary.

The commission may, upon its own motion, and without any complaint being made, proceed to make such investigation, but no order changing such rates, rules and regulations, practices or acts complained of shall be made or entered by the commission without a formal public hearing, of which due notice shall be given by the commission to such electric public utility or to such complainant or complainants, if any, in accordance with the provisions of the Kansas administrative procedure act. Any public investigation or hearing which the commission shall have power to make or to hold may be made or held before any one or more commissioners. All investigations, hearings, decisions and orders made by a commissioner shall be deemed the investigations, hearings, decisions and orders of the commission, when approved by the commission.

The commission shall have power to require electric public utilities to make such improvements and do such acts as are or may be required by law to be done by any such electric public utility. History: L. 1911, ch. 238, 14; R.S. 1923, 66-111; L. 1985, ch. 225, 31; L. 1988, ch. 356, 221; Amended, L. 1994, ch. 59, 1; July 1; L. 1995, ch. 10, 4; July 1.

66-101f. Same; orders and decisions of commission; service of copy upon utility; effective date.

(a) If after investigation and hearing the rates or rules and regulations of any electric public utility governed by this act are found unjust, unreasonable, unfair, unjustly discriminatory or unduly preferential, or in any way in violation of the provisions of this act, or of any of the laws of the state of Kansas, the commission shall have the power to establish, and order substituted therefor, such rates or rules and regulations as the commission determines to be just, reasonable and necessary. If it is found that any rule and regulation, practice or act, relating to any service performed or to be performed by such electric public utility for the public is in any respect unreasonable, unjust, unfair, unreasonably inefficient or insufficient, unjustly discriminatory or unduly preferential, or otherwise in violation of this act or of any of the laws of the state of Kansas, the commission may substitute therefor such other rules and regulations, practice, service or act as the commission determines to be just, reasonable and necessary. For the purposes of determining just and reasonable rates, the commission may adopt a policy of disallowing a percentage, not to exceed 50%, of utility dues, donations and contributions to charitable, civic

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and social organizations and entities, in addition to disallowing specific dues, donations and contributions which are found unreasonable or inappropriate.

(b) All orders and decisions of the commission whereby any rates, rules and regulations, practice or acts relating to any service performed or to be performed by any electric public utility for the public are altered, changed, modified or established shall be reduced to writing, and a copy thereof, duly certified, shall be served on the electric public utility affected thereby. Such order and decision shall become operative and effective within 30 days after such service. Such electric public utility, unless an action is commenced in a court of proper jurisdiction to set aside the findings, orders and decisions of the commission, or to review and correct the same, shall carry the provisions of such order into effect.

History: L. 1911, ch. 238, 16; R.S. 1923, 66-113; L. 1965, ch. 506, 34; L. 1985, ch. 225, 37; L. 1988, ch. 356, 222; L. 1992, ch. 148, 1; July 1; L. 1995, ch. 10, 5; July 1.

66-101g. Same; liberal construction; incidental powers granted. As applied to regulation of electric public utilities, the provisions of this act and all grants of power, authority and jurisdiction herein made to the commission, shall be liberally construed, and all incidental powers necessary to carry into effect the provisions of this act are expressly granted to and conferred upon the commission.

History: L. 1911, ch. 238, 41; R.S. 1923, 66-141; L. 1985, ch. 225, 43; July 1.

66-101h. Same; general supervision and inspection of utilities; damage liability. The commission shall have general supervision of all electric public utilities doing business in this state and shall inquire into any neglect or violations of the laws of this state by any electric public utility or by the officers, agents or employees thereof. From time to time, the commission shall carefully examine and inspect the condition of each electric public utility, its equipment, the manner of its conduct and its management with reference to the public safety and convenience. Nothing in this section shall be construed as relieving any electric public utility from its responsibility or liability for damage to person or property.

History: R.S. 1923, 66-156; L. 1985, ch. 225, 49; July 1.

Retail Electric Service Territory Requirements

66-1,170. Definitions. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Distribution line" means an electric line used to furnish retail electric service, including any line from a distribution substation to an electric consuming facility; but such term does not include a transmission facility used for the bulk transfer of energy.

(b) "Electric consuming facility" means any entity which utilizes electric energy from a central station service.

(c) "Commission" means the state corporation commission of the state of Kansas.

(d) "Retail electric supplier" means any person, firm, corporation, municipality, association or cooperative corporation engaged in the furnishing of retail electric service.

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(e) "Certified territory" means an electric service territory certified to a retail electric supplier pursuant to this act.

(f) "Existing distribution line" means a distribution line which is in existence on the effective date of this act, and which is being or has been used as such.

