

SENATE BILL No. 145

By Committee on Utilities

2-11

1 AN ACT concerning boards of public utilities; regulation of rates by the
2 state corporation commission, when; notice to customers; amending
3 K.S.A. 13-1228a, 66-104 and 66-1,174 and repealing the existing
4 sections.

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

6 ~~New Section 1. (a) The state corporation commission shall investigate~~
7 ~~all rates, joint rates, tolls, charges and exactions, classifications and~~
8 ~~schedules of rates of a board of public utilities established under K.S.A.~~
9 ~~13-1220, and amendments thereto, if there is filed with the commission,~~
10 ~~not more than one year after a change in such board's rates, joint rates,~~
11 ~~tolls, charges and exactions, classifications or schedules of rates, a petition~~
12 ~~signed by not less than 5% of all of the board's customers or 3% of the~~
13 ~~board's customers from any one rate class. If, after investigation, the~~
14 ~~commission finds that such rates, joint rates, tolls, charges or exactions,~~
15 ~~classifications or schedules of rates are unjust, unreasonable, unjustly~~
16 ~~discriminatory or unduly preferential, the commission shall have the~~
17 ~~power to fix and order substituted rates, joint rates, tolls, charges and~~
18 ~~exactions, classifications or schedules of rates that are just and reasonable.~~
19 ~~(b) Any of the board of public utilities' rates, joint rates, tolls, charges~~
20 ~~and exactions, classifications or schedules of rates, petitioned pursuant to~~
21 ~~subsection (a) shall remain in effect subject to change or refund pending~~
22 ~~the state corporation commission's investigation and final order.~~
23 ~~(c) Any board of public utilities customer wishing to petition the~~
24 ~~commission pursuant to subsection (a) may request that the board provide~~
25 ~~the names, addresses and rate classifications of all the board's customers or~~
26 ~~of the board's customers from any one or more rate classes. The board,~~
27 ~~within 21 days after receipt of the request, shall provide the requested~~
28 ~~names, addresses and rate classifications to the customer and may require~~
29 ~~the customer to pay the reasonable costs thereof.~~
30 ~~(d) Nothing in this section shall be construed to authorize the state~~
31 ~~corporation commission to regulate payments by a board of public utilities~~
32 ~~to the municipality that established the board.~~
33 ~~(e) The commission shall assess its expenses of any investigation or~~
34 ~~proceeding pursuant to this section against the board of public utilities.~~
35 ~~Sec. 2. K.S.A. 13-1228a is hereby amended to read as follows: 13-~~
36

Notwithstanding any provision of law, upon a complaint in writing made against

by a ratepayer of such board that any of the rules and regulations, practices or acts of such board 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 board 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 board for the public is unreasonably inadequate, inefficient, unduly insufficient or cannot be obtained, the commission may proceed, with or without notice, to make such investigation as the commission deems necessary.

(b) No order changing such 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 board of public utilities 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.

(c) The commission shall have power to require a board of public utilities to make such improvements and do such acts as are or may be required by law to be done by any electric public utility.

1 1228a. Prior to the effective date of an increase in any rate fixed pursuant
 2 to the authority of K.S.A. 13-1227 or 13-1228, *and amendments thereto*,
 3 the board of public utilities shall hold a public hearing for the purpose of
 4 presenting to the public the findings of the board supporting the
 5 reasonableness of the proposed rate increase. The findings shall include all
 6 pertinent financial data, supporting documents and analysis relating to the
 7 rate increase. Any affected utility customer may appear at the public
 8 hearing and present testimony of witnesses under oath, conduct cross-
 9 examination of employees and representatives of the board, present oral
 10 argument and file written briefs in support of such customer's position.
 11 Notice of the time and place of the public hearing ~~and~~, the amount of the
 12 proposed rate increase *and a statement concerning the right to petition* ~~the~~
 13 *commission as set forth in section 1, and amendments thereto*, shall be
 14 given by publication in a newspaper of general circulation in the city
 15 which owns the public utility at least 90 days prior to the public hearing.
 16 Not less than 90 days prior to the public hearing, the board shall make
 17 available for review by any affected customer during regular business
 18 hours the financial data, supporting documents and analysis in possession
 19 of the board ~~which~~ *that* substantiates the findings supporting the proposed
 20 rate increase. The public hearing shall be conducted pursuant to
 21 procedures adopted by the board not inconsistent with the provisions of
 22 this section. A transcript shall be made of the public hearing and copies of
 23 the transcript shall be made available to the public upon payment of the
 24 cost thereof. The public hearing may be continued by the board from time
 25 to time and within five days after its completion, the board shall fix such
 26 rates as it deems justified pursuant to its findings and the evidence
 27 presented at the public hearing.

