

Approved: April 29, 2005

Date

Carl Dean Holmes

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:06 a.m. on February 1, 2005 in Room 231-N of the Capitol.

All members were present except: Representative Melody Miller - Excused

Committee staff present: Mary Galligan, Legislative Research
Dennis Hodgins, Legislative Research
Mary Torrence, Revisor of Statutes
Jo Cook, Administrative Assistant

Conferees appearing before the committee: Representative Tom Sloan, Lawrence, KS
Steve Miller, Sunflower Electric, Hays, KS
Carl Huslig, Aquila Networks, Kansas City
Charles Benjamin, Sierra Club, Lawrence, KS
Lee Allison, Governor's Office, Topeka, KS
Larry Holloway, Kansas Corporation Commission, Topeka, KS
David Springe, Citizens' Utility Ratepayer Board, Topeka, KS
Joseph Molina, Office of the Attorney General, Topeka, KS

Others attending: See Attached List

HB 2045 - Recovery of costs of construction and upgrading of electric transmission facilities

Chairman Holmes opened the hearing on **HB 2045**.

Representative Tom Sloan presented testimony in favor of **HB 2045 (Attachment 1)**. Representative Sloan told the committee that the bill was designed to solve a problem associated with cost recovery of transmission construction project expenses. He also stated that the proposal was not revolutionary, but would place Kansas as a national leader for innovation of transmission policies. Representative Sloan also distributed a map of Kansas showing the current system of transmission lines (**Attachment 2**).

Steve Miller, Senior Manager for External Affairs for Sunflower Electric Power Corporation, appeared in support of **HB 2045 (Attachment 3)** and on behalf of Sunflower, Kansas Electric Power Cooperative, Kansas Electric Cooperatives, and Midwest Energy. Mr. Miller told the committee there were two persistent questions that the industry struggled with; where are transmission infrastructure improvements needed and who is going to pay for them. He stated that they felt this legislation would help stimulate growth in the transmission system in Kansas.

Carl Huslig, Vice President Transmission for Aquila Networks - WPK, provided testimony in support of **HB 2045 (Attachment 4)**. Mr. Huslig applauded the committee's vision to supply the state with a reliable and reasonably priced transmission system and the process to adequately recover costs.

Charles Benjamin, appearing on behalf of the Kansas Chapter of Sierra Club, testified in favor of **HB 2045 (Attachment 5)**. Mr. Benjamin stated they were supportive of legislation that provides incentives for construction on increased electrical transmission capacity, specifically in areas where the bulk of the state's wind energy resources are located.

Lee Allison, Science and Energy Policy Advisor to the Governor, endorsed the concepts and goals outlined in **HB 2045 (Attachment 6)**. He stated that it is a timely option in the absence of regional and national solutions.

Larry Holloway, Chief of Energy Operations for the Kansas Corporation Commission, appeared on behalf of the Commission, in opposition to **HB 2045 (Attachment 7)**. Mr. Holloway shared two concerns with the proposal. The first is in the language dealing with 'recognized body' and the second dealing with the requirement of the Commission to allocate costs. The Commission feels that this action should await the outcome of the regional process .

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 231-N26-S Statehouse, at 9:06 a.m. on February 1, 2005.

David Springe, Consumer Counsel for the Citizens' Utility Ratepayer Board (CURB), offered testimony as an opponent to **HB 2045** (Attachment 8). Mr. Springe stated that CURB believes the legislation is beyond the type of dispute resolution or cost allocation process that will have no direct benefit to consumers. While CURB supports the creation of a process to deal with disputes, they cannot support the type of cost recovery mechanisms proposed.

The conferees responded to questions from the committee. Chairman Holmes closed the hearing on **HB 2045**.

Chairman Holmes welcomed Joseph Molina, Assistant Attorney General, Consumer Protection Division, to the committee. Mr. Molina provided an update on the Kansas No-Call Act (Attachment 9). He provided a brief history of the No-Call Act and its relationship to the National Do Not Call Registry. Mr. Molina stated that the Kansas No-Call Act was a proven success and has fulfilled its intended purpose; to provide accountability for unwanted intrusions into an individual's home. Mr. Molina responded to questions from the committee.

The meeting adjourned at 10:27 a.m.

The next meeting is Wednesday, February 2, 2005 at 9:00 a.m.

HOUSE UTILITIES COMMITTEE GUEST LIST

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NAME	REPRESENTING
Harry Holloway	KCC
David Sprague	Carb
Joe D. Cook	KCBPU
Doug Smith	Pinegar, Smith & Assoc.
Carl Huslig	Aquila
TOM DAY	KCC
Bob Anderson	Arcos Energy
Mark Schreiber	Westar Energy
Steve Miller	Sunflower Electric
DAVE HOLTHAUS	KECO-ups Inc
Kimberly Spencer	Aquila
Carl Huslig	
HARRY BEER	MIDWEST ENERGY
STEVE KEARNEY	KEARNEY & ASSOCIATES
Nelson Krueger	Everest Connections
Sandra Braden	Great Plains / KCP
Kristina Hillbert	Clinton Rep. Watkins
KOB MEALY	HEIN LAW FIRM
Rachel Will	Rep. Miller
Dina Fisk	Kozmin Wireless

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TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENT
 CHAIRMAN: HIGHER EDUCATION
 MEMBER: UTILITIES
 ENVIRONMENT
 AGRICULTURAL & NATURAL
 RESOURCES BUDGET
 KANSAS WATER AUTHORITY

Testimony on HB 2045
 Utilities Committee
 February 1, 2005

Mr. Chairman, Committee Members: For the past five years, the Kansas Legislature has been **the pacesetter** nationally for innovative and progressive incentives to develop generation and transmission system development. Rep. Holmes and I are nationally recognized for our leadership on electric restructuring issues. Because of the Legislature's accomplishments, the Chairman of The Federal Energy Regulatory Commission (FERC) visited Kansas in 2003 and 2004 at my invitation for Summits on transmission issues in Kansas and regionally. Chairman Pat Wood has committed to visiting Kansas again in 2005.

The Kansas Legislature authorized electric transmission operators to upgrade their lines using existing rights-of-way without requiring regulatory review and approvals. This creative statute enabled KCPL to receive approval from the Southwest Power Pool (SPP) members on cost recovery in December and upgrade the existing 345 kv line between LaCygne and Stillwell (32 miles) by the end of May. The speed with which this project was completed was unprecedented and meant that the line was ready for peak summer electric useage.

We authorized the Kansas Development Finance Authority (KDFA) to partner with transmission owners to secure lower-cost funding to construct transmission lines that will increase the export of Kansas' power and, when available, importation of lower-cost electricity. Other states are only now attempting to set up the same type of state-private sector partnerships. Kansas remains the national leader in this arena because we permit such investment partnerships for transmission lines that cross from Kansas to surrounding states in recognition that a robust Kansas transmission system must be connected to the regional grid (similar to Interstate highways through Kansas must connect to similar roads in other states).

