

HOUSE BILL No. 2367

By Committee on Energy, Utilities and Telecommunications

2-11

1 AN ACT concerning the state corporation commission; relating to public
2 utilities; authorizing regulation of certain wire stringing activities;
3 amending K.S.A. 66-104 and repealing the existing section.
4

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

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

29 (b) The term "public utility" shall also include that portion of every
30 municipally owned or operated electric or gas utility located in an area
31 outside of and more than three miles from the corporate limits of such
32 municipality, but regulation of the rates, charges and terms and conditions
33 of service of such utility within such area shall be subject to commission
34 regulation only as provided in K.S.A. 66-104f, and amendments thereto.
35 Nothing in this act shall apply to a municipally owned or operated utility,
36 or portion thereof, located within the corporate limits of such municipality

1 or located outside of such corporate limits but within three miles thereof
 2 ~~except as provided in K.S.A. 66-131a, and amendments thereto.~~

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

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

19 (e) *(1) Except as provided in paragraph (2), at the option of an*
 20 *otherwise jurisdictional entity, the term "public utility" shall not include*
 21 *any activity or facility of such entity as to the generation, marketing and*
 22 *sale of electricity generated by an electric generation facility or addition to*
 23 *an electric generation facility* ~~which that:~~

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

26 ~~(B)~~(B) is not in the rate base of:

27 ~~(A)~~(i) An electric public utility that is subject to rate regulation by the
 28 state corporation commission;

29 ~~(B)~~(ii) any cooperative, as defined by K.S.A. 17-4603, and
 30 amendments thereto, or any nonstock member-owned cooperative
 31 corporation incorporated in this state; or

32 ~~(C)~~(iii) a municipally owned or operated electric utility.

33 (2) *The provisions of this subsection shall not be construed to affect*
 34 *the authority of the state corporation commission to regulate any activity*
 35 *or facility of an otherwise jurisdictional entity with regard to wire*
 36 *stringing pursuant to K.S.A. 66-183 et seq., and amendments thereto.*

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

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

1 including the towers.

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

3 Sec. 3. This act shall take effect and be in force from and after its

4 publication in the statute book.