

HOUSE BILL No. 2661

By Committee on Appropriations

2-12

1 AN ACT concerning utilities; relating to approval of certificates of public
2 convenience and necessity; review by the Kansas electric transmission
3 authority for electric transmission lines; amending K.S.A. 2013 Supp.
4 66-131 and 74-99d07 and repealing the existing sections.
5

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

7 New Section 1. (a) Prior to applying to the state corporation
8 commission for a certificate of public convenience and necessity as
9 required in K.S.A. 66-131, and amendments thereto, any electric utility
10 that plans to construct a new direct current electric transmission line in this
11 state shall first submit such plan for review to the Kansas electric
12 transmission authority. The authority shall review such plan and prepare a
13 report of its findings within 120 days of submission of the plan. The
14 authority shall provide the utility and the state corporation commission
15 with such report of the authority's review, including a description of any
16 concerns the authority believes need to be addressed prior to construction
17 of the project.

18 (b) For the purposes of this section: (1) "Electric transmission line"
19 has the meaning provided in K.S.A. 66-1,177, and amendments thereto;
20 and

21 (2) "electric utility" has the meaning provided in K.S.A. 66-1,177,
22 and amendments thereto.

23 (c) This section shall be part of and supplemental to the Kansas
24 electric transmission authority act.

25 Sec. 2. K.S.A. 2013 Supp. 74-99d07 is hereby amended to read as
26 follows: 74-99d07. (a) Except as otherwise provided by this act, the
27 authority shall have all the powers necessary to carry out the purposes and
28 provisions of this act, including, without limitation:

29 (1) Having the duties, privileges, immunities, rights, liabilities and
30 disabilities of a body corporate and a political instrumentality of the state;

31 (2) having perpetual existence and succession;

32 (3) adopting, having and using a seal and altering the same at its
33 pleasure;

34 (4) suing and being sued in its own name;

35 (5) adopting bylaws for the regulation of its affairs and the conduct of
36 its business;

1 (6) adopting such rules and regulations as the authority deems
2 necessary for the conduct of the business of the authority;

3 (7) employing consulting engineers, attorneys, accountants,
4 construction and financial experts, superintendents, managers and such
5 other employees and agents as the authority deems necessary and fixing
6 the compensation thereof;

7 (8) making and executing all contracts and agreements necessary or
8 incidental to the performance of the authority's duties and the execution of
9 the authority's powers under this act;

10 (9) receiving and accepting from any federal agency grants, or any
11 other form of assistance, for or in aid of the planning, financing,
12 construction, development, acquisition or ownership of any property,
13 structures, equipment, facilities and works of public improvement
14 necessary or useful for the accomplishment of the purposes for which the
15 authority was created and receiving and accepting aid or contributions
16 from any source of either money, property, labor or other things of value,
17 to be held, used and applied only for the purposes for which such grants
18 and contributions may be made;

19 (10) borrowing funds to carry out the purposes of the authority and
20 mortgaging and pledging any lease or leases granted, assigned or
21 subleased by the authority;

22 (11) purchasing, leasing, trading, exchanging or otherwise acquiring,
23 maintaining, holding, improving, mortgaging, selling, leasing and
24 disposing of personal property, whether tangible or intangible, and any
25 interest therein; and purchasing, leasing, trading, exchanging or otherwise
26 acquiring real property or any interest therein, and maintaining, holding,
27 improving, mortgaging, leasing and otherwise transferring such real
28 property, so long as such transactions do not conflict with the mission of
29 the authority as specified in this act;

30 (12) as provided by K.S.A. 2013 Supp. 74-99d09, and amendments
31 thereto, incurring or assuming indebtedness and entering into contracts
32 with the Kansas development finance authority, which is authorized to
33 borrow money, issue bonds and provide financing for: (A) The
34 construction, upgrading or repair of transmission facilities of the Kansas
35 electric transmission authority or the acquisition of right-of-way for such
36 facilities, or both, and any such bonds shall be payable from and be
37 secured by the pledge of revenues derived from the operation of such
38 electric transmission facilities; or (B) making loans to finance the
39 construction, upgrading or repair of transmission facilities not owned by
40 the Kansas electric transmission authority or the acquisition of right-of-
41 way for such facilities, or both, upon such terms and conditions as required
42 by the authority, including a requirement that any entity receiving a loan
43 under this act shall maintain records and accounts relating to receipt and

1 disbursements of loan proceeds, transportation costs and information on
2 energy sales and deliveries and make the records available to the authority
3 for inspection, and any such bonds shall be payable from and be secured
4 by the pledge of revenues derived from the operation of such electric
5 transmission facilities;

6 (13) depositing any moneys of the authority in any banking
7 institution within or without the state or in any depository authorized to
8 receive such deposits, one or more persons to act as custodians of the
9 moneys of the authority, to give surety bonds in such amounts in form and
10 for such purposes as the board requires;

