

CHAPTER 72  
SENATE BILL No. 63

AN ACT concerning public utilities; relating to the definition thereof;  
amending K.S.A. 66-104 and repealing the existing section.

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

New Section 1. (a) The term “public utility” within the meaning of K.S.A. 66-104, and amendments thereto, shall not include any person or entity in the business of being a landlord who is supplied water by a city or water district and who furnishes such water to its tenants pursuant to subsection (a)(5) of K.S.A. 58-2553 or subsection (a)(6) of K.S.A. 58-25,111, and amendments thereto, with the use of a separate meter to measure the water furnished to the tenant, so long as the landlord charges the tenant at the same rate charged by the city or water district to the landlord. Any lease between a landlord and tenant in effect at the time this section becomes effective shall not be affected by the provisions of this section. The furnishing of water by a landlord to a tenant in accordance with this section shall not be construed as a sale for resale which may be subject to the jurisdiction of the state corporation commission.

(b) The landlord shall not charge the tenant any surcharge for the installation, maintenance or any other purpose related to the use of a separate water meter.

(c) The landlord shall provide the tenant with a monthly water statement showing the computation of the amount the tenant owes, the tenant’s meter reading for the current water statement period and the tenant’s meter reading for the prior water statement period.

Sec. 2. K.S.A. 66-104 is hereby amended to read as follows: 66-104.

(a) 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, for the transmission of telephone messages or for the transmission of telegraph messages in or through any part of the state, 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. No cooperative, cooperative society, nonprofit or mutual corporation or association which is engaged solely in furnishing telephone service to subscribers from one telephone line without owning or operating its own separate central office facilities, shall be subject to the jurisdiction and control of the commission as provided herein, except that it shall not construct or extend its facilities across or beyond the territorial boundaries of any telephone company or cooperative without first obtaining approval of the commission. As used herein, the term “transmission of telephone messages” shall include the transmission by wire or other means of any voice, data, signals or facsimile communications, including all such communications now in existence or as may be developed in the future.

(b) 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.

(c) 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. 66-104e, and amendments thereto. A transit system principally engaged in rendering local transportation service in and between contiguous cities in this and another state by means of street railway, trolley bus and motor bus lines, or any combination thereof, shall be

deemed to be a public utility as that term is used in this act and, as such, shall be subject to the jurisdiction of the commission.

(d) 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.

(e) At the option of an otherwise jurisdictional entity, the term "public utility" shall not include any activity or facility of such entity as to the generation, marketing and sale of electricity generated by an electric generation facility or addition to an electric generation facility which:

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

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

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

(g) *For purposes of the authority to appropriate property through eminent domain, the term "public utility" shall not include any activity for the siting or placement of wind powered electrical generators or turbines, including the towers.*

Sec. 3. K.S.A. 66-104 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 6, 2005.

---