

Approved: April 7, 2000
Date

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairperson Sen. Pat Ranson at 1:30 p.m. on March 15, 2000 in Room 231- N of the Capitol.

All members were present except:
Sen. Hensley was excused

Committee staff present:
Lynne Holt, Legislative Research Department
Mary Torrence, Revisors of Statute Office
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:
None

Others attending:
See attached list

Sen. Ranson announced that the committee will meet at 1:00 p.m. tomorrow and will return to the Abandoned Well Plugging Report and **HB 2782-concerning oil and gas; relating to disposition of certain fees.** and asked members to pass along any observations or recommendations to Lynne Holt, who will be writing the final report. Sen. Brownlee introduced pages from her district, who are assisting the committee today.

Sen. Ranson announced the committee will have a briefing, hearing and discussion on **HB 2897-public lands; relating to grants of easements.** She called on Lynne Holt to brief the committee on the bill. Ms. Holt referred to the Supplemental Note on the bill and also to a letter to Don Heiman, Chief Information Technology Officer for the Division of Information Systems and Communication from N.B. Nelson, Chief, Bureau of Computer Services for the Department of Transportation (Attachment 1). Sen. Salisbury asked why the bill specifies notification to the state finance council, and Ms. Holt responded that amendment was added to the bill by the House Committee of the Whole and she did not know the reason for it. Sen. Morris stated the state finance council does not meet often, and he believes adding the notification would hamper proceedings. Sen. Lee also asked for the definition for "state of Kansas as a whole". Staff did not know, but assumed it was to include interests other than the agencies. Sen. Ranson asked if Ms. Torrence provided language for the bill, and she replied yes and no. Sen. Clark stated he and Sen. Barone are on the Joint Committee of Information Technology which discussed issues surrounding the bill, but the House introduced the bill. No conferees had requested to appear before the committee on the bill.

Sen. Ranson then referred to the letter from the Department of Transportation and asked if anyone was present from the department. Ron McMurry stated he was here monitoring the bill. Sen. Barone stated it appears the Department of Transportation gave significant access to highway easements without sharing it with anyone else. Sen. Clark stated the expense is in opening the hole and the concern was giving away exclusive use of the right of way or crossing, as was done by the Missouri Department of Transportation. He stated he has read the Kansas Department of Transportation contracts and feels state agencies should be notified before easements are granted for future needs. The committee then referred to the map which is the last page of Attachment 1 from the Department of Transportation. The committee asked who owns an interest in the easements as shown on the map, and it was concluded that Williams Oil Company does. Their representative, Ms. Braden, responded she would furnish the committee with more information tomorrow. Sen. Salisbury questioned if new subsection (b) is necessary, and Sen. Barone asked who the bill applies to, is it to everyone in the state? Ms. Torrence replied it is applicable to all state agencies, and Sen. Lee questioned who was granted right of way to lay cable along Highway 36. Sen. Ranson asked Ms. Braden to furnish more information to the committee tomorrow.

Sen. Ranson asked the committee to refer to **HB 2984-fiber-optic cable; requiring owners to submit information to the state; penalties** and asked Lynne Holt to brief the committee on it. Ms. Holt referred to the Supplemental Note and stated it was requested by the Select Committee on Information

CONTINUATION SHEET

MINUTES OF THE SENATE UTILITIES COMMITTEE, Room 231- N Statehouse, at 1:30 p.m. on March 15, 2000.

