

## SENATE BILL No. 457

By Committee on Utilities

2-6

AN ACT concerning public utilities; relating to eminent domain; prohibiting public utilities from exercising eminent domain for the siting or placement of solar facilities; amending K.S.A. 2023 Supp. 66-104 and repealing the existing section.

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

Section 1. K.S.A. 2023 Supp. 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~~ "public utility" means 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 that 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 in this section, 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. ~~The term "Transmission of telephone messages" shall include~~ includes 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~~ includes that portion of every municipally owned or operated electric or gas utility located in an area outside of and more than three miles from the corporate limits of such municipality, but regulation of the rates, charges ~~and~~ terms and conditions of service of such utility within such area shall be subject to commission 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 (c) Except as provided in this section, the power and authority to  
5 control and regulate all public utilities and common carriers situated and  
6 operated wholly or principally within any city or principally operated for  
7 the benefit of such city or its people, shall be vested exclusively in such  
8 city, subject only to the right to apply for relief to the corporation  
9 commission as provided in K.S.A. 66-133, and amendments thereto, and to  
10 the provisions of K.S.A. 66-104e, and amendments thereto. A transit  
11 system principally engaged in rendering local transportation service in and  
12 between contiguous cities in this and another state by means of street  
13 railway, trolley bus and motor bus lines, or any combination thereof, shall  
14 be deemed to be a public utility as that term is used in this act and shall be  
15 subject to the jurisdiction of the commission.

16 (d) ~~The term "Public utility"~~ *shall does* 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 the  
21 certified territory of such retail electric supplier, as such terms are defined  
22 in K.S.A. 66-1,170, and amendments thereto, for the sole purpose of the  
23 provision of electric vehicle charging service to end users.

24 (e) (1) Except as provided in paragraph (2), at the option of an  
25 otherwise jurisdictional entity, ~~the term "public utility"~~ *shall does* not  
26 include any activity or facility of such entity as to the generation,  
27 marketing and sale of electricity generated by an electric generation  
28 facility or addition to an electric generation facility that:

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

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

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

34 (ii) 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 (iii) a municipally owned or operated electric utility.

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

42 (f) Additional generating capacity achieved through efficiency gains  
43 by refurbishing or replacing existing equipment at generating facilities

1 placed in service before January 1, 2001, shall not qualify under  
2 subsection (e).

3 (g) For purposes of the authority to appropriate property through  
4 eminent domain, ~~the term "public utility"~~ *shall does* not include any  
5 activity for the siting or placement of:

6 (1) Wind powered electrical generators or turbines, including the  
7 towers; *or*

8 (2) *solar powered electric generation equipment including panels.*

9 Sec. 2. K.S.A. 2023 Supp. 66-104 is hereby repealed.

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