(g) "Single certified service territory" means that service area in which only one retail electric supplier has been granted a service certificate by the commission.

(h) "Dual certified service territory" means that service area where more than one retail electric supplier has been granted a service certificate by the commission.

History: L. 1976, ch. 284, 1; July 1.

66-1,171. Declaration of public policy. It is hereby declared to be the public policy of this state to: (a) Encourage the orderly development of retail electric service;

(b) avoid wasteful duplication of facilities for the distribution of electricity;

(c) avoid unnecessary encumbrance of the landscape of the state;

(d) prevent waste of materials and natural resources;

(e) facilitate the public convenience and necessity; and

(f) minimize disputes between retail electric suppliers which may result in inconvenience, diminished efficiency and higher costs in serving the consumer.

In pursuing such public policy, it is the purpose of this act to provide for the division of the state into territories within which retail electric suppliers are to provide the retail electric service as provided in this act.

History: L. 1976, ch. 284, 2; July 1.

66-1,172. Division of state into exclusive electric service territories; certification of territories by commission; right to serve existing customers. Subject to the provisions of this act, the corporation commission shall cause the state to be divided into electric service territories. Within each such territory, only one retail electric supplier shall provide retail electric service, and any such territory established for a retail electric supplier pursuant to this section shall be certified to such retail electric supplier by the commission and such area shall be provided retail electric service exclusively by such supplier. Each retail electric supplier shall continue to have the right to serve all customers being served by it on the effective date of this act, except that such suppliers, by agreement approved by the commission, may otherwise provide for electric service to such customers.

History: L. 1976, ch. 284, 3; L. 1978, ch. 270, 1; L. 1986, ch. 249, 1; L. 1987, ch. 257, 1; April 23.

66-1,173. Rights and responsibilities of retail electric suppliers; prohibitions. Every retail electric supplier shall have the exclusive right and responsibility to furnish retail electric service to all electric consuming facilities located within its certified territory, and shall not furnish, make available, render or extend its retail electric service to a consumer for use in electric consuming facilities located within the certified territory of another retail electric supplier: Provided, That any retail electric supplier, with the approval of the commission, may extend distribution or

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transmission facilities through the certified territory of another retail electric supplier, if such extension is necessary for such supplier to connect with any of its facilities or those of others to serve consumers within its own certified territory.

History: L. 1976, ch. 284, 4; July 1.

66-1,174. Municipally owned or operated retail electric suppliers subject to commission jurisdiction. A municipally owned or operated retail electric supplier shall be subject to commission jurisdiction as a public utility, as defined in K.S.A. 66-104, and amendments thereto, with respect to all operations within its certified territory extending more than three miles beyond its corporate limits. A municipal retail electric supplier shall be subject to regulation by the commission in matters relating to the right to serve in the territory within three miles of the corporate city boundary, except that the commission shall have no jurisdiction concerning such retail electric supplier within its corporate limits.

History: L. 1976, ch. 284, 5; L. 1986, ch. 249, 2; L. 1987, ch. 257, 2; April 23.

66-1,175. Agreements between retail electric suppliers authorized; commission approval required. Notwithstanding the exclusive right of retail electric suppliers to provide service within the certified territories established pursuant to this act, a retail electric supplier may enter into an agreement with another retail electric supplier for the establishment of boundaries between territories other than the boundaries established pursuant to this act or providing electric service to electric consuming facilities as between such retail electric suppliers. Any agreement entered into pursuant to this section shall be subject to approval by the corporation commission. If so approved, the commission shall issue certificates accordingly.

History: L. 1976, ch. 284, 6; July 1.

66-1,176. Termination of service rights in annexed areas; right to serve existing customers, when; compensation for termination of service rights. (a) All rights of a retail electric supplier to provide electric service in an area annexed by a city shall terminate 180 days from the date of annexation, unless such electric supplier is then holding a valid franchise for service in the area granted by the annexing city. Such period of 180 days shall be extended to 210 days from the date of annexation if a franchise is granted to the retail electric supplier pursuant to referendum conducted according to applicable franchise laws of the state of Kansas within such period of 210 days. In the event service rights are terminated pursuant to this section, the commission shall certify such annexed area as a single certified territory to the supplier holding a franchise for or then providing retail electric service in the city immediately prior to the annexation.

