

2012 Kansas Statutes

66-131. Permit to transact business required; exceptions; limitations on commission's authority and jurisdiction; time period for determination of application. (a) No common carrier or public utility, including that portion of any municipally owned utility defined as a public utility by K.S.A. 66-104, governed by the provisions of this act shall transact business in the state of Kansas until it shall have obtained a certificate from the corporation commission that public convenience will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state. In no event shall such jurisdiction authorize the corporation commission to review, consider or effect the facilities or rates charged for services or in any way the operation of such municipally owned or operated electric or gas utility within the corporate limits or outside but within three miles of the corporate limits of any city, or facilities, or rates charged for services or in any way the operation of facilities or their replacements now owned by any such utility. No prescribed rates, orders or other regulatory supervision of the corporation commission shall be contrary to any lawful provision of any revenue bond ordinance authorizing the issuance of revenue bonds to finance all or any part of the municipally owned or operated electric or gas utility so subjected to the jurisdiction of the corporation commission. This section shall not apply to any common carrier or public utility governed by the provisions of this act now transacting business in this state, nor shall this section apply to the facilities and operations of any municipally owned or operated utility supplying electricity or gas outside of the corporate limits of any municipality where such facilities and operations are in existence on the effective date of this act, but any extension of such facilities or any new facilities located outside of and more than three miles from the municipality's corporate limits, shall be subject to the requirements of this section, nor shall this section apply to any municipally owned or operated electric or gas utility furnishing electricity or gas to a facility owned or jointly owned by such municipality and located outside the corporate limits of such municipality.

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

History: L. 1911, ch. 238, § 31; R.S. 1923, 66-131; L. 1968, ch. 333, § 7; L. 1978, ch. 263, § 3; L. 2012, ch. 101, § 2; July 1.

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66-183. Stringing wires along or across streets, highways or public places; regulations. All public utilities owning or operating wires for the transmission of telegraph or telephone messages or for the transmission of electricity upon, along, or across the streets, highways or public places in this state are required to so use, string and maintain such wires as to avoid unreasonable injury or interference from the wires of other utilities and to avoid unreasonable injury to and interference with the wires of other utilities, and the corporation commission is given the power, and it is hereby made its duty, to prescribe reasonable rules and regulations with respect to the stringing and maintaining of wires in all cases where there is danger or possibility of unreasonable interference with or damage to the wires or service of one utility by those of another utility and with respect to the support, maintenance, repair and reconstruction thereof, which rules shall be furnished to any interested person upon application to the corporation commission, and the corporation commission is given the power, and it is hereby made its duty to prescribe reasonable rules and regulations with respect to the stringing of wires, electric or otherwise, which cross over or under the tracks of any railroad company and with respect to the support, maintenance, repair and reconstruction thereof, which rules shall be furnished to any interested person upon application; but in no case shall the height of any wires which cross above the tracks of a railway company be less than twenty-five feet from the top of the rails, except trolley and feed wires of electric railroads, which wires shall be not less than twenty-two feet above the tops of the rails.

History: L. 1917, ch. 252, § 1; March 13; R.S. 1923, 66-183.

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66-1,177. Electric transmission lines; definitions. As used in this act, the following terms shall have the meanings ascribed to them herein:

(a) "Electric utility" means every public utility, as defined by K.S.A. 66-104, which owns, controls, operates or manages any equipment, plant or generating machinery for the production, transmission, delivery or furnishing, of electricity or electric power;

(b) "Electric transmission lines" means any line or extension of a line which is at least five (5) miles in length and which is used for the bulk transfer of two hundred thirty (230) kilovolts or more of electricity;

(c) "Commission" means the state corporation commission.

History: L. 1979, ch. 207, § 1; July 1.

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66-1,178. Same; siting of electric transmission lines; permit required; application, contents; hearings. (a) No electric utility may begin site preparation for or construction of an electric transmission line, or exercise the right of eminent domain to acquire any interest in land in connection with the site preparation for a construction of any such line without first acquiring a siting permit from the commission. Whenever any electric utility desires to obtain such a permit, the utility shall file an application with the commission setting forth therein that the utility proposes to construct an electric transmission line and specifying:

(1) The proposed location thereof;

(2) the names and addresses of the landowners of record whose land or interest therein is proposed to be acquired in connection with the construction of or is located within 660 feet of the center line of the easement where the line is proposed to be located; and

(3) such other information as may be required by the commission.

(b) Upon the filing of an application pursuant to subsection (a), the commission shall fix a time for a public hearing on such application, which shall be not more than 90 days after the date the application was filed, to determine the necessity for and the reasonableness of the location of the proposed electric transmission line. The commission shall fix the place for hearing, which shall be in one of the counties through which the electric transmission line is proposed to traverse.

