

SENATE BILL No. 457

By Committee on Utilities

2-6

1 AN ACT concerning public utilities; relating to eminent domain;
2 prohibiting public utilities from exercising eminent domain for the
3 siting or placement of solar facilities; amending K.S.A. 2023 Supp. 66-
4 104 and repealing the existing section.

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

7 Section 1. K.S.A. 2023 Supp. 66-104 is hereby amended to read as
8 follows: 66-104. (a) ~~The term "public utility,"~~ As used in this act, ~~shall be~~
9 ~~construed to mean~~ "public utility" means every corporation, company,
10 individual, association of persons, their trustees, lessees or receivers, that
11 now or hereafter may own, control, operate or manage, except for private
12 use, any equipment, plant or generating machinery, or any part thereof, for
13 the transmission of telephone messages or for the transmission of
14 telegraph messages in or through any part of the state, or the conveyance
15 of oil and gas through pipelines in or through any part of the state, except
16 pipelines less than 15 miles in length and not operated in connection with
17 or for the general commercial supply of gas or oil, and all companies for
18 the production, transmission, delivery or furnishing of heat, light, water or
19 power. No cooperative, cooperative society, nonprofit or mutual
20 corporation or association that is engaged solely in furnishing telephone
21 service to subscribers from one telephone line without owning or operating
22 its own separate central office facilities, shall be subject to the jurisdiction
23 and control of the commission as provided 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. ~~The term "Transmission of~~
27 ~~telephone messages" shall include~~ includes the transmission by wire or
28 other means of any voice, data, signals or facsimile communications,
29 including all such communications now in existence or as may be
30 developed in the future.

31 (b) ~~The term "Public utility" shall also include~~ includes that portion
32 of every municipally owned or operated electric or gas utility located in an
33 area 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 (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.