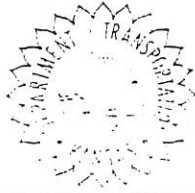
Management. She stated there was security concerns expressed by the telephone companies during the House hearing on the bill, and that is the reason the confidentially portion was added in (c). Ms. Holt also pointed to the language that was taken out in Lines 35 to 40. Sen. Ranson stated there is a fiscal note for 3.0 FTE positions for FY 2001 in the amount of \$164,607. Ms. Holt stated there is a problem with the language in Line 25 and that it is her understanding the Kansas Corporation Commission will propose clarifying language. Sen. Ranson asked Ms. Holt to tell the committee what would happen if the bill were to pass. Ms. Holt answered it would provide a mechanism for the KCC to require and access information regarding fiber-optic cable, which may be designated confidential. It further provides for a consolidated map showing placement of fiber-optic cable across the state. Ms. Holt questioned the intent of the bill in Lines 15 and 16. Sen. Ranson questioned if it includes cable laid on private property and for what purpose would the information be used? Sen. Barone also questioned if the requirement applies to everyone, or if it applies to cables laid along and down pipelines. Sen. Ranson asked who requested the bill, and Ms. Holt answered the Select Committee on Information Management, and Sen. Ranson clarified that it was not requested by the KCC.

Ms. Holt again referred to Section 1, Subsection (c) related to providing certain information and stated she is not certain of the intent of the bill. Sen. Ranson stated it is hard to consider passing this legislation with no specific designation, which includes everyone and asked for clarification from the KCC. Tom Day said he could speak to the original version of the bill, which was if fiber has been laid by a company and it crosses a local exchange, and if there is a point of presence in Kansas, the company then becomes part of this bill and would have to designate it to the Kansas Corporation Commission and the Chief Information Officer. He cited as an example, Western Resources, which has four points of presence in the state - Wichita, Lawrence Energy Center, Wolf Creek and the Jeffrey Energy Center. Sen. Barone believes the bill is because the Joint Council on Information Technology and KAN-ED would like to know where fiber-optics are laid across the state, as it is very expensive to lay. He believes the logic behind the bill is that they could lease or buy access to lay fiber-optics, which would cost less and they want to use the resources already in place. Sen. Clark added it is difficult to find out what fiber-optics are in the ground in order to address future technology needs. Sen. Ranson stated she still does not understand the object of the bill, because if you need information, it could be accomplished through RFP's; that there is a way to notify all parties to provide the information. She added that the telecommunications industry was to provide services to schools, libraries and other entities, and questioned if they are doing what they have said they would do. She added there is to be an Audit soon of the telecommunications industry to see whether they are living up to what they have said they will do. Sen. Steffes stated he can see some value in knowing where fiber-optic cables are laid and knowing what the states' capabilities are in delivering technology across the state. Sen. Barone stated he believes it is more of a desire to gather data and to ask companies to comply in divulging where they are; however, do you mandate it? Sen. Morris stated the bill will request private companies to provide information and if they do not comply, fine them \$10,000 per day. Sen. Ranson announced the committee will have a hearing on the bill tomorrow. She also reminded the committee it will meet at 1:00 p.m.

Meeting adjourned at 2:30.

Next meeting will be March 16.

A-5



KANSAS DEPARTMENT OF TRANSPORTATION
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December 14, 1999

Mr. Don Heiman
Chief Information Technology Officer
Division of Information Systems and Communication
7th Floor, Landon Office Building
Topeka, Kansas 66612

Dear Don:

Regarding: Fiber Optics

This letter is in response to the questions you posed this morning regarding fiber on KDOT right-of-way other related fiber optic issues:

i. *Does KDOT know where fiber is located in Kansas?*

a. **Statewide.** KDOT is concluding a study of our fiber optic requirements with consultant assistance. As part of that study effort, our consultant contacted the Kansas Corporation Commission (KCC) to discover what information they could provide about the location of fiber in Kansas. They do not have that information and concluded no one has a big picture where fiber is located throughout the state.

b. **Fiber for ITS (Intelligent Transportation Systems).** We have a shared resource agreement with Digital Teleport, Inc. (DTI) for providing bandwidth and conduit for KDOT's planned traffic management system in Kansas City. This agreement covers the portion of the Kansas City Metropolitan Area (KCMA) that KDOT is responsible for (approximately 150 miles). A second contract with DTI provides bandwidth, dark optical fiber, and conduit on approximately 550 miles of state highways, including Kansas City to Salina, from Salina to the Colorado Border, and from Salina to Wichita, including the Wichita Metropolitan Area. DTI is negotiating with KTA for right-of-way access from Wichita to the Oklahoma border. A map is attached showing the KDOT fiber optic infrastructure in Kansas.

