SENATE BILL No. 145

By Committee on Utilities

2-11

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

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

New Section 1. (a) The state corporation commission shall investigate all rates, joint rates, tolls, charges and exactions, classifications and schedules of rates of a board of public utilities established under K.S.A. 13-1220, and amendments thereto, if there is filed with the commission, not more than one year after a change in such board's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates, a petition signed by not less than 5% of all of the board's customers or 3% of the board's customers from any one rate class. If, after investigation, the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted rates, joint rates, tolls, charges and exactions, classifications or schedules of rates that are just and reasonable.

(b) Any of the board of public utilities' rates, joint rates, tolls, charges and exactions, classifications or schedules of rates petitioned pursuant to subsection (a) shall remain in effect subject to change or refund pending the state corporation commission's investigation and final order.

(c) Any board of public utilities customer wishing to petition the commission pursuant to subsection (a) may request that the board provide the names, addresses and rate classifications of all the board's customers or of the board's customers from any one or more rate classes. The board, within 21 days after receipt of the request, shall provide the requested names, addresses and rate classifications to the customer and may require the customer to pay the reasonable costs thereof.

(d) Nothing in this section shall be construed to authorize the state corporation commission to regulate payments by a board of public utilities to the municipality that established the board.

(e) The commission shall assess its expenses of any investigation or proceeding pursuant to this section against the board of public utilities.

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

Sec. 3. K.S.A. 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
every corporation, company, individual; or association of persons, their or
the trustees, lessees or receivers thereof, 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 which 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 herein, 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. As used herein, the term "transmission of telephone
messages" shall include 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 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 in such outside area shall be subject to
commission regulation only as provided in K.S.A. 66-104f, and
amendments thereto. Nothing in this act shall apply to a municipally
owned or operated utility, or portion thereof, located within the corporate
limits of such municipality or located outside of such corporate limits but
within three miles thereof, except as provided in K.S.A. 66-131a section 1,
and amendments thereto.

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

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

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

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

(1) Is newly constructed and placed in service on or after January 1,
2001; and
(2) is not in the rate base of: (A) An electric public utility that is subject to rate regulation by the state corporation commission; (B) any cooperative, as defined by K.S.A. 17-4603, and amendments thereto, or any nonstock member-owned cooperative corporation incorporated in this state; or (C) a municipally owned or operated electric utility.

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

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

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

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

Sec. 5. K.S.A. 13-1228a, 66-104 and 66-1,174 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.