Larry Holloway of the KCC and Tom Stucklik of Westar introduced you to the SPP and transmission services. The SPP reviews all requests for new transmission services (whether by potential new generators or existing transmission operators). Their engineering studies determine whether lines will be built/upgraded based on the impact such changes will have on the entire SPP transmission operations within the seven state footprint. Their primary concern is to maintain the system's reliability. The SPP also

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ATTACHMENT 1

determines anticipated costs of construction and, for designated network resources, pro-rates the costs to the utilities benefitting from the project.

As Larry and Tom explained and you may recall from your physics classes, electricity follows the path of least resistance. In a very simplistic sense, you can visualize this movement by imagining a series of linked water ponds. To move power from point A to point B, utilities may reduce the voltage on their lines progressively so that the power flows “downhill” as if from cascading ponds. Naturally reality is not so “neat” and you will recall the diagram showing power flowing from A to Y going through B, C, D, and E’s system lines. Hence, the need for the SPP engineers to review all proposed changes to transmission line operations and capacity.

There are obvious and hidden costs associated with proposed energy transmission contracts. For example, KEPCo sought to buy 5 MW of power from Empire District, but that transaction would have required \$30 million of transmission upgrades in N.W. Arkansas and N.E. Oklahoma to permit the power to flow from point A (Empire District) to point B (KEPCo). As you probably anticipate, that sale of power did not occur.

HB 2045 is designed to solve a problem associated with cost recovery of transmission construction project expenses. Traditionally in Kansas, transmission upgrades have been paid for by the beneficiaries (customers of those utilities benefitting due to lower cost electricity being available or necessary to move power within the utility’s service territory). This is called participant funding. The Kansas Corporation Commission (KCC) reviewed cost and benefit projections and determined if/how much of the project costs could be recovered from ratepayers.

This system worked fine so long as the transmission lines of each company basically served only its own customers’ needs. With the evolving regional and national electric market and reliability coordination functions, benefits of transmission upgrades may affect an entire state or consumers several states away. The KCC does not have jurisdiction over utilities not operating in Kansas, but HB 2045 permits (but does not require) the KCC to spread “excess costs” for economically valuable projects in Kansas over all Kansas electric utilities having retail customers.

The Commission may take such an action only if a regional transmission agency (e.g., SPP) had identified such construction as necessary or a state agency has determined that such construction will provide “measureable economic benefits to electric consumers in all or part of this state that will exceed anticipated project costs.”

This proposal is not revolutionary, though it would again place Kansas as the national leader for innovative transmission policies. The SPP already assesses transmission construction costs for designated network resources (lines designated as necessary to serve existing customers and for system reliability and safety) on a basis of 2/3 paid by the benefiting utilities and 1/3 to all utilities in the SPP region.

HB 2045 recognizes that for the first time the SPP is reviewing a project with economic development benefits outweighing system reliability/safety. The proposed Lincoln-Circle transmission project in Kansas is the pilot project for determining whether the SPP will move forward with transmission construction projects that will permit the movement of lower cost power to high cost areas. This is a radical departure from their operations today that focus almost exclusively on maintaining the transmission system with minimal focus on least cost dispatch. The Lincoln-Circle project is also the precursor for the X-Plan to build transmission lines between Spearville, KS and Moreland, OK, with connections ultimately back to Wichita and up to Nebraska.

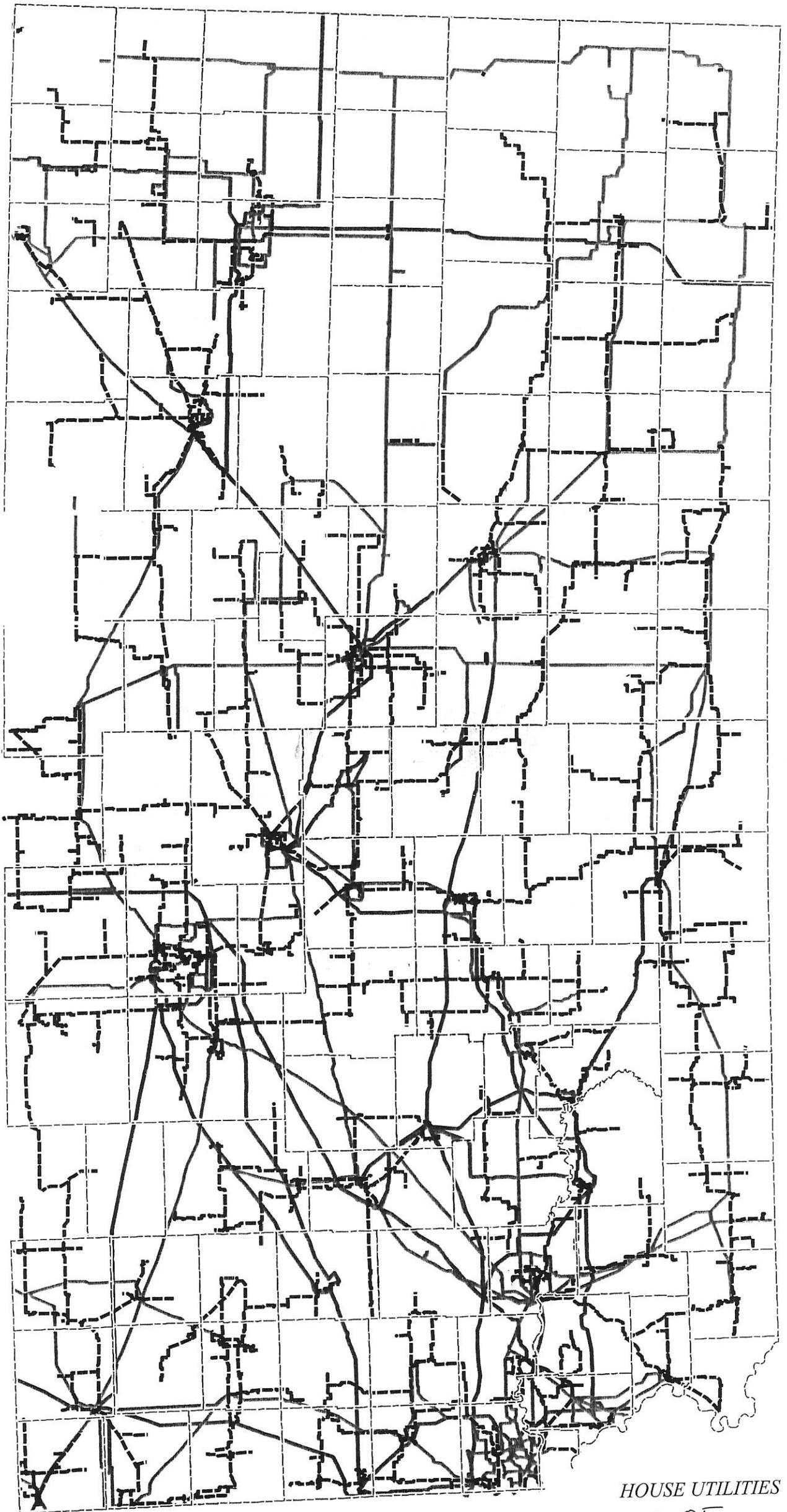
As Larry and Tom pointed out, a transmission line “disconnect” exists between eastern and western Kansas. If the Lincoln-Circle project is completed, it establishes the cost-benefit evaluation strategies and policies for future SPP footprint economic development projects. The X-Plan is the second project approved for study. Both are integral to solving the transmission “disconnect” between the two halves of our state.

