

## 2012 Kansas Statutes

**74-99d14. Specific powers; limitations.** (a) Subject to the provisions of this act, the authority shall have the power to:

(1) Plan, finance, construct, develop, acquire, own, dispose of, contract for maintenance of and contract with electric public utilities, electric cooperative utilities or electric municipal utilities for operation of transmission facilities of the authority and any real or personal property, structures, equipment or facilities necessary or useful for the accomplishment of the purposes for which the authority was created, including the obtaining of permits and the acquisition of rights of way; and

(2) participate in partnerships or joint ventures with individuals, corporations, governmental bodies or agencies, partnerships, associations or other entities to facilitate any activities or programs consistent with the public purpose and intent of this act, including partnerships or joint ventures for the purpose of financing all or any portion of a project pursuant to subsection (a)(2) of K.S.A. 2012 Supp. 74-99d09, and amendments thereto.

(b) (1) Except as otherwise provided in this act, the authority shall not exercise any of the rights or powers granted to it in this section, if private entities are performing the acts, are constructing or have constructed the facilities or are providing the services contemplated by the authority and such private entities are willing to finance and own new infrastructure to meet an identified need and market.

(2) Prior to exercising any rights or powers granted to it in this section, the authority shall publish once in the Kansas register, and once in a newspaper and trade magazine in the area where the facilities or services are contemplated, a notice describing the acts, facilities or services contemplated by the authority and stating that private entities willing and able to perform the acts, finance and own and construct the facilities or provide the services described in the notice shall have a period of 90 days after the date of publication of the notice in the Kansas register within which to notify the authority of intention and ability to perform the acts, finance and construct the facilities or provide the services described in the notice. In the absence of notification by a private entity, the authority may proceed to perform the acts, construct the facilities or provide the services originally contemplated. If a private entity has given notice of intention to perform the acts, finance and construct the facilities or provide the services contemplated by the authority, the authority may proceed to perform the acts, construct the facilities or provide the services originally contemplated if the private entity fails to commence performance within 180 days after the date of notification of the authority of its intention. Actions deemed to constitute commencement of performance of the acts, construction of the facilities or provision of the services within the required time shall include, but not be limited to, holding of public meetings on siting of facilities, acquisition of land or commencement of proceedings for condemnation of land, application to acquire any federal, state, local or private permits, certificates or other authorizations or approvals necessary to perform the acts, construct the facilities or provide the services.

(3) Notwithstanding commencement of performance of the acts, construction of the facilities or provision of the services by a private entity, if the authority is not satisfied with subsequent progress in performance of the acts, construction of the facilities or provision of the services, the authority may again give notice as provided in subsection (b)(2) with respect to completion of performance of the acts, construction of the facilities or provision of the services. In the absence of notification by a private entity willing and able to complete performance of the acts, construction of the facilities or provision of the services, the authority may proceed to complete performance. If a private entity has given notice of intention to complete performance, the authority may proceed to perform the acts, construct the facilities or provide the services if the private entity fails to complete performance within 180 days after the date of notice by the entity.

(c) The authority shall not operate or maintain transmission facilities.

(d) The authority shall exercise the rights and powers granted to it in this act only with respect to transmission facilities which the southwest power pool regional transmission organization, or its successor, has determined are compatible with plans adopted by such organization and, for electric transmission lines with an operating voltage of 60 kilovolts or more, which have been approved by such organization.

**History:** L. 2007, ch. 55, § 2; L. 2008, ch. 26, § 1; L. 2009, ch. 141, § 30; May 28.