

Approved: February 21, 2001

Date

Carl Dan Holmes

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Vice-Chairman Tom Sloan at 9:04 a.m. on January 29, 2001 in Room 526-S of the Capitol.

All members were present except: Rep. Richard Alldritt

Committee staff present: Lynne Holt, Legislative Research
Mary Torrence, Revisor of Statutes
Jo Cook, Committee Secretary

Conferees appearing before the committee: Steve Rarrick, Attorney General's Office
Rob Hodges, Kansas Telecommunications Industry Assn

Others attending: See Attached List

HB 2099 - Unauthorized change of consumers telephone company or addition of unauthorized telephone services

Steve Rarrick, Deputy Attorney General-Consumer Protection Division of the Office of Attorney General, testified in support of **HB 2099** (Attachment 1). Mr. Rarrick explained that the bill would provide cleanup language for the current statute and a private cause of action for non-consumer entities 'slammed.'

Rob Hodges, President of the Kansas Telecommunications Industry Association, appeared as a proponent of **HB 2099** (Attachment 2). Mr. Hodges stated that the bill would extend the protections of the Kansas Consumer Protection Act to more than just individuals and clarifies the relationship between the Kansas Corporation Commission and the Attorney General's office.

The conferees responded to questions from the committee.

HB 2010 - Ten-year limitation on property tax exemption for property used to generate electricity from renewable resources

The debate was opened on **HB 2010**. Rep. Sloan distributed a balloon amendment and moved to adopt the amendment. Rep. Morrison seconded the motion. The motion carried. Rep. Meyers moved to report **HB 2010**, as amended, favorable for passage. Rep. Loyd seconded the motion. The motion carried. Rep. McLeland will carry the bill.

HB 2099 - Unauthorized change of consumers telephone company or addition of unauthorized telephone services

The debate was opened on **HB 2099**. Rep. Krehbiel moved to amend page 2, lines 3 and 4 as requested by the Attorney General's office. Rep. Dahl seconded the motion. The motion carried. Rep. Krehbiel moved to recommend **HB 2099**, as amended, favorable for passage. Rep. Dahl seconded the motion. Motion carried. Rep. Dillmore will carry the bill.

HR 6006 - Resolution urging Corporation Commission to order refunds to be paid to certain residential natural gas customers

Mary Torrence, Revisor of Statutes, explained the Resolution to the committee and responded to questions. Chairman Holmes provided additional background information and responded to questions from the committee. Lynne Holt, Principal Analyst, distributed a 1998 refund report (Attachment 3). There were no conferees. Chairman Holmes opened the debate on **HR 6006**. Rep. Sloan moved to recommend **HR 6006** favorable for passage. Rep. Dillmore seconded the motion. Motion carried. Chairman Holmes will carry the resolution.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 526-S Statehouse, at 9:04 a.m. on January 29, 2001.

Chairman Holmes distributed a list of energy related bills that have been introduced in committee. This list is to be used as a starting point for discussion in the sub-committees that will be meeting on Wednesday.

The committee meeting adjourned at 10:28 a.m.

Next meeting will be Wednesday, January 31, 2001 and will include break out sub-committee meetings in Rooms 522-S, 526-S and 527-S.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: January 29, 2001

NAME	REPRESENTING
Michael Whit	Keamey Law Firm
Steve KARRICK	ATTORNEY GENERAL
Kristy Hiebert	"
Teresa Salts	"
Colleen Harrell	K.C.C.
J.C. Long	UtiliCorp United Inc.
Joe Dieck	KCK BPU
Rob Hodges	KTIA
JANET BUCHANAN	KCC
KELLY MARBON	KCC
Julie Numrick	Federico
Doug Lawrence	Connect KANSAS
J.P. SMALL	EXXON MOBIL
Guth Bunnur	DOB
Tom Gleason	Independent Telecom Group
Kevin Barone	Hem/weir. chrt'd.
John D. Linegar	State Independent Telephone Assn.
BRUCE GRAHAM	KEPCO
Tom DAY	KCC



CARLA J. STOVALL
ATTORNEY GENERAL

State of Kansas

Office of the Attorney General

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Testimony of
Steve Rarrick, Deputy Attorney General
Consumer Protection Division
Office of Attorney General Carla J. Stovall
Before the House Utilities Committee
HB 2099
January 29, 2001

Chairperson Holmes and Members of the Committee:

Thank you for asking me to appear before you this morning on behalf of Attorney General Carla J. Stovall to testify in support of HB 2099. My name is Steve Rarrick and I am the Deputy Attorney General for Consumer Protection.

