

**66-133. Municipal franchises and ordinances; taxpayer's complaint to commission; bond for costs of hearing complaint.** Every municipal council or commission shall have the power and authority, subject to any law in force at the time and to the provisions of K.S.A. 66-131a, to contract with any public utility or common carrier, situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people, by ordinance or resolution, duly considered and regularly adopted:

(1) As to the quality and character of each kind of product or service to be furnished or rendered by any public utility or common carrier, and the maximum rates and charges to be paid therefor to the public utility or common carrier furnishing such product or service within said municipality, and the terms and conditions, not inconsistent with this act or any law in force at the time under which such public utility or common carrier may be permitted to occupy the streets, highways or other public property within such municipality.

(2) To require and permit any public utility or common carrier to make such additions or extensions to its physical plant as may be reasonable and necessary for the benefit of the public, and may designate the location and nature of such additions and extensions at the time within which such shall be completed, and the terms and conditions under which the same shall be constructed.

(3) To provide a reasonable and lawful penalty for the noncompliance with the provisions of any ordinance or resolution adopted in pursuance with the provisions hereof. No ordinance or resolution granting or extending any right, privilege or franchise shall be in force or effect until thirty days after the same shall have been duly published; nor if any complaint be made, as hereinafter provided for, shall said ordinance or resolution be in effect while any proceedings to review before said commission or action or appeal in any court in relation thereto shall be pending.

Upon any complaint being made, within fifteen days after the publication of any such ordinance or resolution, to the corporation commission by any such public utility or common carrier, or by ten or more taxpayers of any such municipality a bond to pay the costs of the hearing having first been filed by the complainant with and approved by the said commission, that any right, privilege or franchise granted, or ordinance or resolution or part of any ordinance or resolution adopted, by any municipal council or commission is unreasonable, or against public policy, or detrimental to the best interests of the city, or contrary to any provisions of law, the corporation commission shall set a date for the hearing of such complaint, not less than ten days after date of filing thereof, and shall cite the parties interested to appear on a date named, which date shall be not less than ten days after the fixing of the date of the hearing, and on that date, or at a time agreed upon by the interested parties, or a date fixed by the corporation commission, the complainant shall present such evidence as they or it may have in support thereof, and show why such complaint should be sustained, and the corporation commission may inquire into the allegations in such complaint, and may subpoena witnesses, and take testimony to ascertain the truth of the allegations contained therein in contemplation of bringing an action as hereinafter provided; and if said commission shall find that any provision of any such ordinance or resolution is unreasonable, or against the public welfare or public interest, or has reason to believe that the same may be contrary to law, said corporation commission shall, within ten days, advise and recommend such changes in the ordinance or resolution as may be necessary to meet the objections set forth in the complaint and protect the public interest, and to remove any unreasonable provision therefrom; and if such municipal council or commission shall not within twenty days thereafter amend such ordinance or resolution to conform to the recommendations of said corporation commission, the corporation commission may, in the name of the state of Kansas, within thirty days after such finding, commence proceedings against such municipal council or commission and common carrier or public utility governed by the provisions of this act in any court of competent jurisdiction, to set aside any ordinance or resolution, or part thereof, because of its unreasonableness or illegality, or because the same is not for the promotion of the welfare and best interests of said municipality, which action and proceedings shall be in conformity with the provisions of this act.

**History:** L. 1911, ch. 238, § 33; R.S. 1923, 66-133; L. 1978, ch. 263, § 4; March 23.