(c) The commission may conduct an evidentiary hearing on an application filed pursuant to this section at such time and place as the commission deems appropriate.

(d) The commission shall issue a final order on the application within 120 days after the date the application was filed.

History: L. 1979, ch. 207, § 2; L. 1984, ch. 248, § 1; L. 2000, ch. 85, § 1; Apr. 20.

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66-1,179. Same; notice of hearing. The commission shall publish notice of the time, place and subject matter of the public hearing provided for by K.S.A. 66-1,178 and amendments thereto in newspapers having general circulation in every county through which the electric transmission line is proposed to traverse once each week for two consecutive weeks, the last publication to be not less than five days before such hearing date. The commission may order the applicant to publish such notice and submit an affidavit of publication, evidencing the dates of publication and the newspapers in which the notice appeared, to the commission prior to the hearing. Written notice by certified mail of such hearing and a copy of the application shall be served not less than 20 days prior to the hearing date upon all landowners described in subsection (a)(2) of K.S.A. 66-1,178, and amendments thereto, as shown by the application.

History: L. 1979, ch. 207, § 3; L. 2000, ch. 85, § 2; Apr. 20.

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66-1,180. Same; siting; proceedings; permit. All hearings conducted pursuant to this act shall be in accordance with the provisions of the Kansas administrative procedure act. All such hearings shall be completed within 30 days after the commencement thereof, unless the electric utility requests a continuance of any such hearing. All costs of any hearing pursuant to this act shall be taxed against the electric utility. The commission shall make its decision with respect to the necessity for and the reasonableness of the location of the proposed electric transmission line, taking into consideration the benefit to both consumers in Kansas and consumers outside the state and economic development benefits in Kansas. The commission shall issue or withhold the permit applied for and may condition such permit as the commission may deem just and reasonable and as may, in its judgment, best protect the rights of all interested parties and those of the general public.

History: L. 1979, ch. 207, § 4; L. 1984, ch. 248, § 2; L. 1988, ch. 356, § 248; L. 2003, ch. 80, § 1; July 1.

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66-1,181. Judicial review of commission's actions. The provisions of K.S.A. 66-118a through 66-118e, 66-118g and 66-118h, and amendments thereto, as they apply to the review of an order or decision of the commission arising from a rate hearing, shall be applicable to any appeal taken from any decision made under this act.

History: L. 1979, ch. 207, § 5; L. 1986, ch. 318, § 124; July 1.

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66-1,182. Same; exemption of certain lines from act, local jurisdiction and environmental study requirements, when. (a) The provisions of this act shall not apply to:

- (1) That portion of any electric transmission line to be constructed on an easement where there currently exists one or more electric transmission lines if the easement is not within the corporate limits of any city;
- (2) that portion of any electric transmission line to be constructed on property adjacent to right-of-way along a four-lane controlled access highway, as defined in K.S.A. 8-1410, and amendments thereto; or
- (3) any electric utility which complies with the provisions of the national environmental policy act of 1969 with regard to the siting of electric transmission lines.

(b) No city or county shall have jurisdiction or control over the siting or construction of any electric transmission line exempted from the provisions of this act by subsection (a).

(c) No environmental study shall be required for construction of an electric transmission line on right-of-way where there currently exists one or more electric transmission lines.

History: L. 1979, ch. 207, § 6; L. 2000, ch. 85, § 3; Apr. 20.

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66-1,183. Same; duty of utility to restore land. It shall be the duty of every electric utility which constructs an electric transmission line to restore the land upon which such line is constructed to its condition which existed prior to such construction.

History: L. 1979, ch. 207, § 7; July 1.

82-11-9. Waiver provisions. (a) Upon application by any person engaged in the transportation of gas or the operation of pipeline facilities, compliance with any regulation of this article that is not incorporated by reference from 49 CFR 191-192 may be waived, in whole or in part, by the commission if the commission determines that the waiver is consistent with pipeline safety. The provision of notice of the proposed waiver and an opportunity for hearing on the application for waiver may be required by the commission. In addition, the waiver shall be granted only under these circumstances:

- (1) By order of the commission; and
- (2) after notice and opportunity for hearing, if ordered by the commission. The waiver shall be subject to any terms, conditions, and limitations deemed appropriate by the commission.

(b) Upon application by any person engaged in the transportation of gas or the operation of pipeline facilities, compliance with any regulation of this article that is incorporated by reference from 49 CFR 191-192 may be waived, in whole or in part, by the commission if the commission determines that the waiver is consistent with pipeline safety. The provision of notice of the proposed waiver and an opportunity for hearing on the application for waiver may be required by the commission. In addition, the waiver shall be granted only under these circumstances:

- (1) By order of the commission;
- (2) after notice and opportunity for hearing, if ordered by the commission; and
- (3) upon approval of the US department of transportation under 49 USC 1671 et seq. The waiver shall be subject to any terms, conditions, and limitations deemed appropriate by the commission. (Authorized by and implementing K.S.A. 66-1,150; effective, T-82-10-28-88, Oct. 28, 1988; effective, T-82-2-25-89, Feb. 25, 1989; revoked, T-82-3-31-89, April 30, 1989; effective May 1, 1989; amended March 12, 1999.)