The Attorney General, the Kansas Corporation Commission (KCC), and members of the telecommunications industry have been working together over the past two sessions to amend K.S.A. 50-6,103, the statute enacted in 1998 to prohibit slamming (the unauthorized switching of a consumer's local or long distance telephone service without a consumer's express authorization). House Bill 2099 includes cleanup language and a private slamming cause of action for non-consumer entities, but does not contain the controversial cramming (adding unauthorized charges to a consumer's telephone bill) prohibitions contained in 1999 HB 2343 and 2000 SB 431. The Attorney General is hopeful that these amendments, which have been agreed upon by members of the industry and the KCC, will pass this year.

The current slamming provisions contained in K.S.A. 50-6,103 were passed in 1998 to eliminate slamming in Kansas and to resolve the inherent difficulty of proving what actually transpires in conversations between telemarketers and consumers. This statute:

- Places the burden of proof on the alleged unauthorized carrier to provide evidence that the consumer affirmatively ordered a switch in service.
- Prohibits any activity, conduct, or representation during the solicitation or verification that would mislead, deceive or confuse the consumer.
- Prohibits the use of sweepstakes drop boxes to collect authorizations from consumers to switch their carrier or to add other telecommunications services to their accounts.
- Provides civil penalties at a minimum of \$5,000 and a maximum of \$20,000 for each violation.

HOUSE UTILITIES

DATE: 01-29-01

ATTACHMENT 1

Kansas has taken a firm stance against slamming with the passage of this strong slamming law. Although prosecutions for slamming violations occurring prior to the passage of the 1998 slamming law were much more difficult to prove, we prosecuted 7 companies for slamming and cramming for a total of \$258,500 from 1996 to 1999. In 2000, we concluded the first two prosecutions under the 1998 slamming law with Consent Judgments for \$350,000 and \$75,000. We have one other slamming case nearly concluded, which we expect to result in a \$200,000 Consent Judgment. As a result of the 1998 slamming law, our prosecutions, and efforts of industry, our slamming complaints have decreased from 500 in 1998 and 415 in 1999, to 178 in 2000.

Prior to the passage of the slamming law in 1998, both the Attorney General and the KCC received and processed slamming complaints. Since the spring of 1998, following passage of the slamming law, the KCC began forwarding consumer (individual and sole proprietor) complaints to the Attorney General's office for resolution. At the same time, the Attorney General would refer non-consumer complaints, such as those from partnerships, corporations or churches, to the KCC for assistance because those entities are not consumers as defined by the Kansas Consumer Protection Act.

In April 2000, the Federal Communications Commission (FCC) adopted rules designed to assist consumers with slamming complaints by providing a streamlined resolution process administered by one agency within each state. The FCC rules provide that consumers who have alleged slamming are not responsible to the alleged unauthorized carrier for any charges incurred during the first thirty days after the switch occurred. Upon contacting either the local exchange carrier, the authorized carrier or the alleged slammer, consumers are to be informed of this thirty-day absolution period and advised that they may file a complaint with the FCC or their state-designated administrator.

The FCC slamming liability rules, which became effective on November 28, 2000, also provide that the state-designated administrator or state commission would provide a "neutral forum for the resolution of slamming disputes" and that each such commission should notify the FCC that it will be the primary administrator of the rules for that state's citizens. The state-designated administrator would also arbitrate disputes between carriers, a function traditionally handled by public utility agencies and not Attorneys General.

The Attorney General, after careful consideration, determined that the FCC procedure was more consistent with the administrative functions of the KCC. Ultimately, after staff with both agencies conferred on the issue, the KCC notified the FCC that it had elected to be the administrator of the FCC rules in resolving slamming complaints for Kansas consumers.

As a result, the Attorney General is now forwarding consumer complaints in which consumers deny that their authorization was obtained prior to a switch to the KCC for resolution under these new FCC procedures. The Attorney General will continue to receive and investigate complaints involving instances where consumers allege that misrepresentations were made to cause the consumer to give approval to switch. More importantly, the Attorney General will continue to

enforce the Kansas slamming law through enforcement actions against violators, with the KCC providing necessary complaint information to allow us to determine when enforcement actions should be pursued.