As Rep. Holmes stated last week, major transmission line projects are not constructed for wind farms. Moving electrons generated from fossil and nuclear fueled plants is what guides transmission construction decisions. Wind, solar, bio-mass, and other renewable fueled generators tie onto lines built for more traditional generators. What the Lincoln-Circle project and X-Plan offer Kansas is the opportunity to replace higher cost power (e.g., natural gas generated power) with lower cost energy (e.g., coal, nuclear, wind) and to export power.

HB 2045 provides a means by which the KCC can determine if a region of Kansas or the entire state benefit from the construction/upgrade of transmission capacity. If the answer is yes, AND the utility(s) cost-benefits in building the line are judged insufficient, then the KCC may spread those excess costs across all Kansas electric customers. If the Lincoln-Circle and X-Plan projects are completed, Kansas will export coal and wind power to OK and further south – areas that rely on high cost natural gas. HB 2045 provides the KCC with a tool that they may, but are not required to, use to benefit the state’s economic future. Nothing in HB 2045 permits the KCC to spread costs to Kansas customers for projects in other states. HB 2045 focuses on Kansas projects and benefits to Kansans.

Mr. Chairman, this concludes my somewhat simplistic explanation of SPP and transmission operations and my sense of urgency regarding HB 2045 as a tool to remove the barrier between moving power between the two halves of our state, as well as to significantly increase energy exports. I will respond to questions whenever you wish.

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**TESTIMONY SUBMITTED TO THE
HOUSE UTILITIES COMMITTEE
IN SUPPORT of HB2045**

From

**KANSAS ELECTRIC POWER COOPERATIVE, INC.
KANSAS ELECTRIC COOPERATIVES, INC.
MIDWEST ENERGY, INC.
SUNFLOWER ELECTRIC POWER CORPORATION**

February 1, 2005

Thank you, Mr. Chairman and members of the Committee for providing the electric cooperatives listed the opportunity to speak today on House Bill 2045. It is a proposal we believe will improve access to regional power supplies through an improved transmission system in Kansas.

My name is Steve Miller. I am Sunflower's Senior Manager for External Affairs. In the interest of your time, my colleagues elected me to speak for all of us today.

As you are aware, the electric power industry has been in quite a state of turmoil in recent years as it has tried to find ways to improve access to, and reduce constraints in, the regional transmission system.

Two persistent questions the industry struggles with are:

- Where are transmission infrastructure improvements needed, and,
- Who is going to pay for them?

While this legislation you are considering today will not necessarily resolve those issues, we do believe it will help stimulate the growth of the Kansas transmission system. When the improvements statewide are completed, all Kansas utilities will ultimately have improved access to regional power supply markets. For this reason, we are here to urge you to support HB 2045.

We do have a few minor changes we think would improve this proposed legislation.

Section 1. (b) (1) (A)—

We suggest that the term "regional transmission operator" is changed to "regional transmission planning organization" throughout the bill. Given the rapid change in the names associated with transmission issues, our feeling is that "regional transmission planning organization" is a more generic, hence, less restrictive term.

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Section 1. (b) (1) (B)—

Our next suggestion is that this section should only include state agencies. We just believe that commissions, councils, and other recognized bodies should advocate their proposals through a state agency.

We also suggest that in line 29 the words, “in all or part of this state” be stricken. In our view, the test should simply be the phrase, “. . . will provide measurable economic benefits to electric consumers that will exceed anticipated project costs.”

I am certain that you may hear questions about the validity of any economic study indicating benefits (or a lack thereof) for a given project. I have been asked how we could reasonably be expected to make multi-million dollar investments based on what some have referred to as those “pie-in-the-sky” studies economic development people produce frequently.

Our answer is that this bill relies on the KCC’s judgment. I have no doubt that they will be quite diligent in their examination of these applications and will not simply accept those economic studies without a significant test of their validity.

Other provisions—

Mr. Chairman, our distribution cooperative systems do not want to be forced to add another line item on their retail bills that reflect these potential assessments. It appears the Committee has given these systems the freedom to recover these costs in whatever way they deem appropriate from their retail consumers. Local control of this decision is an important distinction, and essential to our support for this bill.

Our last comment pertains to the recovery of these costs by systems that may have power contracts with large customers which do not include provisions for the recovery of these assessments. While we do not have a specific solution to offer this morning, this certainly could cause a hardship on small utilities. It is an issue we believe should be resolved before sending the bill to the floor for further consideration.

Conclusion—

Mr. Chairman, and members of the Committee, we thank you for hearing our testimony today. This proposal could bring needed improvements to the Kansas transmission system. We support this bill and hope you will agree with our conclusions.

I would be happy to answer your questions.

**Testimony on House Bill No. 2045
House Utilities Committee
February 1st, 2005**

*Prepared by
Carl A. Huslig
V.P. Transmission
Aquila Networks – WPK*

Good Morning Chairman and fellow committee members. My name is Carl Huslig and I am the V.P. Transmission for Aquila Networks – WPK (Aquila). Aquila fully appreciates this opportunity to testify on House Bill 2045. I would like to begin by stating that this committee has been very successful in recent years passing legislation that will enhance the transmission system of Kansas. Without a doubt, all of us realize that there is a need to expand and improve the transmission system in the State of Kansas, in order to improve electric system reliability and to provide the infrastructure for pending energy markets. Aquila strongly supports this committee's vision to supply the State of Kansas with a reliable and reasonably priced transmission system that provides transmission owners with adequate cost recovery. House Bill No. 2045 continues to build on this committee's vision. Aquila strongly supports the general intent of this bill but has concerns with the bill as written. Aquila agrees with the language in Section 1 paragraph (a) except for the arbitrary nature of 5 miles in length. Aquila could envision a new line that is much shorter, which would provide economic and reliable benefits. From Aquila's viewpoint, length of line is not essential. Aquila would suggest that the word may be replaced with shall in Section 1 paragraph (b). If a facility is necessary for reliability or economic purposes and has been identified by a regional transmission operator as necessary, then upon providing an application quantifying the benefits the commission shall approve the facility. Aquila remaining comments are editorial only. Using terms such as measurable and significant is acceptable, but Aquila would prefer that this bill includes language that defines these terms such as providing a 10 year NPV positive benefit. Finally, Aquila appreciates the opportunity to provide input on this bill.

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Testimony in favor of H.B. 2045
Concerning certain electric transmission facilities and providing for recovery of
certain costs of construction and upgrading.

Charles M. Benjamin, Ph.D., J.D.