82-11-10. Drug and alcohol testing. The federal regulations titled "drug and alcohol testing," 49 C.F.R., Part 199, as in effect October 1, 2002, are adopted by reference only as they apply to operators of pipeline facilities that deal in the transportation of natural gas by pipeline. (Authorized by and implementing K.S.A. 66-1,150; effective April 16, 1990; amended March 12, 1999; amended July 7, 2003.)

82-11-11. Fees. (a) The fee for each public

utility covered under K.S.A. 66-1,153 and K.S.A. 66-1,154, and amendments thereto, shall be as follows:

- (1) For assessments made during calendar year 1998, the fee shall be \$0.50 per meter.
- (2) For assessments made during calendar year 1999, the fee shall be \$0.75 per meter.
- (3) For assessments made during calendar year 2000 and succeeding years, the fee shall be \$1.00 per meter.

(b) Subsection (a) above notwithstanding, the minimum annual assessment shall not be less than \$50.00 during calendar year 1998, \$75.00 during calendar year 1999, and \$100.00 during calendar year 2000 and succeeding years. (Authorized by and implementing K.S.A. 66-1,153 and K.S.A. 66-1,154; effective March 12, 1999.)

Article 12.—WIRE-STRINGING RULES

82-12-1. Definitions. The following terms shall have the meaning set out below when applied to these regulations.

(a) "Commission" means the state corporation commission of Kansas.

(b) "Electric supply line" means any overhead or underground transmission or distribution line for electric energy transfer.

(c) "Inductive coordination" means the location, design, construction, operation and maintenance of electric and communication systems methods which will prevent inductive interference.

(d) "Inductive interference" means an effect due to the inductive influence of an electric system, the inductive susceptiveness of a communication system, and the inductive coupling between the two systems of such character and magnitude as to prevent the communication system from rendering satisfactory and economical service.

(e) "Inductive susceptiveness" means those characteristics of a communication circuit with its associated apparatus which determine the extent to which its operation may be affected by inductive influence.

(f) "Overbuilding" means construction of one supply line above another supply line.

(g) "Supply line" means any overhead or underground transmission or distribution line for either telecommunication or electric energy transfer.

(h) "Telecommunication supply line" means

any overhead or underground transmission or distribution line for telecommunication transfer.

(i) "Underbuilding" means construction of one supply line under another supply line.

(j) "Utility" means organizations, individuals or others whose supply line construction comes under the jurisdiction of the commission as provided in K.S.A. 66-104. (Authorized by and implementing K.S.A. 66-183; effective Aug. 11, 1995.)

82-12-2. Adoption by reference of the National Electrical Safety Code, or NESC, 1997 edition. The standard entitled the "National Electrical Safety Code," or NESC, of the American National Standards Institute, 1997 edition, ANSI C2-1997, approved June 6, 1996, and published by the Institute of Electrical and Electronic Engineers, or IEEE, is adopted by reference. However, the standard for minimum vertical clearance of wires, conductors, and cables over railroad tracks shall be the greatest of the applicable values specified in the NESC Table 232-1, K.S.A. 66-183, and K.S.A. 66-320, and amendments thereto. Copies of the NESC are available from the IEEE. A reference copy of the NESC shall also be available at the commission. (Authorized by and implementing K.S.A. 66-183; effective Aug. 11, 1995; amended March 12, 1999.)

82-12-3. Utility applications for electric supply lines. Each utility proposing to build a new electric supply line, or contemplating a change in an existing electric supply line located outside the corporate limits of any city, shall present an application to the commission for approval. The application shall consist of a completed application form as approved by the commission, and any other information required by the form or these regulations including:

(a) Maps and plats, of a scale of at least one inch to the mile, showing any changes or additions to the electric supply lines; and

(b) a cost breakdown of the construction or extensions with unit cost of the plant.

On or before the day the application is submitted to the commission, the utility shall send written notice of the proposed construction or changes as required by K.A.R. 82-12-5. (Authorized by and implementing K.S.A. 66-183; effective Aug. 11, 1995.)

82-12-4. Exceptions to 82-12-3 application. (a) Any utility may proceed with necessary construction, in cases of emergency, after written

or telephone communication with the commission establishing need and securing emergency approval from the commission, if:

(1) The utility complies with the rules and regulations to the extent practicable under the circumstances; and

(2) the utility files immediately with the commission an application as approved by the commission showing that the construction will ultimately be brought into full conformity with the regulations.