c. **Fiber for Other Purposes.** KDOT routinely issues permits for other utility companies to use KDOT right-of-way for uses that may include fiber. These permits are issued by

Senate Utilities
3-15-00
Attach. 1

Area Offices throughout the state, and paper records are maintained in the Bureau of Construction and Maintenance. These records are stored by District, County, and Route and contain permits for waterlines, telephone lines, etc. There is no specific report available that outlines what fiber may be on right-of-way on the state highway system.

2. *Do contractors have exclusive rights to our right-of-way?*

Contractors do not have exclusive rights to use our right-of-way. As part of the Utility Accommodation Policy, utility companies request permits. In the case of the contract with DTI, they are required to request permits for all right-of-way access.

3. *What does KDOT receive in return for granting DTI permission to lay fiber on KDOT right-of-way?*

a. **KCMA.** In the case of the contract in Kansas City, KDOT will have access to DTI's initial bandwidth of OC-12 (622 Mbps) in the KCMA and ownership of three 1" conduits. The bandwidth will increase to OC-48 (2.488 Gbps) over the next 17 years and remain at that level over the length of the 30-year contract. This service will allow ITS data to be transported to and from the Kansas City Scout traffic operations center located in Lee's Summit, Mo. Access nodes will be located along DTI's main fiber optic line allowing KDOT to access it for transporting and receiving data. Should KDOT require more bandwidth sooner, the contract with DTI will allow KDOT to purchase additional bandwidth at DTI's published rates. KDOT will also receive handholes for accessing their conduit at every interchange and the conduit will have pull ropes installed.

b. **Outside the KCMA.** KDOT is receiving two conduits from DTI at a level of OC-12 initially with expansion up to an OC-48 within ten years. KDOT will also receive two empty 1-1/4" conduits (with pull ropes) along the specified routes, handholes at every interchange for access to KDOT conduit, 75 discretionary handhole locations with access to the conduit, 12 dark fibers for KDOT's use with access to the twelve dark fibers at every interchange through the handholes, and interface points with DTI's fiber optic backbone at Kansas City, Lawrence, Topeka, Junction City, Salina, Hays, Oakley, Goodland, Newton, Wichita and the Oklahoma border. The 12 strands of optical fiber within DTI's sheath will be dark optical fiber. (Dark optical fiber refers to the lack of electronics needed to light or regenerate the signal. Dark fiber is where the optical fiber cable is installed but not actively being used for the transmission of information.) Again, should KDOT require more bandwidth, we can purchase that capability from DTI at their published rates.

c. **Utility Companies.** Procedures for permits are part of the Utility Accommodation Policy and state law. By law, subject to safety considerations, KDOT is required to allow utility companies right-of-entry to non-access controlled rights-of-way for the purpose of installing utility lines (including fiber optics) with no compensation to the DOT required. Utilities who gain access to KDOT right-of-way are required to relocate the utility at their expense when KDOT requires it.

4. *What is the history of the contract with DTI? What do we have in the KC corridor and the rest of the state?*

In 1996, KDOT began examining the possibility of entering into a shared resource agreement with a communications company for the installation of optical fiber to be used for the

implementation of Intelligent Transportation Systems (ITS). For the last three years, KDOT has worked with consultants from HNTB, Sparling, and others to determine its communications requirements for deploying an ITS program, negotiating a shared resource agreement with a communications provider, and constructing the optical fiber network required to support the ITS program.

In December of 1997, KDOT presented a seminar on telecommunication shared resource projects to all cabinet level agencies. In addition to KDOT, the seminar was attended by representatives of DISC, KHP, KDWP, D of A, DOR, FHWA, SRS, and various other groups. At the seminar, KDOT shared its plan to proceed with a shared resource effort in Kansas.