(b) In the event the supplier holding a franchise or then providing retail electric service does not effect the assumption of electric service to the annexed area at the termination of the applicable 180-day or 210-day period as provided in subsection (a), then the originally certified supplier shall have the right to continue service to the annexed area and charge its ordinary rates therefor until such supplier does assume service to the annexed area. Such service shall be free of any franchise fee or other compensation to the city or the electric supplier holding the franchise. If the supplier holding a franchise has not assumed service to the annexed area within 180 days following the

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applicable 180-day or 210-day period provided in subsection (a), the city may require the originally certified supplier to obtain a franchise in order to continue service to the annexed area. Unless otherwise mutually agreed upon by the affected suppliers, no assumption of electric service shall occur within 15 days following notice to the originally certified supplier of the intended changeover time.

(c) Whenever the service rights of a retail electric supplier are terminated pursuant to subsection (a), fair and reasonable compensation shall be paid to such retail electric supplier by the supplier subsequently authorized to provide electric service. Such compensation shall be an amount mutually agreed upon by the affected suppliers or the sum of the following:

(1) The depreciated replacement cost for the electric utility facilities in the territory in which the service rights have been terminated pursuant to subsection (a). As used in this paragraph, "depreciated replacement cost" shall mean the original installed cost of the facilities adjusted to present value by utilizing a nationally recognized index of utility construction costs, less accumulated depreciation based on the book depreciation rates of the selling utility as filed with and approved by the state corporation commission, which are in effect at the time of acquisition;

(2) all reasonable and prudent costs of detaching the electric system facilities to be sold and all reasonable and prudent costs of reintegrating the remaining electric system facilities of the retail electric supplier whose service rights are terminated pursuant to subsection (a);

(3) an amount equal to the gross revenues attributable to the customers in the terminated territory during the 12 months next preceding the date of termination of the service rights pursuant to subsection (a); and

(4) an amount equal to the state and federal tax liability created by the taxable income pursuant to the provisions of this paragraph and paragraphs (1), (2) and (3) by the retail electric supplier whose service rights are terminated pursuant to subsection (a), calculated without regard to any tax deductions or benefits not related to the sale of assets covered herein.

(d) In the event that the parties are unable to agree upon an amount of compensation to be paid pursuant to subsection (c), after 60 days following the date of termination of service rights either party may apply to the district court having jurisdiction where any portion of the facilities are located, for determination of compensation. Such determination shall be made by the court sitting without a jury.

History: L. 1976, ch. 284, 7; L. 1986, ch. 249, 3; L. 1987, ch. 257, 3, April 23.

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66-1,176a. Severability. If any part or parts of this act are held to be invalid or unconstitutional by any court, it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional part or parts.

History: L. 1986, ch. 249, 4; May 1.

66-1,176b. Termination of service rights during period when a valid franchise is in effect; facilities to be acquired; compensation; formula. (a) When the service rights of a retail electric supplier are terminated by a city during the period in which a valid franchise is in effect and the service rights are assumed by the terminating city, the governing body of the city shall acquire

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from the terminated supplier the parts of the local electric distribution system necessary to serve all customers within the previously franchised area and the terminated supplier shall sell the system to the governing body of such city for which it shall be fairly compensated. Such compensation shall be an amount mutually agreed upon by the affected parties or an amount determined by the following formula:

(1) The depreciated replacement cost for the electric utility facilities in the territory in which the service rights have been terminated. As used in this paragraph, "depreciated replacement cost" means the original installed cost of the facilities, adjusted to present value by utilizing a nationally recognized index of utility construction costs, less accumulated depreciation based on the book depreciation rates of the selling utility, as filed with and approved by the state corporation commission, which are in effect at the time of acquisition;

(2) the depreciated replacement costs of the remaining proportion of any take or pay power contracts or participation power agreements;

(3) the depreciated replacement cost for the electric utility facilities outside the affected territory used in providing service to the formerly franchised area. Such facilities shall include all generation facilities and all transmission facilities throughout the terminated utility's integrated system, the value of which shall be determined by the depreciated replacement cost formula in paragraph (1) multiplied by the percentage of the terminated utility's total retail kilowatt-hour sales to customers in the affected area during the 12 months next preceding the effective date of the sale;

(4) all reasonable and prudent costs of detaching the electric system facilities to be sold including the reasonable costs of studies and inventories made to determine the facility's value and all reasonable and prudent costs of reintegrating the remaining electric system facilities of the retail electric supplier whose service rights are terminated;

(5) an amount equal to the net revenues received during the 12 months next preceding the date of termination of the service rights from the customers within the affected area of the retail electric supplier whose service rights are terminated. As used in this paragraph, "net revenues" means the total revenues received by the terminated utility for electric service within the affected area less franchise and sales taxes collected; the cost of fuel or purchased power recovered in the revenues; and labor, maintenance, administration and insurance. This number shall be multiplied by the number of years remaining in any franchise contract; and

(6) an amount equal to the state and federal tax liability created by the taxable income pursuant to the provisions of this paragraph and paragraphs (1), (2), (3), (4) and (5) by the retail electric supplier whose service rights are terminated, calculated without regard to any tax deductions or benefits not related to the sale of assets covered herein.