file a complaint with

28 Sec. 3. K.S.A. 66-104 is hereby amended to read as follows: 66-104.
 29 (a) The term "public utility," as used in this act, shall be construed to mean
 30 every corporation, company, individual ~~or~~ association of persons, ~~that~~ *or*
 31 *the* trustees, lessees or receivers *thereof*, that now or hereafter may own,
 32 control, operate or manage, except for private use, any equipment, plant or
 33 generating machinery, or any part thereof, for the transmission of
 34 telephone messages or for the transmission of telegraph messages in or
 35 through any part of the state, or the conveyance of oil and gas through
 36 pipelines in or through any part of the state, except pipelines less than 15
 37 miles in length and not operated in connection with or for the general
 38 commercial supply of gas or oil, and all companies for the production,
 39 transmission, delivery or furnishing of heat, light, water or power. No
 40 cooperative, cooperative society, nonprofit or mutual corporation or
 41 association ~~which~~ *that* is engaged solely in furnishing telephone service to
 42 subscribers from one telephone line without owning or operating its own
 43 separate central office facilities, shall be subject to the jurisdiction and

1 control of the commission as provided herein, except that it shall not
 2 construct or extend its facilities across or beyond the territorial boundaries
 3 of any telephone company or cooperative without first obtaining approval
 4 of the commission. As used herein, the term "transmission of telephone
 5 messages" shall include the transmission by wire or other means of any
 6 voice, data, signals or facsimile communications, including all such
 7 communications now in existence or as may be developed in the future.

8 (b) The term "public utility" shall also include that portion of every
 9 municipally owned or operated electric or gas utility located in an area
 10 outside of and more than three miles from the corporate limits of such
 11 municipality, but regulation of the rates, charges and terms and conditions
 12 of service of such utility ~~within~~ in such *outside* area shall be subject to
 13 commission regulation only as provided in K.S.A. 66-104f, and
 14 amendments thereto. ~~Nothing in this act shall apply to a municipally~~
 15 owned or operated utility, or portion thereof, located within the corporate
 16 limits of such municipality or located outside of such corporate limits but
 17 within three miles thereof, except as provided in ~~K.S.A. 66-121a section 1,~~
 18 and amendments thereto.

19 (c) (1) ~~Except as herein provided,~~ The power and authority to control
 20 and regulate all public utilities and common carriers situated and operated
 21 wholly or principally within any city or principally operated for the benefit
 22 of such city or its people, shall be vested exclusively in such city, subject
 23 only to the: (A) Right to apply for relief to the corporation commission as
 24 provided in K.S.A. 66-133, and amendments thereto; (B) provisions of
 25 section 1, and amendments thereto; and to the (3) provisions of K.S.A. 66-
 26 104e, and amendments thereto.

27 (2) A transit system principally engaged in rendering local
 28 transportation service in and between contiguous cities in this and another
 29 state by means of street railway, trolley bus and motor bus lines, or any
 30 combination thereof, shall be deemed to be a public utility as that term is
 31 used in this act and, as such, shall be subject to the jurisdiction of the
 32 commission.

33 (d) The term "public utility" shall not include any activity of an
 34 otherwise jurisdictional corporation, company, individual, or association
 35 of persons, ~~that~~ or the trustees, lessees or receivers thereof as to the
 36 marketing or sale of compressed natural gas for end use as motor vehicle
 37 fuel.

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

42 (1) Is newly constructed and placed in service on or after January 1,
 43 2001; and

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

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

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

14 Sec. 4. K.S.A. 66-1,174 is hereby amended to read as follows: 66-
15 1,174. (a) Except as provided by K.S.A. 66-104f, and amendments thereto,
16 a municipally owned or operated retail electric supplier shall be subject to
17 commission jurisdiction as a public utility, as defined in K.S.A. 66-104,
18 and amendments thereto, with respect to all operations within its certified
19 territory extending more than three miles beyond its corporate limits.

20 (b) A municipal retail electric supplier shall be subject to regulation
21 by the commission in matters relating to the right to serve in the territory
22 within three miles of the corporate city boundary, except that the
23 commission shall have no jurisdiction concerning such retail electric
24 supplier within its corporate limits, ~~unless such supplier is a board of~~
25 ~~public utilities that is petitioned under the provisions of section 1, and~~
26 ~~amendments thereto.~~

27 Sec. 5. K.S.A. 13-1228a, 66-104 and 66-1,174 are hereby repealed.
28 Sec. 6. This act shall take effect and be in force from and after its
29 publication in the statute book.

except as provided for

pursuant to