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On behalf of the Kansas Chapter of Sierra Club

February 1, 2005

Before the Kansas House Committee on Utilities

Mr. Chairman, members of the Committee, thank you for the opportunity to testify in favor of H.B. 2045.

The Sierra Club is the largest grass roots environmental organization in the world with almost 800,000 members including over 4,000 in Kansas. For more information about the work of the Kansas Chapter of Sierra Club see the web site at <http://kansas.sierraclub.org/>.

The Kansas Chapter of Sierra Club has just launched a campaign to promote both energy efficiency and wind power in Kansas. I have attached to this testimony the February/March 2005 Planet Kansas that elaborates on that campaign.

The Sierra Club in Kansas is very supportive of legislation that provides incentives for utilities to construct increased electrical transmission capacity, especially in western Kansas where the bulk of the state's vast wind energy resource is located. The main obstacle to utilizing that resource is the limit on transmission capacity. We believe that H.B. 2045 provides positive incentives for utilities to increase their transmission capacity where the need for such increased transmission capacity has been shown to exist. We especially commend Representative Sloan for his vision and hard work, recognized throughout the nation, to promote measures like H.B. 2045 that provide incentives for utilities to upgrade their transmission infrastructure in order to utilize Kansas' vast wind resource. We respectfully urge this committee to report this bill out favorably for passage by the full House.

Thank you for your time and attention. I would be pleased to stand for questions.

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**Testimony on HB-2045
presented to the
House Utilities Committee
February 1, 2005**

**Lee Allison, PhD
Science and Energy Policy Advisor
Office of the Governor**

Thank you Mr. Chairman, for the opportunity to speak on House Bill 2045 which addresses the serious long-time problems of constraints in the state's electric transmission system. My name is Lee Allison and I serve as the Science and Energy Policy Advisor to Governor Sebelius. I also chair the Kansas Energy Council but the Council has not reviewed this legislation or taken a position on it.

As you know, the transmission grid in Kansas suffers from a variety of constraints including flowgates and insufficient capacity in many areas. These constraints have limited opportunities for new generation capacity, increased line losses, and impact the reliability of the system.

Most of the elements are present to resolve this problem: the technology is present, the utilities are prepared to make needed investments, and the will is there to take action. What is missing is an efficient, effective system to allocate the costs for improving and enhancing our transmission grid. Regional and federal regulatory bodies have long proposed changes to the allocation process but have not yet been able to put into place those reforms.

We endorse the concept and goals in HB2045 as a timely option in the absence of regional and national solutions. There are details and specifics in the legislation that require additional discussion, but we believe that the stakeholders in the process can work those out.

With that, I would be pleased to stand for questions.

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**BEFORE THE HOUSE UTILITIES COMMITTEE
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION
February 1, 2005
HB 2045**

Thank you, Chairman and members of the Committee. I am Larry Holloway, Chief of Energy Operations for the Kansas Corporation Commission. I appreciate the opportunity to be here today to testify for the Commission on HB 2045.

This bill intends to allow recovery for two types of electric transmission projects by allocating the costs to all Kansas electric utilities having retail customers on an equal basis. The Commission recognizes that there is a need to construct new transmission in Kansas, and in the region generally, and that this legislation appears to be a sincere attempt to address this concern. Nonetheless, the Commission has both general and specific concerns regarding this legislation, and therefore opposes this legislation.

The Commission has two specific concerns regarding this proposal. First, section 1(b)(1)(A) allows "a state agency, commission or council, or another recognized body" to identify a need for the applicable transmission construction or upgrades, by determining that anticipated benefits to electric customers exceed anticipated costs. First, "recognized body" is not defined. Given that this provision would enable "recognized" bodies, state agencies, and commissions or councils the ability to impose additional costs on electric consumers, this would seem to circumvent the existing statutory scheme devised to insure that all rates are reasonable. Additionally, it appears that this could include many state agencies, commissions or councils that may not have the requisite expertise in the electric industry necessary to identify benefits and costs to electric customers.

Second, section 1(e) requires the Commission to allocate costs among Kansas electric utilities on a kilowatthour basis. This method is different from the current method used by the Federal Energy Regulatory Commission (FERC) for recovery of transmission costs. Most transmission costs are recovered on a "demand" basis. Put simply, demand measures the maximum use of the system over a specified period of time. Because transmission systems must be built to handle the peak load at any given

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point in time, transmission costs are generally assessed based on peak demand, not average costs. This legislation would not allow the Commission the discretion to allocate costs among electric utilities to assure that costs are recovered in a manner that is compatible with FERC cost recovery methods. Furthermore, this may create a conflict for costs recovered pursuant to a request by a regional transmission operator in section 1(c), if that transmission operator is required to obtain FERC approval.

As a general concern, the Commission notes that methods for recovering the costs of transmission construction and upgrades are currently being discussed both at the federal and regional level. Within the Southwest Power Pool (SPP), state regulators, transmission owners, transmission customers and other interested parties have been meeting on this issue since last May. On Tuesday, January 25, 2005, the SPP board met and agreed to file a new cost recovery method for FERC approval. Under this new approach the SPP will recover the costs for new transmission construction and upgrades on both a regional and a transmission operator basis. Currently this approach only addresses reliability related transmission upgrades. Nevertheless, the same groups are now beginning work to address the issue of economic transmission improvements and generation interconnections. Economic upgrades are essentially the type of discretionary transmission construction and upgrades that would be identified by transmission customers or others, such as “ a state agency, commission or council, or another recognized body”, as proposed in section 1(b)(1)(B) of this legislation. The Commission believes that any legislative action is, at this point, premature, and should await the outcome of the regional process. To move forward ahead of the regional process could result in Kansas electric customers paying more than they should for transmission upgrades that benefit a larger region.

Citizens' Utility Ratepayer Board

Board Members:

Gene Merry, Chair
A. W. Dirks, Vice-Chair
Francis X. Thorne, Member
Nancy Wilkens, Member
Carol I. Faucher, Member
David Springe, Consumer Counsel



State of Kansas

Kathleen Sebelius, Governor

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HOUSE UTILITIES COMMITTEE H.B. 2045

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
February 1, 2005

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2045. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

In general, where transmission projects are identified as increasing system reliability or providing benefits in excess of costs, transmission owner operators will agree to build the project and costs will be recovered through standard regulatory mechanisms. It is CURB's interpretation that this bill is aimed at those situations where a project is identified, but no agreement can be reached as to whether the project should be built, who will benefit from the project and how the costs of a project will be allocated to those who benefit for cost recovery purposes. In this situation, a project may not be built without some outside determination that a project should proceed and allocating costs for recovery purposes.

To the extent that H.B. 2045 is intended to create, in those instances where there is a dispute, a proceeding at the Kansas Corporation Commission, with the attendant due process rights that attach to such a proceed, for the purpose of determining whether transmission facilities should be built or how to allocate the costs of a proposed transmission project, CURB does not oppose this intent. However, as drafted, CURB believes the bill goes beyond this type of dispute resolution or cost allocation type process to create a cost recovery process that will assess consumers throughout the state for projects that may provide no direct benefit in return.