The contract for the Kansas City project, KDOT Project No. 106 K-6454-01, was signed by KDOT and Digital Teleport, Inc. (DTI) on July 12, 1998. This contract will provide KDOT with conduit and fiber optic service for Intelligent Transportation System (ITS) functions in Kansas City.

A letting was held in Topeka on August 25, 1998, for Project 106 K-7319-01. One bid was received, which was from Digital Teleport, Inc. of St. Louis, Missouri. The bid submitted fulfilled all requirements of the fiber optic infrastructure system KDOT was seeking for future ITS communications. The construction contract for KDOT Project No. 106 K-7319-01, Statewide Fiber Optic Infrastructure System, was signed on October 5, 1998.

ITS is the application of technology and management strategies to increase the safety and efficiency of the surface transportation system. ITS can be applied to both urban and rural environments and to all modes of transportation. The contribution of technology is to provide better information to assist users and operators of the transportation system to make better-coordinated decisions. The short-term goals of ITS include Advanced Traffic Management Systems, such as those to be deployed in the Kansas City Scout to monitor, control, and manage traffic on streets and highways; Advanced Traveler Information Systems that involve rural variable message signs, traveler/weather kiosks, highway advisory radio, and internet and media information systems; Maintenance Management Systems with automated vehicle location for maintenance vehicles; and Emergency Services such as Mayday systems.

5. *Is our contract similar to the Missouri contract? Do the Missouri Contract exclusions (perpendicular crossings) apply to the contract with KDOT?*

There are general similarities in the Kansas and Missouri contracts in that both are public/private partnerships between a DOT and a telecommunications company to install fiber optics on highway right-of-way, but the contract terms are not similar nor are they tied to one another. DTI is the successful bidder for both states. The Missouri DOT (MoDOT) contract does contain clauses that KDOT would find undesirable. Those include granting of exclusive rights for the use of the right-of-way corridor, construction of the fiber infrastructure in the median of the roadway, and approval by the contractor of the crossing location of other fiber optic companies.

The Missouri contract has a clause that requires MoDOT to notify DTI whenever another fiber optic company crosses the right-of-way with fiber. MoDOT and DTI then agree on a location for the crossing to take place. The purpose is to allow DTI to protect their fiber optic line from being

damaged. KDOT's contract with DTI does not have that clause, nor are we obligated by agreement or contract to notify DTI. If a fiber optic company wants to cross KDOT right-of-way, they go through the same process that KDOT has in place for all utility companies who want access to KDOT right-of-way. Through the Kansas One-Call program, DTI will be notified that someone is doing work near their fiber optic line.

6. *What are the cost benefits to this contract, and was the contract negotiated for all of Kansas or just KDOT?*

A cost benefit report on this project was prepared by Sparling for KDOT's use. That report outlines all of the goals of the projects and the potential benefits to KDOT and the state as a whole. A copy of the report is attached.

KDOT has a need for a communications backbone to facilitate the operation of Intelligent Transportation Systems. These systems require a high-speed, high-capacity backbone to carry video and data from the field devices, such as cameras, message signs, detectors, etc., back to a centralized traffic operations center. Fiber optics are the best infrastructure available to achieve this level of operation.

7. *Can KDOT get a copy of the MoDOT contract for the JCIT?*

A copy of the latest contract that KDOT has is attached. There have been amendments made to this contract recently by MoDOT. If a copy of the amendments is needed, please contact us and we will send that to you.

8. *The JCIT has requested a copy of the KDOT contract.*

A copy of the contract is attached.

