

**66-104f. Jurisdiction over municipal electric or natural gas public utilities; limitations.** (a) The rates, charges and terms and conditions of service of a municipally owned or operated electric or natural gas public utility for retail services provided outside of and more than three miles from the corporate limits of the municipality shall not be subject to the jurisdiction, regulation, supervision or control of the state corporation commission, except as provided in subsection (b), if:

(1) The customers served in such area number no more than 40% of the total number of customers served by such utility;

(2) the rates and charges for customers in such area are no greater than the rates and charges for the customers served by such utility within the corporate limits of the municipality and the terms and conditions of service are the same. However, after the effective date of this act, the rates and charges for customers in such area may not be increased more than 10% each calendar year until such rates and charges are equal to the rates and charges for customers within the corporate limits of the municipality;

(3) not less than 10 days in advance of any meeting at which changes to the rates, charges or terms and conditions of service will be considered, the municipal entity with authority to determine the utility's rates, charges and terms and conditions of service provides customers in such area both notice of the time and place of such meeting and a description of the changes to be considered. The notice shall also include a statement concerning the right to petition the commission as set forth in subsection (b);

(4) the municipality furnishes, within 21 days after the receipt of a request for such information, the names, addresses and rate classifications of customers in such area; and

(5) the municipality provides to the commission an annual report on or before May 1 stating the number of customers served in such area and the total number of customers served as of the end of the preceding calendar year.

(b) If, not more than one year after a change in rates, charges or terms and conditions of service for services provided in the area described in subsection (a), there is filed with the commission a petition signed by not less than 25% of the customers in such area protesting such change, the commission shall investigate all rates, charges and terms and conditions of service for services in such area. The change shall remain in effect, subject to new rates, charges and terms and conditions, pending the commission's investigation and final order. If, after investigation, the commission finds any rate, charge or term or condition of service to be unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefore such rates, charges and terms and conditions of service as are just and reasonable and may also require refunds of any unjust, unreasonable, unjustly discriminatory or unduly preferential rates or charges. In determining the reasonableness and justness of rates and charges, the commission may consider whether the rates or charges reflect operating margins that allow the municipality to unreasonably use revenues derived from the operation of the utility outside of and more than three miles from the corporate limits of such municipality for other municipal operations or uses.

(c) Nothing in this act shall be construed to affect the single certified service territory of a municipally owned or operated utility or the authority of the commission, as otherwise provided by law, over such utility with regard to service territory, charges for transmission services, sales of power for resale, wire stringing, transmission line siting, pipeline safety and underground utility damage prevention, pursuant to K.S.A. 66-131, 66-183, 66-1,150 et seq., 66-1,170 et seq., 66-1,177 et seq. and 66-1801 et seq., and amendments thereto.

**History:** L. 2007, ch. 176, § 1; July 1.