Section 1(e) of the bill creates a mechanism to assess the cost of constructing transmission facilities against "all electric public utilities, electric municipal utilities and electric cooperatives having retail customers in the state", based on each utility's "proportion to the number of kilowatt hours consumed during the preceding calendar year by the utilities retail customers in this state." There is no linkage between who may benefit from construction, who would use the construction and who actually pays for the construction. CURB finds this to be problematic. Westar's retail customers, simply based on Westar's size, will end up paying the majority of costs for all projects under this bill, regardless of where they are built, and regardless of who they benefit.

Further, the costs pursuant to Section 1(e) are to be recovered from only retail customers, while apparently no costs are recovered from, or allocated to wholesale customer or to users of the transmission system that may not provide retail service in

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Kansas. Since the bill notes that the Commission must find these costs “are not being otherwise recovered” (Section 1(b)(2)), it would appear that the bill creates a general taxing type authority for recovery of an undefined level of costs that cannot be clearly assigned based on benefit. CURB does not believe retail customers should be the catch-all financiers for any unrecovered costs as proposed by this bill.

Section 1 (b) states that the Kansas Corporation Commission may allow recovery of costs associated with the construction or upgrade of an electric transmission facility if the Commission finds that any “state agency, commission or council, or another recognized body”, has made a determination that a transmission construction project or upgrade will provide “measurable economic benefits to electric customers in all or part of the state that will exceed anticipated transmission costs.” (Section 1(b)(1)(B)) This language is far too broad, not requiring that the “recognized body” be in any way related to the provision of electric service in the state, have any expertise in this type of analysis or have any jurisdiction to make these types of determinations. Given that “economic benefits” is also undefined, this creates the opportunity for “recognized bodies” within the state to attempt to create localized economic benefits while passing the expense of creating these localized benefits to statewide retail electric consumers. Creating this type of incentive is not good public policy.

In summary, CURB would support the creation of a process at the Kansas Corporation Commission to deal with disputes related to transmission construction. However, CURB cannot support the type of cost recovery mechanisms proposed in this bill.

One final note. CURB would also suggest that if the Committee approves the framework suggested within this bill, that the Committee also require electric public utilities subject to KCC jurisdiction make use of the provisions outlined in K.S.A. 66-1237 (attached). While CURB testified against the bill that ultimately became K.S.A. 66-1237, if the public policy of the state, as set forth by legislation seeks to aid in, and pay for the construction of additional transmission facilities, the costs of transmission should be made apparent to consumers on their utility bills. K.S.A. 66-1237 allows an electric utility subject to KCC jurisdiction to seek approval to create a line item on customer bills for the recovery of transmission costs (and removing such costs from retail rates). This discretionary transmission line item should be made mandatory.

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Kansas Legislature

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66-1237**Chapter 66.--PUBLIC UTILITIES****Article 12.--MISCELLANEOUS PROVISIONS**

66-1237. Electric utility recovery of certain transmission costs. (a) Any electric utility subject to the regulation of the state corporation commission pursuant to K.S.A. 66-101, and amendments thereto, may seek to recover costs associated with transmission of electric power, in a manner consistent with the determination of transmission related costs from an order of a regulatory authority having legal jurisdiction, through a separate transmission delivery charge included in customers' bills. The electric utility's initial transmission delivery charge resulting from this section shall be determined by the commission from transmission-related costs approved in the electric utility's most recent retail rate filing. If an electric utility elects to recover its transmission-related costs through a transmission delivery charge, the commission shall, effective the same date as the effective date of the initial transmission delivery charge, reduce the electric utility's retail rates to such a level that the sum of the revenue recovered from such retail rates and the initial transmission delivery charge is equal to the revenue recovered from the retail rates in effect immediately prior to the effective date of the initial transmission delivery charge.

(b) All transmission-related costs incurred by an electric utility and resulting from an order of a regulatory authority having legal jurisdiction over transmission matters shall be conclusively presumed prudent for purposes of the transmission delivery charge and an electric utility may change its transmission delivery charge whenever there is a change in transmission-related costs resulting from such an order. An electric utility shall submit a report to the commission at least 30 business days before changing the utility's transmission delivery charge. If the commission subsequently determines that all or part of such charge did not result from an order described by this subsection, the commission may require changes in the transmission delivery charge and impose appropriate remedies. The retail rates in effect at the time an electric utility changes its transmission delivery charge shall not be subject to review or change as a result of a change in the transmission delivery charge.

History: L. 2003, ch. 80, § 2; July 1.

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STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION AND ANTITRUST DIVISION

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Testimony of
Joseph N. Molina, Assistant Attorney General
Consumer Protection Division
Office of the Attorney General Phill Kline
Before the House Utilities Committee
RE: Kansas No-Call Report
February 1, 2005

Chairperson Holmes and Members of the Committee:

Thank you for the opportunity to appear on behalf of Attorney General Phill Kline and provide this committee with the 2004 Kansas No-Call Act report. My name is Joseph Molina and I am an Assistant Attorney General for the Consumer Protection/Antitrust Division, in charge of the Kansas No-Call Task Force and other Telecommunication issues.

INTRODUCTION

The Kansas No-Call Act has been in effect for more than 26 months and the results have been outstanding. Over this time period the Kansas No-Call Task force upgraded the process by which the Kansas No-Call Act is accessed and enforced, filed three no-call lawsuits and collected nearly \$350,000.00 in penalties and fees. Kansans overwhelmingly supported the enactment of a no-call law and the popularity of the Kansas No-Call Act persists. All indications point to continued success for the Kansas No-Call Act.

BACKGROUND

The Kansas No-Call Act was passed on July, 7, 2002. The Act prohibits any telephone solicitor from making or causing to be made an unsolicited consumer telephone call. The Kansas No-Call Act is violated when a telephone solicitor makes or causes to be made an unsolicited consumer telephone call to a residential telephone number listed on the Kansas No-Call list. However, not all unsolicited consumer telephone calls result in a violation of the Act. Calls made in **response to an express request, in connection with an existing debt or payment, or to any person with an established business relationship** are deemed legal since they are exceptions to the rule. Other

HOUSE UTILITIES

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exceptions include calls made for a **charitable donation** or for **political purposes**. In addition, **business to business** calls and calls to **unregistered numbers** are exempt.

Following the passage of the No-Call Act, the Office of the Attorney General signed a contract with GovConnect to maintain the Kansas No-Call list. The one-year contract provided free consumer registration by phone and through the Internet. Consumer registration was implemented on August 12, 2002, with a deadline of September 23, 2002, to be included on the first published list on October 1 of that year. During that one year period, GovConnect not only maintained the Kansas No-Call list but also provided telephone solicitors with access to the list via email or CD Rom.