(b) If the parties are unable to agree upon the amount of compensation to be paid pursuant to this act after 60 days following the date of termination of service rights, either party may apply to the district court having jurisdiction where any portion of the facilities is located for determination of compensation. Such determination shall be made by the court sitting without a jury.

History: L. 1987, ch. 255, 1; April 23.

66-1,176c. Compensation of private retail electric supplier for certain electric system

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facilities acquired by city. In addition to the fair cash value of any plant and appurtenance thereto determined pursuant to K.S.A. 12-811, a retail electric supplier whose service rights have expired by reason of failure of the renewal of a valid franchise shall be entitled to compensation for all reasonable and prudent costs of detaching the electric system facilities to be sold and all reasonable and prudent costs of reintegrating the remaining electric system facilities of such retail electric supplier less the value of all electric system facilities replaced by new facilities required for the reintegration of the remaining electric system facilities.

History: L. 1987, ch. 255, 2; April 23.

Wire Stringing Requirements

66-183. Stringing wires along or across streets, highways or public places; regulations. All public utilities owning or operating wires for the transmission of telegraph or telephone messages or for the transmission of electricity upon, along, or across the streets, highways or public places in this state are required to so use, string and maintain such wires as to avoid unreasonable injury or interference from the wires of other utilities and to avoid unreasonable injury to and interference with the wires of other utilities, and the corporation commission is given the power, and it is hereby made its duty, to prescribe reasonable rules and regulations with respect to the stringing and maintaining of wires in all cases where there is danger or possibility of unreasonable interference with or damage to the wires or service of one utility by those of another utility and with respect to the support, maintenance, repair and reconstruction thereof, which rules shall be furnished to any interested person upon application to the corporation commission, and the corporation commission is given the power, and it is hereby made its duty to prescribe reasonable rules and regulations with respect to the stringing of wires, electric or otherwise, which cross over or under the tracks of any railroad company and with respect to the support, maintenance, repair and reconstruction thereof, which rules shall be furnished to any interested person upon application; but in no case shall the height of any wires which cross above the tracks of a railway company be less than twenty-five feet from the top of the rails, except trolley and feed wires of electric railroads, which wires shall be not less than twenty-two feet above the tops of the rails. History: L. 1917, ch. 252, 1; March 13; R.S. 1923, 66-183.

66-184. Same; complaint; investigations and orders. If complaint shall be made to the corporation commission by any interested parties that any such wires are not properly placed or not securely supported, or that the rules and regulations of the corporation commission with respect thereto are being violated, it shall be the duty of the corporation commission to cause an investigation of such complaint to be made, and if it finds the complaint to be true, to make the necessary orders for the placing of such wires and the support thereof. History: L. 1917, ch. 252, 2; March 13; R.S. 1923, 66-184.

66-185. Same; penalty for noncompliance with order. It shall be the duty of every corporation or person to whom an order made by the corporation commission under either K.S.A. 66-183 or 66-184 shall be directed, to comply with such order in accordance with its terms, and for any

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neglect to comply therewith any such corporation or person shall be liable to a penalty of one hundred dollars, and to a like penalty for every ten days during which said neglect shall continue and may be recovered in a civil action brought in the name of the state and shall be paid to the state treasurer as provided in K.S.A. 20-2801, and any amendments thereto. The action may be prosecuted by the attorney general in any county having jurisdiction, or by the county attorney of the county in which the wire or wires crossing the railroad track shall be located.

History: R.S. 1923, 66-185; L. 1974, ch. 295, 6; L. 1978, ch. 105, 24; Jan. 1, 1979.

Generation Siting Act

66-1,158. Electric generation facility sitings; definitions. As used in this act, the following words and phrases shall have the meanings ascribed to them herein:

(a) "Commission" means the state corporation commission;

(b) "Electric generation facility" means any physical plant used for the production or generation of electricity or electric power except that the remodeling, reconditioning or retrofitting of any existing physical plant shall not be deemed an addition to an electric generation facility. Such term shall not include a facility or addition to a facility proposed to be located outside this state if: (1) The need for the facility or addition and the reasonableness of its proposed siting is subject to review by the utility regulatory authority of that state; (2) less than 10% of the retail customers on the electric system intended to be served by such facility or addition are located in this state; and (3) such retail customers located in this state number no more than 15,000;

(c) "Electric utility" means every public utility, as defined by K.S.A. 66-104, and amendments thereto, which owns, controls, operates or manages any equipment, plant or generating machinery for the production, transmission, delivery or furnishing, of electricity or electric power;

(d) "Landowner" means any person having an estate or interest in any land, which land is proposed to be acquired by an electric utility in connection with the construction, operation and maintenance of an electric generation facility or an addition to an electric generation facility;

(e) "Party" means any landowner, electric utility, governmental board or agency, or any other person allowed to intervene in any proceeding under this act;

(f) "Person" means any individual, partnership, corporation or other association of persons.