11 (14) recovering its costs through tariffs of the southwest power pool
12 regional transmission organization, or its successor, and, if all costs are not
13 recovered through such tariffs, through assessments against all electric
14 public utilities, electric municipal utilities and electric cooperative utilities
15 receiving benefits of the construction or upgrade and having retail
16 customers in this state. Each such utility's assessment shall be based on the
17 benefits the utility receives from the construction or upgrade, as
18 determined by the state corporation commission upon application by the
19 authority. In determining allocation of benefits and costs to utilities, the
20 commission may take into account funding and cost recovery mechanisms
21 developed by regional transmission organizations and shall take into
22 account financial payments by transmission users and approved by the
23 federal energy regulatory commission or regional transmission
24 organization. Each electric public utility shall recover any such assessed
25 costs from the utility's customers in a manner approved by the commission
26 and each electric municipal or cooperative utility shall recover such
27 assessed costs from the utility's customers in a manner approved by the
28 utility's governing body;

29 (15) participating in and coordinating with the planning activities of
30 the southwest power pool regional transmission organization, or its
31 successor, and adjoining regional transmission organizations, or their
32 successors;

33 (16) participating in and coordinating with the planning activities of
34 the southwest power pool regional reliability organization, or its successor,
35 and adjoining regional reliability organizations, or their successors; ~~and~~

36 (17) establish and charge reasonable fees, rates, tariffs or other
37 charges, unless costs are recoverable under paragraph (14), for the use of
38 all facilities owned, financed or administered by it and for all services
39 rendered by it, and, if all costs are not recovered under paragraph (14),
40 such costs shall be recovered through assessments against any entity or
41 entities requesting use of facilities owned, financed or administered by the
42 authority or for all requested services provided by the authority, or both;
43 *and*

1 (18) *review plans by electric utilities to construct new direct current*
2 *electric transmission lines in this state pursuant to section 1, and*
3 *amendments thereto.*

4 (b) On or before the first day of the regular legislative session each
5 year, the authority shall submit to the governor and to the legislature a
6 written report of the authority's activities for the preceding fiscal year.
7 Such report shall include the report of any audit conducted pursuant to
8 K.S.A. 2013 Supp. 74-99d10, and amendments thereto, of the preceding
9 fiscal year.

10 (c) The authority shall continue until terminated by law. No such law
11 terminating the authority shall take effect while the authority has bonds,
12 debts or obligations outstanding unless adequate provision has been made
13 for the payment or retirement of such bonds, debts or obligations. Upon
14 dissolution of the authority, all property, funds and assets thereof shall be
15 disposed of as provided by law.

16 Sec. 3. K.S.A. 2013 Supp. 66-131 is hereby amended to read as
17 follows: 66-131. (a) No common carrier or public utility, including that
18 portion of any municipally owned utility defined as a public utility by
19 K.S.A. 66-104, *and amendments thereto*, governed by the provisions of
20 this act shall transact business in the state of Kansas until it shall have
21 obtained a certificate from the corporation commission that public
22 convenience will be promoted by the transaction of ~~said~~*such* business and
23 permitting ~~said~~*such* applicants to transact the business of a common carrier
24 or public utility in this state. In no event shall such jurisdiction authorize
25 the corporation commission to review, consider or effect the facilities or
26 rates charged for services or in any way the operation of such municipally
27 owned or operated electric or gas utility within the corporate limits or
28 outside but within three miles of the corporate limits of any city, or
29 facilities, or rates charged for services or in any way the operation of
30 facilities or their replacements now owned by any such utility. No
31 prescribed rates, orders or other regulatory supervision of the corporation
32 commission shall be contrary to any lawful provision of any revenue bond
33 ordinance authorizing the issuance of revenue bonds to finance all or any
34 part of the municipally owned or operated electric or gas utility so
35 subjected to the jurisdiction of the corporation commission. This section
36 shall not apply to any common carrier or public utility governed by the
37 provisions of this act now transacting business in this state, nor shall this
38 section apply to the facilities and operations of any municipally owned or
39 operated utility supplying electricity or gas outside of the corporate limits
40 of any municipality where such facilities and operations are in existence
41 on the effective date of this act, but any extension of such facilities or any
42 new facilities located outside of and more than three miles from the
43 municipality's corporate limits, shall be subject to the requirements of this

1 section, nor shall this section apply to any municipally owned or operated
2 electric or gas utility furnishing electricity or gas to a facility owned or
3 jointly owned by such municipality and located outside the corporate
4 limits of such municipality.

5 (b) The commission shall issue a decision on a common carrier or
6 public utility's application for a certificate of public convenience within
7 180 days of receiving the application. Nothing in this subsection shall
8 preclude an applicant and the commission from agreeing to a waiver or an
9 extension of the 180-day period.

10 Sec. 4. K.S.A. 2013 Supp. 66-131 and 74-99d07 are hereby repealed.

11 Sec. 5. This act shall take effect and be in force from and after its
12 publication in the statute book.