Seven hundred and seventy-five telemarketers purchased the Kansas No-Call list through GovConnect during the term of that contract. On July 7, 2003, the contract with GovConnect expired on its terms and the Attorney General's Office began efforts to integrate the Kansas No-Call list with the new National Do Not Call Registry. This process was contemplated by the Legislature when it initially implemented the Kansas No-Call Act. Pursuant to K.S.A. 50-670a(p)(2002 Supp.), the Kansas Attorney General's Office designated the Federal Trade Commission's National Do Not Call Registry as the Kansas No-Call list. On September 1, 2003, that designation became effective and Kansans were officially welcomed into the National Do Not Call Registry. The integration of both databases was announced by contacting each telemarketer via letter, website and press release. The Federal Trade Commission also indicated the integration by posting it on their website, as well as announcing the change on their automated telephone service.

The Consumer Protection Division continues to promote the registration of telephone numbers on the Kansas No-Call list by providing consumers with a 24/24 phone line. This 24/24 phone line allows any consumer to call and get information on several topics, including the Kansas No-Call Act, at any time of day. The 24/24 line contains pre-recorded messages that outline the basic principles of a specific law.

In addition, the Consumer Protection Division has developed flyers that contain the relevant no-call information. The flyers outline the Kansas No-Call Act and provide the consumer with the website address and telephone number to register on the National Do Not Call Registry. To register via the Internet all a consumer has to do is visit www.donotcall.gov and follow the prompts. To register by phone the consumer must call 1-888-382-1222 from the phone being registered.

By integrating the Kansas No-Call list with the National Do Not Call Registry Kansans have access to improved services not available under the initial GovConnect system. First of all, the National Do Not Call Registry allows any telephone solicitors who intend to contact residents in five or fewer area codes to access the Do Not Call Registry for free. This makes it much more cost-effective for telephone solicitor to obtain the Kansas No-Call list. A telemarketer who wishes to access more than five area codes will be charged a rate of \$40.00 per area code for an annual subscription. Furthermore, under the "tupperware" exception an individual can access up to 10 phone numbers

for free via the FTC's website. The National Do Not Call Registry also allows cellular telephone numbers to be registered. Kansas consumers now have federal protection from unsolicited consumer telephone calls made to their cell phones.

CONSUMER REGISTRATION

From its very inception no-call list participation has been high. The initial registration period for the Kansas No-Call list saw a large portion of Kansas residents take advantage of the new protections offered by the Kansas No-Call Act. Nearly 397,700 Kansans placed their residential phone numbers on the no-call list within the first six weeks. As of the December 24, 2004, the last registration deadline, a total of 789,518 Kansas phone numbers were registered on the Kansas No-Call list.

The National Do Not Call Registry has collected roughly 36% or 284,743 telephone numbers since this office designated the National list as the Kansas No-Call list. It is important to note that a number of these registrations are for cellular phones not covered by the Kansas No-Call Act. An exact number of cell phone registrations is unavailable at this time.

REQUEST FOR THE KANSAS NO-CALL LIST

Seven hundred and seventy-five individual telephone solicitors purchased copies of the Kansas No-Call list under the GovConnect contract. In addition, one company purchased 324 copies of the list for independent agents under the multiple list purchase discount rate. As a result, 1099 telephone solicitors accessed the Kansas No-Call list through GovConnect. The National Do Not Call Registry has also experienced a large number of requests. To date, 2423 telemarketers have accessed the list via the FTC database. In all, 3522 telemarketers have gained access to the list of Kansas individuals who object to receiving unsolicited consumer telephone calls.

COMPLAINTS RECEIVED

In 2002, Kansas residents filed an astonishing 1993 no-call complaints in the first two months of the Act. The No-Call Task Force averaged nearly 50 no-call complaints per day during this period. Since that initial surge the number of complaints filed has decreased. For the entire year of 2003, only 1822 no-call complaints were filed, bringing the daily number of complaints filed down to just around eight (8) per day. In 2004, Kansas filed 676 no-call complaints for an average of two (2) per day. All tolled, the Kansas No-Call Task Force has received 4782 complaints since the Act went into effect on November 1, 2002.

Even with the dramatic decrease in 2004, no-call complaints remain one of the most active filings within the Consumer Protection Division.

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ENFORCEMENT ACTION

As a matter of enforcement policy, the No-Call Task Force calls each telephone solicitor within a day of receiving a no-call complaint. At that time, the telephone solicitor is advised orally to cease and desist making unsolicited consumer telephone calls to residential telephone numbers registered on the Kansas No-Call list. Written cease and desist letters are sent shortly after obtaining the telephone solicitor's contact information. These two notification methods are intended to give the telephone solicitor more than sufficient notice that it may be in violation of the Kansas No-Call Act and to encourage compliance to avoid additional complaints and a potential civil penalty. The steady decrease in complaints indicates that our policy is sound.

Before any legal action is taken this office reviews the complaints against a telephone solicitor to determine if consumers have filed four or more complaints against that telephone solicitor. If the telephone solicitor has four or more complaints this office will offer a settlement option prior to filing a lawsuit. If our attempted negotiations fail to resolve the outstanding complaints a recommendation is made to file a lawsuit seeking the maximum penalty.

CIVIL PENALTIES COLLECTED

To date, the Attorney General has imposed fines of \$349,000.00 for violations to the Kansas No-Call Act by 62 companies. In addition, three lawsuits were filed against violators of the Act, and judgments of \$150,000.00 have been awarded. These judgments are not included in the amount indicated above since post-judgment actions are being taken to access those funds. Furthermore, two companies have been charged with violating the Kansas No-Call Act after an initial settlement was reached. These companies have agreed to pay an increased penalty of \$5,000.00 for a single complaint. Currently, the No-Call Task Force is investigating four companies that have more than four complaints filed against them.

COURT CHALLENGES TO NO-CALL LAWS

The telemarketing industry has taken a very aggressive stance on both state and federal no-call laws. Throughout the country several lawsuits have been filed challenging the validity and constitutionality of no-call legislation. The results of these challenges have been overwhelmingly supportive of no-call acts.

At the state and federal level, challenges to no-call legislation focus primarily on free speech issues. Most recently, the U.S. Supreme Court denied certiorari in *Mainstream Marketing Services, Inc. v. F.T.C.*, a 10th Circuit case challenging the National Do Not Call Registry on First Amendment grounds. By their action, the U.S. Supreme Court refused to review the 10th Circuit Court of Appeals decision upholding the constitutionality of the National Do Not Call Registry. At the state level, similar challenges persist. As just one example, the Indiana state law survived constitutional

challenges in state and federal court on First Amendment grounds in large part because that act left open ample alternative means of communication and solicitation. The Kansas No-Call Act has not faced any substantial challenges.

The National Do Not Call Registry has survived First Amendment challenges primarily because of the government's legitimate interest in protecting the privacy of individuals in their homes and protecting consumers against the risk of fraudulent and abusive solicitation. The National Do Not Call Registry has also survived Fourteenth Amendment challenges on equal protection grounds because it has been held that the Act is applied evenhandedly to all telemarketers, and it is not intended to favor certain groups or subject matter over others.

