

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Don Myers at 9:00 a.m. on February 23, 1998 in Room 514-S of the Capitol.

All members were present except:

Committee staff present: Lynne Holt, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes  
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Chairman Don Myers noted that the minutes for the meetings of February 5 through February 18 were distributed for review and they will be discussed at a later meeting.

The Chairman asked Representative Aurand, Chairman of the Sub-committee on the bill regarding telecommunications slamming, to give a report. Representative Aurand explained the work done by the Sub-committee along with input from the Kansas Corporation Commission and the Attorney General's Office to draft amendments to the bill. Representative Aurand presented and explained the proposed amendments, **Substitute for Substitute for HB 2649** (Attachment#1). Questions and discussion followed regarding the amendments.

The Chairman requested that the same Sub-committee on the proposed amendments, **Substitute for Substitute for HB 2649**, with the Sub-committee that included Representative Aurand as Chairman, along with Representative Alldritt, Representative Humerickhouse, Representative Johnson and Representative McKinney, reconvene after the meeting and report back to the Committee by the following day, February 24, 1998.

The meeting was adjourned at 9:40 a.m.

The next meeting is scheduled for February 24, 1998.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 23, 1998

NAME	REPRESENTING
John Reinhard	Kearney Law Office
Ann Mah	SWBT
Rob Hodges	KTA
HEINEMANN	KLL
Karen Matsen	KCC
Walker Hendrix	CURB
JOHN HOLMGREN	Capital City Task Force - CARRP
Jesse Brown	Capital City Task Force - AARP
George Walters	" " " "
CHARLES H. FREEMAN	AARP - STATE LEG. COMMITTEE
Tom Young	AARP
STEVE LARRICK	AG
KRISTY HERBERT	AG
TERESA SALTS	AG
Paul Snider	SWBT
George Banbee	RTMC
John Pinegar	SITA
<del>George Young</del>	ARC
Nathy Peterson	SWBT



## Substitute for Substitute for HOUSE BILL NO. 2649

By

AN ACT concerning telecommunications; prescribing procedures for changes in a consumer's primary carrier of long distance service, local service and other telecommunication related services; providing penalties for violations.

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

Section 1. (a) No local exchange carrier or telecommunications carrier shall submit to a local exchange carrier a change order for long distance service, local service or other telecommunication related services without having obtained the express authorization of the consumer. As used in this section, an "express authorization" means an express, affirmative act by the consumer clearly agreeing to the change in long distance service, local service or other telecommunication related services. The local exchange carrier or telecommunications carrier requesting the change for long distance service, local service or other telecommunication related services shall have the burden of proving the express authorization by clear and convincing evidence.

(b) No local exchange carrier, telecommunications carrier or third party utilized to verify change orders shall:

(1) Engage in any activity, conduct or representation while soliciting or verifying a change in a consumer's long distance service or local service or any other telecommunication related services that has the capacity to mislead, deceive or confuse the consumer;

(2) employ a box or container used to collect entries for sweepstakes, contests or drawings to gather letters of agency or other documents that constitute authorizations by consumers to change their primary long distance carrier or local exchange carrier or to change or add other telecommunication related

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services; or

(3) use any methods not approved by the federal communications commission statutes, rules and regulations (as in effect on the effective date of this act) or state corporation commission statutes and rules and regulations to change a consumer's long distance or local service or to change or add other telecommunication related services.

(c) Any local exchange carrier or telecommunications carrier that violates subsection (a) or (b) shall be liable to the consumer:

(1) For a refund of any amounts collected and a credit for any unpaid amounts charged by the carrier not properly authorized to change the long distance service, local service or other telecommunication related services, including any charges for local or long distance services, switching fees or other related charges; and

(2) for restoration of any premiums to which the consumer would have been entitled should the unauthorized change have not occurred.

(d) Every local exchange carrier or telecommunications carrier that submits an order for a change in a consumer's local exchange carrier or telecommunications carrier, within 72 hours after implementation of the change, shall mail to the consumer a letter using first class mail, postage prepaid that complies with the following:

(1) The letter must be the sole and separate document in the envelope and the envelope must be clearly marked, on the front, in 12 point or larger type, "NOTICE OF SWITCH IN TELEPHONE SERVICE";

(2) The letter, whose sole purpose is to describe the changes in service authorized by the consumer, must be printed in 10 point or larger type and contain clear and plain language that confirms the details of the change, including the name, address and telephone number of the carrier submitting the change order; the name of the consumer requesting the change; all terms,

conditions and fees applicable to the change; and a toll free number that the consumer can call to cancel the service.

(e) Any local exchange carrier or telecommunications carrier that violates subsections (a), (b), (c) or (d) shall be subject to a civil penalty of not less than \$5,000 nor more than \$20,000 for each such violation.

(f) Any violation of this section is a deceptive and unconscionable act or practice under the provisions of the Kansas consumer protection act and shall be subject to any and all of the enforcement provisions of the Kansas consumer protection act. Nothing in this section shall preclude the state corporation commission from exerting its authority as it pertains to intrastate services nor the attorney general from pursuing violations of any other provisions of the Kansas consumer protection act by a local exchange carrier or telecommunications carrier.

(g) This section shall be part of and supplemental to the Kansas consumer protection act.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.