History: L. 1976, ch. 283, 1; L. 1979, ch. 209, 2; L. 1993, ch. 106, 1; July 1.

66-1,159. Electric generation facility siting; permit required prior to commencing certain acts in connection with construction of electric generation facility; application; hearing. No electric utility may begin site preparation for or construction of an electric generation facility or an addition to an electric generation facility or exercise the right of eminent domain to acquire any land in connection with site preparation for or construction of any such facility or addition thereto, without first acquiring a permit from the commission. Whenever any such electric utility desires to obtain such a permit, it shall file an application with the commission, setting forth therein that it proposes to construct an electric generation facility or an addition to an electric generation facility and specifying the description and the total number of acres of land that such utility contemplates is needed in connection with the construction, operation and maintenance of

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such facility or addition thereto. Also, the electric utility shall file with the application documents and plans which indicate the total planned utilization of a proposed location for electric generation purposes and documents and plans for utilization of an alternative location or locations. Such documents and plans with respect to alternative locations shall not be required for additions to existing electric generation facilities. In addition, the electric utility shall file with the application such documents pertaining to the construction, operation and maintenance of the proposed electric generation facility or addition to the electric generation facility and such other matters deemed relevant thereto as may be required by rules and regulations of the commission.

Thereupon, the commission shall

fix a time for a public hearing on such application, which shall be not less than 30 nor more than 180 days from the date the application was filed and shall be conducted in accordance with the provisions of the Kansas administrative procedure act, to determine the necessity for the proposed electric generation facility or addition to an electric generation facility and the most reasonable location and size of the proposed electric generation facility or addition to an electric generation facility. The commission shall fix the place for hearing, which may be in the county in which is located the major portion of the land which has been or is proposed to be acquired in connection with the construction, operation and maintenance of the proposed electric generation facility or the addition to the electric generation facility. Such hearing may be held in Topeka.

History: L. 1976, ch. 283, 2; L. 1978, ch. 270, 2; L. 1979, ch. 209, 3; L. 1988, ch. 356, 243; July 1, 1989.

66-1,160. Same; notice of hearing. The commission shall publish notice of the time place and subject matter of such hearing in newspapers having general circulation in the counties in which is located any portion of the land which has been or is proposed to be acquired in connection with the construction, operation and maintenance of the proposed electric generation facility or addition to an electric generation facility once each week for three consecutive weeks, the last publication to be not less than five days before such hearing date. Written notice of such hearing and a copy of the application also shall be served not less than twenty (20) days prior to the hearing date upon all landowners, as shown by the files, records and indexes of the register of deeds of the county in which such land is located, and the chief administrative officer, or any person designated by such officer to receive such service, of the department of economic development, state board of agriculture state water resources board, department of health and environment, department of transportation, state geological survey, Kansas energy office and the division of the budget of the department of administration. In addition to the information contained in the published notice, such written notice shall state that the electric utility has filed the application and supporting documents as required by K.S.A. 66-1,159, and that such application and supporting documents are available in the office of the commission for examination and copying by the person or board or agency desiring copies thereof.

History: L. 1976, ch. 283, 3; L. 1979, ch. 209, 4; L. 1980, ch. 284, 17; July 1.

66-1,161. Same; appointment of counsel to represent landowners' interests; counsel for individual landowners, intervening parties. The commission shall appoint an attorney to

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represent the interests of the landowners at the hearing and shall allow a reasonable attorney's fee, which shall be taxed as part of the costs thereof. Landowners, at their own expense, may retain counsel to represent their individual interests at such hearing. The chief administrative officer, or any other person or persons designated by such officer, of any governmental board or agency affected by the siting of the proposed electric generation facility or addition to an electric generation facility shall be deemed to meet the requirement for intervention contained in subsection (a)(2) of K.S.A. 77-521 and amendments thereto. Any owner or lessee of land whose estate or interest in such land would not be acquired by the electric utility but would be affected in some other manner by the construction, operation or maintenance of the electric generation facility or addition to an electric generation facility may petition for intervention in accordance with the provisions of K.S.A. 77-521 and amendments thereto.

History: L. 1976, ch. 283, 4; L. 1988, ch. 356, 244; July 1, 1989.