CONCLUSION

The Kansas No-Call Act has proven to be a great success. It has fulfilled its intended purpose, to provide accountability for unwanted intrusions into an individuals home. And with the continued support of the Legislature, enforcement agencies and Kansas citizens the Kansas No-Call Act shall endure any future challenge.

50-670. Definitions; requirements and prohibitions; remedies.

(a) As used in this section and K.S.A. 2003 Supp. 50-670a, and amendments thereto:

(1) 'Consumer telephone call' means a call made by a telephone solicitor to the residence of a consumer for the purpose of soliciting a sale of any property or services to the person called, or for the purpose of soliciting an extension of credit for property or services to the person called, or for the purpose of obtaining information that will or may be used for the direct solicitation of a sale of property or services to the person called or an extension of credit for such purposes.

(2) 'Unsolicited consumer telephone call' means a consumer telephone call other than a call made:

(A) In response to an express request of the person called;

(B) primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of such call; or

(C) to any person with whom the telephone solicitor or the telephone solicitor's predecessor in interest has an established business relationship, unless the consumer has objected to such consumer telephone calls and requested that the telephone solicitor cease making consumer telephone calls.

(3) 'Telephone solicitor' means any natural person, firm, organization, partnership, association or corporation who makes or causes to be made a consumer telephone call, including, but not limited to, calls made by use of automatic dialing-announcing device.

(4) 'Automatic dialing-announcing device' means any user terminal equipment which:

(A) When connected to a telephone line can dial, with or without manual assistance, telephone numbers which have been stored or programmed in

the device or are produced or selected by a random or sequential number generator; or

(B) when connected to a telephone line can disseminate a recorded message to the telephone number called, either with or without manual assistance.

(5) 'Negative response' means a statement from a consumer indicating the consumer does not wish to listen to the sales presentation or participate in the solicitation presented in the consumer telephone call.

(6) 'Established business relationship' means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and consumer with or without an exchange of consideration, on a basis of an application, purchase or transaction by the consumer, within the preceding 36 months, regarding products or services offered by such person or entity, which relationship has not been previously terminated by either party.

(b) Any telephone solicitor who makes an unsolicited consumer telephone call to a residential telephone number shall:

(1) Identify themselves;

(2) identify the business on whose behalf such person is soliciting;

(3) identify the purpose of the call immediately upon making contact by telephone with the person who is the object of the telephone solicitation;

(4) promptly discontinue the solicitation if the person being solicited gives a negative response at any time during the consumer telephone call;

(5) hang up the phone, or in the case of an automatic dialing-announcing device operator, disconnect the automatic dialing-announcing device from the telephone line within 25 seconds of the termination of the call by the person being called; and

(6) a live operator or an automated dialing-announcing device shall answer the line within five seconds of the beginning of the call. If

ar. ed by automated dialing-announcing device, the message provided shall include only the information required in subsection (b)(1) and (2), but shall not contain any unsolicited advertisement.

(c) A telephone solicitor shall not withhold the display of the telephone solicitor's telephone number from a caller identification service when that number is being used for telemarketing purposes, except that before January 1, 2005, a telephone solicitor's telephone number shall not be required to be displayed when the telephone solicitor's service or equipment is not capable of allowing the display of such number.

(d) A telephone solicitor shall not transmit any written information by facsimile machine or computer to a consumer after the consumer requests orally or in writing that such transmissions cease.

(e) A telephone solicitor shall not obtain by use of any professional delivery, courier or other pickup service receipt or possession of a consumer's payment unless the goods are delivered with the opportunity to inspect before any payment is collected.

(f) Local exchange carriers and telecommunications carriers shall not be responsible for the enforcement of the provisions of this section.

(g) Any violation of this section is an unconscionable act or practice under the Kansas consumer protection act.

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

History: L. 1991, ch. 158, § 2; L. 1992, ch. 252, § 9; L. 1997, ch. 172, § 1; L. 1998, ch. 156, § 2; L. 2000, ch. 91, § 2; L. 2002, ch. 179, § 1; July 1.

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50-670a. No-call act; creation and maintenance of no-call list; prohibitions; remedies.

(a) The attorney general shall contract with the direct marketing association for the no-call list provided for by this section to be the national no-call list maintained by the telephone preference service of such association. The contract shall establish:

(1) The maximum fees that telephone solicitors may be charged for access to the no-call list;

(2) the maximum fees that consumers may be charged to register for inclusion on the no-call list;

(3) the schedule of dates by which consumers must register in order to appear on updates of the no-call list. Such schedule of dates shall provide that time period prior to the date of the next quarterly update in which consumers must submit their information in order to be included in the next quarterly update shall not exceed 30 days;

(4) the schedule of dates by which telephone solicitors will be provided updates of the no-call list. Such schedule of dates shall provide that the no-call list shall be updated no less frequently than on a quarterly basis, on January 1, April 1, July 1 and October 1;

(5) what information shall be furnished, without charge, upon request of a consumer, registered in accordance with this section, concerning a telephone solicitor or other person who the consumer believes has engaged in an unsolicited consumer telephone call prohibited by this section; and

(6) the consent of the direct marketing association to subject itself to the jurisdiction of the courts of this state for the purpose of enforcing the provisions of this section; the designation of a resident agent, who is a resident of Kansas, by the direct marketing association, for service of process, and who registers with the secretary of state pursuant to K.S.A. 60-306, and amendments thereto; and the agreement of the direct marketing association and its resident agent to

comply with the provisions of this section.

If the direct marketing association does not agree to enter into the contract provided for by this subsection, the attorney general may contract, upon bids, with another vendor to establish and maintain the no-call list provided for by this section.

(b) Prior to making unsolicited consumer telephone calls in this state and quarterly thereafter, a telephone solicitor shall consult the no-call list provided for by this act, and shall delete from such telephone solicitor's calling list all state residents who have registered to be on such list. The direct marketing association, or other vendor maintaining the no-call list, shall offer to consumers at least one method of registration at no cost and such registration shall be for a period of five years. Consumers desiring to register to be on the no-call list may contact the direct marketing association or other vendor maintaining the no-call list, or the attorney general. The attorney general may compile a list of telephone numbers from consumers desiring to register for such service. The attorney general shall forward the list to the direct marketing association or such other vendor in electronic format no less than 15 days prior to the date of the next quarterly update. No registration fee shall be imposed on the attorney general for submission of such list to the direct marketing association or such other vendor. Membership in the direct marketing association shall not be a requirement for telephone solicitors to obtain the telephone preference service list and telephone solicitors shall have access to the list. A telephone solicitor prior to accessing the no-call list shall submit the appropriate fee and complete a subscription agreement that: (1) Restricts use of the no-call list exclusively for purposes authorized by this act; (2) provides the telephone solicitor's contact and mailing information; and (3) selects the method of updates required (monthly or quarterly). A consumer desiring to register shall submit to the direct marketing association, or other vendor, the consumer's name, address, city, state and zip code and the telephone numbers to be registered. The direct marketing association, or other vendor, shall make available to the attorney general, in an

electronic format, the no-call list and all quarterly updates of such list at no cost.