Briefly summarized, the provisions in HB 2099 would:

- Define “supplemental telecommunications services” at page 1, lines 18-27, and insert it in the existing provision prohibiting cramming by use of sweepstakes drop boxes in section (c)(2) at page 2, lines 9-10. This will clarify that cramming services such as psychic and dating services using sweepstakes drop boxes is prohibited.
- Replace the phrases “local exchange carrier” and “telecommunications carrier” with the term “supplier” to allow the Attorney General to pursue all entities involved in a slamming scheme (page 1, lines 40-42; page 2, lines 16, 27-28).
- Allow organizations and businesses to bring their own private cause of action for slamming (page 2, lines 37-41). Currently, the slamming law does not protect anyone other than a consumer as defined by the Consumer Protection Act (an individual or sole proprietor) from slamming. This amendment would not expand the authority of the Attorney General, but merely give these entities a private cause of action for slamming.
- Provide that the Attorney General and the Kansas Corporation Commission will enter into a memorandum of understanding to share information necessary to accomplish the purposes of state and federal law, including this statute (page 2, lines 42-43; page 3, lines 1-2). This provision was added this year at the request of the Chair of this Committee.

Finally, I wanted to point out to the committee and the revisor that it appears an error exists in the bill as currently drafted, on page 2, lines 3-4. The duplicate phrase “that has the capacity to mislead, deceive or confuse the consumer” should be stricken.

On behalf of Attorney General Stovall, I urge your favorable consideration of House Bill 2099. I would be happy to answer any questions of the chair or the members. Thank you.



Legislative Testimony

Kansas Telecommunications Industry Association 700 SW Jackson St., Suite 704, Topeka, KS 66603-3758 V/TTY 785-234-0307 FAX 785-234-2304

Before the House Committee on Utilities

HB 2099

January 29, 2001

Mr. Chairman, members of the committee, I am Rob Hodges, President of the Kansas Telecommunications Industry Association. Our membership is made up of local telephone companies, long distance companies, wireless telecommunications companies, and firms and individuals that provide service to and support for the telecommunications industry in Kansas.

KTIA members, and indeed the industry as a whole, have worked with and supported the Kansas Attorney General for the past several years to find solutions to protect Kansas consumers from the unscrupulous practices of firms and individuals commonly referred to as "slamming."

In the 1999 session and again in the 2000 session, we joined representatives from the Attorney General's Consumer Protection Division to support refinement of the slamming laws that are offering more-and-more protection for our customers and your constituents.

I appear today to support HB 2099, another important step in eliminating the practice of slamming in Kansas.

HB 2099 will extend the protections of the Kansas Consumer Protection Act to more than just individuals -- enabling more Kansas consumers to protect themselves from "slammers." The bill also will help make clear the relationship between the KCC and the AG's office in regard to slamming. Recent FCC rules made it important that this working relationship be reviewed and formalized to benefit Kansas consumers.

We are pleased that slamming complaints are down. We believe that cooperation between the industry and those in the Consumer Protection Division has played a role in this. We pledge our continued cooperation and support.

We ask that you report HB 2099, as introduced, favorably for passage.

HOUSE UTILITIES

DATE: 01-29-01

ATTACHMENT 2

1/19/98

KANSAS AD VALOREM INTERSTATE PIPELINE REFUND REPORTS TO LD.C.

LINE NO	INTERSTATE PIPELINES	KANSAS GAS SERVICE (K)	KANSAS GAS SERVICE (T)	UTILI CORP. PEOPLES NAT. GAS	UTILI CORP. KANSAS PUB. SERVICE	MIDWEST ENERGY (A)	ANADARKO CUST.	ATMOS UNITED CITIES GAS (B)	ATMOS GREELEY GAS
1	WILLIAMS NATURAL GAS	\$5,331,396	\$4,356	\$212,784	\$248,124			\$1,628,583	\$251,613
		\$6,738,230	\$4,796	\$239,997	\$279,857				
2	KN INTERSTATE TRANSMISSION CO					\$1,021,632			\$22,576
	K N ENERGY INC. to MIDWEST ENERGY					\$863,336			
3	NORTHERN NATURAL GAS \$2,569.73 to be allocated between (K) & (T)	\$2,570	\$1,616	\$296,088					
4	PAN HANDLE EASTERN	\$27,018							
5	ANADARKO						\$3,711,628		
6	TOTAL	\$12,099,214	\$10,767	\$748,868	\$527,981	\$1,884,968	\$3,711,628	\$1,628,583	\$274,188

\$20,886,198

(A) Producers Gas part of Midwest Energy
(B) Tri Cities Gas part of United Cities