66-1,162. Same; hearing proceedings; transcript; costs; findings and decision; issuance of permit; construction authorized upon issuance of permit notwithstanding local zoning ordinances, resolutions or regulations. Except as otherwise provided in this act, the rules and regulations adopted by the commission pursuant to K.S.A. 66-106 and amendments thereto to govern the commission's proceedings shall be applicable to any proceeding before the commission under this act. The electric utility shall proceed with the introduction of evidence of the necessity for the proposed electric generation facility or addition to an electric generation facility and of the reasonableness of the proposed location and size of the electric generation facility or addition to an electric generation facility. The burden of proof on any such matter shall be upon the electric utility and shall be established by a preponderance of the evidence. All parties present or represented by counsel at the hearing shall have an opportunity to be heard and the right to cross-examine any witness appearing before the commission at the hearing. The commission shall cause a transcript to be made of the hearing. All costs of any hearing shall be taxed against the electric utility. The hearing and all parties' arguments shall be completed within 90 days after the commencement thereof. At any time after the commencement of the hearing, the electric utility may withdraw its application for the permit required by K.S.A. 66-1,159 and amendments thereto.

The commission shall make findings of fact and file such findings with its decision to grant, grant conditioned by such findings or withhold the permit applied for, except that whenever approval of applications are pending with or must be obtained from any state regulatory authority which relate to the operation of any such facility or addition to a facility, the commission shall postpone its decision until proof of the approval or disapproval of any such application is received. In any case where a state regulatory authority cannot render final approval of any such application until the facility or addition to a facility is in actual operation, the commission shall accept as proof of approval or disapproval the state regulatory authority's certification of probable acceptability or unacceptability of an application. Prior to making its determination with respect to the most reasonable location and size of a proposed electric generation facility or addition to an electric generation facility, the commission shall make its determination of whether or not a necessity exists for the electric generation capacity of a proposed electric generation facility or addition to an electric generation facility. In addition to any other consideration deemed necessary in making

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such determination, the commission shall consider and make determinations on the following factors: (1) Whether or not the electric generating capacity of the proposed facility or addition to a facility meets or contributes to the meeting of the electrical energy needs of the people of this state considering the probable future statewide electrical energy needs thereof; and (2) whether or not available electrical generating capacity exists within the state

that is capable of being distributed economically, reliably technically and environmentally.

Whenever the commission determines that a necessity exists for electric generation capacity to be provided by a proposed electric generation facility or addition to an electric generation facility, it shall make its determinations with respect to the most reasonable size and location of any such facility or addition to a facility. In addition to any other consideration deemed necessary in making a determination with respect to the size of a proposed facility or addition to a facility, the commission shall consider the electric utility's total planned utilization of a proposed location for electric generation purposes as it relates to the necessity found by the commission for additional electric generating capacity in the state. In addition to any other consideration deemed necessary in making a determination with respect to the most reasonable location of a proposed facility or addition to a facility, the commission shall consider the availability of natural resources necessary in the operation of a proposed facility or addition to a facility as the same relates to each alternative location submitted by the electric utility as required by the provisions of K.S.A. 66-1,159 and amendments thereto. The location of the existing generation facility shall be the most reasonable location for any addition to such facility. Upon a determination that a necessity exists for the proposed electric generation facility or the addition to an electric generation facility and that the proposed location and size of such facility or addition thereto are the most reasonable, the commission shall issue to the electric utility a permit to construct such facility or addition thereto except that the commission may condition such permit with respect to the location and size of the proposed electric generation facility or addition to an electric generation facility to provide for an alternate location or size, or both, thereof, but in no case shall the commission provide for a size larger than that applied for. Upon the issuance of such permit, no local ordinance, resolution or regulation shall prohibit the construction of the electric generation facility or addition to an electric generation facility, and the electric utility may proceed with such facility or addition thereto notwithstanding any requirement to obtain any building permit under any local zoning ordinance, resolution or regulation.

History: L. 1976, ch. 283, 5; L. 1979, ch. 209, 5; L. 1988, ch. 356, 245; July 1, 1989.

66-1,163. Same; petition for reconsideration. No cause of action arising out of any decision of the commission shall accrue to any party, unless such party shall have petitioned for reconsideration. In any subsequent action or proceeding in the supreme court, no party shall urge or rely upon any ground not set forth in the petition.

History: L. 1976, ch. 283, 6; L. 1979, ch. 209, 6; L. 1988, ch. 356, 246; July 1, 1989.

