

## HOUSE BILL No. 2145

By Committee on Energy, Utilities and Telecommunications

1-26

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1 AN ACT concerning electric public utilities; relating to the state  
2 corporation commission; exempting retail sales of electricity through  
3 electric vehicle charging stations from commission jurisdiction;  
4 amending K.S.A. 66-104 and repealing the existing section.  
5

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

7 Section 1. K.S.A. 66-104 is hereby amended to read as follows: 66-  
8 104. (a) The term "public utility," as used in this act, shall be construed to  
9 mean every corporation, company, individual, association of persons, their  
10 trustees, lessees or receivers, that now or hereafter may own, control,  
11 operate or manage, except for private use, any equipment, plant or  
12 generating machinery, or any part thereof, for the transmission of  
13 telephone messages or for the transmission of telegraph messages in or  
14 through any part of the state, or the conveyance of oil and gas through  
15 pipelines in or through any part of the state, except pipelines less than 15  
16 miles in length and not operated in connection with or for the general  
17 commercial supply of gas or oil, and all companies for the production,  
18 transmission, delivery or furnishing of heat, light, water or power. No  
19 cooperative, cooperative society, nonprofit or mutual corporation or  
20 association which is engaged solely in furnishing telephone service to  
21 subscribers from one telephone line without owning or operating its own  
22 separate central office facilities, shall be subject to the jurisdiction and  
23 control of the commission as provided ~~herein~~ *in this section*, except that it  
24 shall not construct or extend its facilities across or beyond the territorial  
25 boundaries of any telephone company or cooperative without first  
26 obtaining approval of the commission. As used ~~herein~~ *in this section*, the  
27 term "transmission of telephone messages" shall include the transmission  
28 by wire or other means of any voice, data, signals or facsimile  
29 communications, including all such communications now in existence or  
30 as may be developed in the future.

31 (b) The term "public utility" shall also include that portion of every  
32 municipally owned or operated electric or gas utility located in an area  
33 outside of and more than three miles from the corporate limits of such  
34 municipality, but regulation of the rates, charges and terms and conditions  
35 of service of such utility within such area shall be subject to commission  
36 regulation only as provided in K.S.A. 66-104f, and amendments thereto.

1 Nothing in this act shall apply to a municipally owned or operated utility,  
2 or portion thereof, located within the corporate limits of such municipality  
3 or located outside of such corporate limits but within three miles thereof  
4 ~~except as provided in K.S.A. 66-131a, and amendments thereto.~~

5 (c) Except as ~~herein~~ provided *in this section*, the power and authority  
6 to control and regulate all public utilities and common carriers situated and  
7 operated wholly or principally within any city or principally operated for  
8 the benefit of such city or its people, shall be vested exclusively in such  
9 city, subject only to the right to apply for relief to the corporation  
10 commission as provided in K.S.A. 66-133, and amendments thereto, and to  
11 the provisions of K.S.A. 66-104e, and amendments thereto. A transit  
12 system principally engaged in rendering local transportation service in and  
13 between contiguous cities in this and another state by means of street  
14 railway, trolley bus and motor bus lines, or any combination thereof, shall  
15 be deemed to be a public utility as that term is used in this act and, as such,  
16 shall be subject to the jurisdiction of the commission.

17 (d) The term "public utility" shall not include any activity of an  
18 otherwise jurisdictional corporation, company, individual, association of  
19 persons, their trustees, lessees or receivers as to the marketing or sale of:

20 (1) Compressed natural gas for end use as motor vehicle fuel; *or*

21 (2) *electricity that is purchased through a retail electric supplier in*  
22 *the certified territory of such retail electric supplier, as such terms are*  
23 *defined in K.S.A. 66-1,170, and amendments thereto, for the sole purpose*  
24 *of the provision of electric vehicle charging service to end users.*

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

29 (1) Is newly constructed and placed in service on or after January 1,  
30 2001; and

31 (2) is not in the rate base of:

32 (A) An electric public utility that is subject to rate regulation by the  
33 state corporation commission;

34 (B) any cooperative, as defined by K.S.A. 17-4603, and amendments  
35 thereto, or any nonstock member-owned cooperative corporation  
36 incorporated in this state; or

37 (C) a municipally owned or operated electric utility.

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

42 (g) For purposes of the authority to appropriate property through  
43 eminent domain, the term "public utility" shall not include any activity for

1 the siting or placement of wind powered electrical generators or turbines,  
2 including the towers.

3       Sec. 2. K.S.A. 66-104 is hereby repealed.

4       Sec. 3. This act shall take effect and be in force from and after its  
5 publication in the statute book.