

HOUSE BILL No. 2585

By Committee on Energy, Utilities and Telecommunications

2-6

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, except that it shall not
24 construct or extend its facilities across or beyond the territorial boundaries
25 of any telephone company or cooperative without first obtaining approval
26 of the commission. As used herein, the term "transmission of telephone
27 messages" shall include the transmission by wire or other means of any
28 voice, data, signals or facsimile communications, including all such
29 communications now in existence or as may be developed in the future.

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

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

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

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

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

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

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

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

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

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

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

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

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