66-1,164. Judicial review of commission's actions. Any action of the commission pursuant to K.S.A. 66-1,163 and amendments thereto is subject to review by the supreme court in accordance with the act for judicial review and civil enforcement of agency actions. The supreme court, in its

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discretion, may require the appellant to file an appeal bond, conditioned on payment of all court costs incurred incidental to such appeal.

History: L. 1976, ch. 283, 7; L. 1979, ch. 209, 7; L. 1986, ch. 318, 122; July 1.

66-1,165. Precedence of action for review. Any action for review pursuant to K.S.A. 66-1,164 and amendments thereto shall have precedence over all other hearings and shall be heard not later than the first term of court after the action is commenced and the court shall decide all such actions within 60 days after being docketed in such court.

History: L. 1976, ch. 283, 8; L. 1979, ch. 209, 8; L. 1986, ch. 318, 123; July 1.

66-1,168. Same; time decisions of the commission to become effective. All decisions of the commission shall become operative and effective 30 days after the service of the decision as provided by law, except that if a petition for reconsideration is filed, the decision shall become operative and effective 30 days after the order or decision of the commission denying the petition or if the petition is granted the decision as originally entered or as modified shall become operative and effective 30 days after the service of the decision of the commission on reconsideration. After the lapse of the time within which proceedings could be taken to obtain a review of such decision, no proceedings to obtain such review having then been taken, such decision shall be held to be conclusive as to the matters involved therein in any collateral suit or proceedings.

History: L. 1976, ch. 283, 11; L. 1988, ch. 356, 247; July 1, 1989.

66-1,169a. Same; compilation by commission of statewide electric generation capacity forecast; hearings; information furnished by municipal utilities. In order to more effectively administer the provisions of the Kansas electric generation facility siting act with respect to determining whether or not a necessity exists for a proposed electric generation facility or addition to an electric generation facility, the commission shall compile and maintain a comprehensive statewide electric generation capacity forecast. In compiling and maintaining said forecast, the commission may hold such hearings deemed necessary. The proceedings of any such hearing shall be governed by the rules and regulations adopted by the commission pursuant to K.S.A. 66-106. For the purposes of this section, every municipally owned or operated electric utility and every electric utility operating wholly and solely within the legal boundaries of any municipality and within three (3) miles thereof shall furnish to the commission such information as to electric generation capacity as the commission may require.

History: L. 1979, ch. 209, 11; July 1.

66-1,169b. Electric generation facility siting; when provisions of act not applicable.

(a) The provisions of the Kansas electric generation facility siting act shall not apply to: (1) Unit number 3 of the Jeffrey Energy Center; or (2) electric generation facilities that have a capacity of 100 megawatts or less and convert wind, solar, biomass, landfill gas or any other renewable source of energy.

(b) With regard to a facility proposed to be located outside this state, K.S.A. 66-1,160 and 66-

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1,161, and amendments thereto, shall not apply and, for purposes of determining the most reasonable location of a proposed facility or addition to a facility pursuant to K.S.A. 66-1,162, and amendments thereto, the commission shall consider only the effects on system reliability and economic efficiency.

History: L. 1979, ch. 209, 12; L. 1993, ch. 106, 2; L. 1995, ch. 264, 2; July 1.

66-1,169c. Citation of act. This act and the act of which it is amendatory shall be known and cited as the "Kansas electric generation facility siting act."

History: L. 1979, ch. 209, 1; July 1.

Parallel Generation Act

66-1,184. Contracts for parallel generation services between electric utilities and its customers; terms and conditions; duties of customer. Every public utility which provides retail electric services in this state shall enter into a contract for parallel generation service with any person who is a customer of such utility, upon request of such customer, whereby such customer may attach or connect to the utility's delivery and metering system an apparatus or device for the purpose of feeding excess electrical power which is generated by such customer's energy producing system into the utility's system. No such apparatus or device shall either cause damage to the public utility's system or equipment or present an undue hazard to utility personnel. Every such contract shall include, but need not be limited to, provisions relating to fair and equitable compensation on such customer's monthly bill for energy supplied to the utility by such customer, and the following terms and conditions: (a) The utility will supply, own, and maintain all necessary meters and associated equipment utilized for billing. In addition, and for the purposes of monitoring customer generation and load, the utility may install at its expense, load research metering. The customer shall supply, at no expense to the utility, a suitable location for meters and associated equipment used for billing and for load research; (b) for the purposes of insuring the safety and quality of utility system power, the utility shall have the right to require the customer, at certain times and as electrical operating conditions-warrant, to limit the production of electrical energy from the generating facility to an amount no greater than the load at the customer's

facility of which the generating facility is a part; (c) the customer shall furnish, install, operate, and maintain in good order and repair and without cost to the utility, such relays, locks and seals, breakers, automatic synchronizer, and other control and protective apparatus as shall be designated by the utility as being required as suitable for the operation of the generator in parallel with the utility's system. In any case where the customer and the utility cannot agree to terms and conditions of any such contract, the state corporation commission shall establish the terms and conditions for such contract. In addition, the utility may install, own, and maintain a disconnecting device located near the electric meter or meters. Interconnection facilities between the customer's and the utility's equipment shall be accessible at all reasonable times to utility personnel. The customer may be required to reimburse the utility for any equipment or facilities required as a result of the installation by the customer of generation in parallel with the utility's service. The