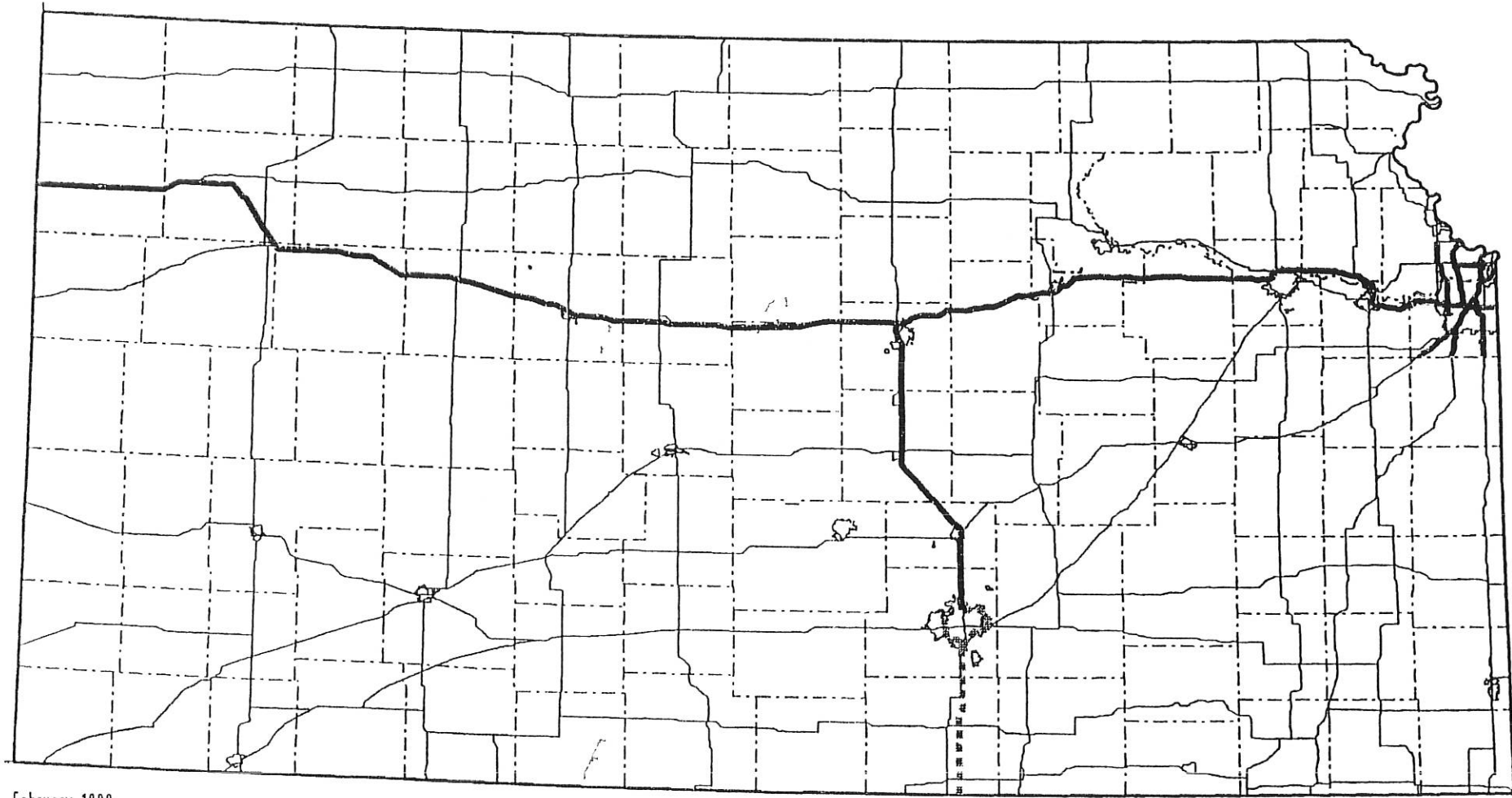
Sincerely,



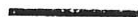

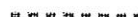
N. B. Nelson, Chief
Bureau of Computer Services

Attachments

Proposed Fiber Optic Routes in Kansas



February 1999

-  Statewide Fiber Optics Project# 106 K-7319-01
-  Kansas City Fiber Optics Project# 106 K-6454-01
-  Possible Fiber Optic Route to Oklahoma Border