(b) A utility may proceed with construction of any electric supply line without submitting an application under K.A.R. 82-12-3, if all of the following requirements are met.

(1) Prior to beginning construction, the utility shall give written notice to railroads and other utilities having facilities within ½ mile of any contemplated electric supply line construction or change in construction.

(2) The proposed electric supply line shall:

(A) be within the utility's certified area;

(B) not interfere with the supply lines, tracks or facilities of other utilities or railroads; and

(C) be no longer than ½ mile. However, if the proposed extension is to an extension previously made under this exception, then the combined length of the proposed and original extensions shall be considered as the length of the proposed extension for purposes of this subsection. If the combined length exceeds ½ mile, then K.A.R. 82-12-3 application is required for the combined length. (Authorized by and implementing K.S.A. 66-183; effective Aug. 11, 1995.)

82-12-5. Notice of construction of electric supply lines. On or before the day a utility makes an application to the commission for any contemplated electric supply line construction, change in construction, or change in operating conditions to be located outside the corporate limits of any city, the utility shall send written notice of their plan:

(a) To the commission, at least 10 days before commencing construction;

(b) to railroads within ½ mile of the contemplated construction. The application shall not be considered for approval until at least 15 days after that notice is sent; and

(c) to all other utilities within ½ mile of the contemplated construction unless the utilities have executed a joint use or other agreement covering the area in which the construction is pro-

posed. The application shall not be considered for approval until at least 10 days after this notice is sent. (Authorized by and implementing K.S.A. 66-183; effective Aug. 11, 1995.)

82-12-6. Requirements for the installation of warning buoys and warning spheres installed in connection with electric lines crossing water areas suitable for sailboating.

(a) Each electric utility in Kansas that maintains electric lines over water areas, other than rivers, streams and creeks, which are suitable for sailboating, or other water sports, shall place warning buoys in the water under electric lines and warning spheres on the electric lines, where they cross water.

(b) A waiver, as deemed appropriate, of the sphere and buoy requirement may be granted by the commission for good cause upon application by the utility. Applications for waivers may be submitted by each electric utility at the same time it supplies the information required by subsection (c). Each application for waiver shall specify the reasons for the requested waiver and assess the safety implications of the commission's waiver of the buoy and sphere requirement.

(c) For each newly constructed or reconstructed electric supply line which crosses water areas suitable for sailboating or other water sports, each electric utility shall report the following facts in an attachment to the application form at the time of application:

(1) The name, type, configuration, and location of the electric line that crosses one or more water areas that are subject to this regulation;

(2) the length and primary voltage of the electric line crossing the water area;

(3) the approximate clearance height of the electric line above water, at its lowest point, using the design high water level;

(4) the number of spheres and buoys installed under and on each line; and

(5) the expected date of the installation of the line, spheres and buoys, and the expected date for which the line will initially be energized.

(d) The placement of warning buoys and warning spheres is the minimum level of safety which shall be provided. Each utility may, at its option, provide a greater level of protection for the general public by relocating the electric line or taking other equivalent measures. (Authorized by and implementing K.S.A. 66-183; effective Aug. 11, 1995.)

82-12-7. Utility requirements for telecommunication supply lines. (a) A utility may proceed with construction of any telecommunication supply line if all of the following requirements are met.

(1) Prior to beginning construction, the utility shall give written notice to all of the following entities that have facilities within ½ mile of any contemplated telecommunication supply line construction or change in construction:

(A) railroads; and

(B) other utilities, unless the utilities have executed a joint use or other agreement covering the area in which the construction is proposed.

(2) The proposed telecommunication supply line construction shall:

(A) be within the utility's certified area; and

(B) not result in any objection from other utilities or railroads that have been given written notice as required by paragraph (a)(1) above.

(b) Each utility owning or operating one or more telecommunication supply lines shall file with the commission, in an annual telecommunication supply line report, a map or maps showing routes for all of its existing telecommunication supply lines. Annual reports shall be due on March 31 of each calendar year. Maps provided shall indicate the following:

(1) any specific additions or changes to the telecommunication supply lines in the previous calendar year;

(2) whether lines are toll, interexchange, or local exchange lines;

(3) whether lines are constructed of fiberoptic, copper or other material;

(4) whether lines are analog or digital; and

(5) the location of microwave towers.

The format of the filed maps shall be on a scale of at least one inch to the mile, or in electronic form approved by the commission. (Authorized by and implementing K.S.A. 66-183; effective Aug. 11, 1995.)

82-12-8. Coordinated location of lines.

In order to provide for the efficient and effective use of the public and private roads, each utility constructing supply lines shall locate those lines in conformance with the following requirements.

(a) When there are two or more practical methods of locating supply lines in a manner that avoids conflicts or prevents objectionable interference between lines, the method involving the