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customer shall notify the utility prior to the initial energizing and start-up testing of the customer-owned generator, and the utility shall have the right to have a representative present at such test, and (d) the utility may require a special agreement for conditions related to technical and safety aspects of parallel generation.

Service under any such contract shall be subject to the utility's rules and regulations on file with the state corporation commission.

History: L. 1979, ch. 208, 1; July 1.

Transmission Line Siting Act

66-1,177. Electric transmission lines; definitions. As used in this act, the following terms shall have the meanings ascribed to them herein:

(a) "Electric utility" means every public utility, as defined by K.S.A. 66-104, which owns, controls, operates or manages any equipment, plant or generating machinery for the production, transmission, delivery or furnishing, of electricity or electric power;

(b) "Electric transmission lines" means any line or extension of a line which is at least five (5) miles in length and which is used for the bulk transfer of two hundred thirty (230) kilovolts or more of electricity;

(c) "Commission" means the state corporation commission.

History: L. 1979, ch. 207, 1; July 1.

66-1,178. Same; siting of electric transmission lines; permit required; application, contents; hearing. No electric utility may begin site preparation for or construction of an electric transmission line, or exercise the right of eminent domain to acquire any interest in land in connection with the site preparation for a construction of any such line without first acquiring a siting permit from the commission. Whenever any such electric utility desires to obtain such a permit, it shall file an application with the commission setting forth therein that it proposes to construct an electric transmission line and specifying the proposed location thereof, the names and addresses of the landowners of record whose land or interest therein is proposed to be acquired in connection with the construction of such a line and such other information as may be required by the commission. Thereupon the commission shall fix a time for a public hearing on such application which shall be not more than 60 days from the date the application was filed, to determine the necessity for and the reasonableness of the location of the proposed electric transmission line. The commission shall fix the place for hearing, which may be in any county through which the electric transmission line is proposed to traverse.

History: L. 1979, ch. 207, 2; L. 1984 ch. 248, 1; April 26.

66-1,179. Same; notice of hearing. The commission shall publish notice of the time place and subject matter of such hearing in newspapers having general circulation in every county through which the electric transmission line is proposed to traverse once each week for three (3) consecutive weeks, the last publication to be not less than five (5) days before such hearing date. Written notice by certified mail of such hearing and a copy of the application shall be served not

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less than twenty (20) days prior to the hearing date upon all land-owners, as shown by the application.

History: L. 1979, ch. 207, 3; July 1.

66-1,180. Siting of electric transmission lines; hearing proceedings; costs; decision by commission; issuance of permit. All hearings conducted pursuant to this act shall be in accordance with the provisions of the Kansas administrative procedure act. All such hearings shall be completed within 30 days after the commencement thereof, unless the electric utility requests a continuance of any such hearing. All costs of any hearing pursuant to this act shall be taxed against the electric utility. The commission shall make its decision with respect to the necessity for and the reasonableness of the location of the proposed electric transmission line and shall issue or withhold the permit applied for. The commission may condition such permit as it may deem just and reasonable and as may, in its judgment, best protect the rights of all interested parties and those of the general public.

History: L. 1979, ch. 207, 4; L. 1984, ch. 248, 2; L. 1988, ch. 356, 248; July 1, 1989.

66-1,181. Judicial review of commission's actions. The provisions of K.S.A. 66-118a through 66-118e, 66-118g and 66-118h, and amendments thereto, as they apply to the review of an order or decision of the commission arising from a rate hearing, shall be applicable to any appeal taken from any decision made under this act.

History: L. 1979, ch. 207, 5; L. 1986, ch. 318, 124; July 1.

66-1,182. Same; not applicable, when. The provisions of this act shall not apply to any electric utility which complies with the provisions of the national environmental policy act of 1969 with regard to the siting of electric transmission lines.

History: L. 1979, ch. 207, 6; July 1.

66-1,183. Same; duty of utility to restore land. It shall be the duty of every electric utility which constructs an electric transmission line to restore the land upon which such line is constructed to its condition which existed prior to such construction.

History: L. 1979, ch. 207, 7; July 1.