(c) The attorney general and the direct marketing association, or other vendor, shall ensure that consumers are given clear notice that telephone numbers are not immediately added to the no-call list upon submission of a consumer's registration and that it may be as long as 120 days before telephone solicitors receive a new no-call list which includes the consumer's telephone number; that it may be as long as 30 days from the time of publication of the current quarterly update of the no-call list before the consumer's telephone number is removed from the telephone solicitor's calling lists; and that the consumer and the attorney general may not be able to enforce the provisions of this section until 150 days have passed since the consumer submitted the consumer's registration to be on the no-call list.

(d) Telephone solicitors shall have a period of not more than 30 days from the time of publication of the current quarterly update of the no-call list to remove a consumer's telephone number from the telephone solicitor's calling lists.

(e) No telephone solicitor may make or cause to be made any unsolicited consumer telephone calls to any consumer if the consumer's telephone number or numbers appear in the current quarterly list of consumers registered on the no-call list. A telephone solicitor shall not use the no-call list for any other purpose than to remove consumers' telephone numbers from calling lists.

(f) A telephone solicitor shall be liable for violations of subsections (d) and (e) if such telephone solicitor makes or causes to be made an unsolicited telephone call to a state resident whose telephone number appears on the current quarterly no-call list or uses the list for any unauthorized purpose.

(g) It shall be an affirmative defense to a violation of this section if the telephone solicitor can demonstrate, by clear and convincing evidence, that: (1) The telephone solicitor at the time of the alleged violation had: (A) Obtained a copy of the updated no-call list; (B) established and implemented, with

due care, reasonable practices and procedure, effectively prevent unsolicited consumer telephone calls in violation of this section; (C) trained the telephone solicitor's personnel in the requirements of this section; and (D) maintained records demonstrating compliance with this section; and (2) the unsolicited consumer telephone call was the result of an error. Such defense shall not be exercised by a telephone solicitor more than once within the state of Kansas in any 12-month period. A telephone solicitor shall be deemed to have exercised such defense if asserted in response to any consumer complaint about a violation of this section, regardless of whether litigation has been initiated.

(h) It shall be an affirmative defense to a violation of this section if the telephone solicitor can demonstrate by clear and convincing evidence that: (1) The consumer affirmatively listed or held out to the public such consumer's residential number as a business number; (2) the telephone solicitor had knowledge of and relied upon such consumer's actions as provided in subsection (h)(1) at the time of the telephone solicitor's alleged violation; and (3) the purpose of the call was directly related to the consumer's business.

(i) Any violation of this section is an unconscionable act or practice under the Kansas consumer protection act.

(j) (1) Upon request of the attorney general for the purpose of enforcing the provisions of this section, the direct marketing association, or other vendor, shall furnish the attorney general with all information requested by the attorney general concerning a telephone solicitor or any person the attorney general believes has engaged in an unsolicited consumer telephone call prohibited by this section. The direct marketing association, or other vendor, shall not charge a fee for furnishing the information to the attorney general.

(2) The direct marketing association, or other vendor, shall comply with any lawful subpoena or court order directing disclosure of the list or any other information.

The direct marketing association, or other vendor, shall promptly forward any complaints concerning alleged violations of this section to the attorney general.

(l) Except as directed by the attorney general, the direct marketing association shall be prohibited from disclosing or using, in any way, any and all addresses obtained from consumers in the course of registering such consumer's phone numbers on the no-call list.

(m) Penalties and fees recovered from prosecutions of violations of this section shall be paid to the attorney general to investigate and prosecute violations of this section.

(n) The attorney general may convene a meeting or meetings with consumer advocacy groups to collectively develop a method or methods to notify the consumer advocacy group's membership and educate and promote to Kansas consumers generally the availability of the no-call list, and of a telephone solicitor's obligations under this section.

(o) On or before the first day of each regular legislative session, the attorney general shall report to the standing committees of the house and senate which hear and act on legislation relating to telecommunications issues on the status of implementation of the provisions of this section, including, but not limited to, the number of consumers who have given notice of objection, the number of requests for the data base, state revenues received from the respective sources of revenue under this section, the number of complaints received alleging violations of this section and actions taken to enforce the provisions of this section.

(p) If the federal trade commission establishes a single national no-call list the attorney general may designate the list established by the federal trade commission as the Kansas no-call list.

(q) The attorney general may promulgate rules and regulations to carry out the provisions of the Kansas no-call act.

(r) The provisions of this section shall be a part of and supplemental to the Kansas consumer protection

act.

(s) The provisions of this section shall be known and may be cited as the Kansas no-call act.

History: L. 2002, ch. 179, § 2; July 1.

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National Do Not Call Registry

REGISTRY HOME

REGISTER A PHONE NUMBER

VERIFY A REGISTRATION

MORE INFORMATION

EN ESPAÑOL

FILE A COMPLAINT

PRIVACY AND SECURITY

REGISTER YOUR HOME OR MOBILE PHONE NUMBER

Follow the registration steps below. Click here for [detailed registration instructions](#).

1. Enter up to three phone numbers and your email address. Click Submit.
2. Check for errors. Click Register.
3. Check your email for a message from Register@donotcall.gov. Open the email and click on the link to complete your registration.



**NATIONAL
DO NOT CALL
REGISTRY**

If you share any of these telephone numbers with others, please remember that you are registering for everyone who uses these lines.

STEP ONE

Area Code: Phone:

Email Address:

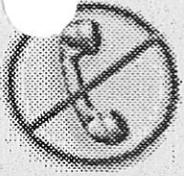
Confirm Email Address:

Your email address **MUST** be correct to process your registration. Learn why your [email address](#) is required.

Enter phone numbers with or without a dash. Do not use spaces or periods.

Submit

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Kansas

No-Call Act

Consumer Information

What is the Kansas No-Call Act?

This Kansas law creates a list that must be used by any person or business that intends to call any residential phone number in Kansas for any of the following purposes:

- Ⓒ soliciting a sale of any property or services to the person called
- Ⓒ soliciting an extension of credit for property or services to the person called
- Ⓒ obtaining information that will or may be used for either of the first two purposes.

If your phone number is registered and appears on the No-Call list and someone calls that number for any of these purposes, it is a violation of the Kansas No-Call Act unless the company fits into one of the exemptions. If a person or business calls for any purpose other than as listed above, that call is not a violation of the Kansas No-Call Act.

Who is prohibited from calling me if I register?

The Kansas No-Call Act is aimed at persons or businesses who are trying to sell you something. Organizations soliciting charitable donations, calls concerning political candidates or issues, or other calls unrelated to the sale of property or services do not fall within the scope of the Kansas No-Call Act. Organizations calling for those purposes would not be prohibited from calling persons registered on the No-Call list.

What companies may still call me?

The law provides that, even if you sign up on the No-Call list, a company may call you if you expressly request it. Remember this when you are asked to fill out information at fairs or other public events. If you give a company your name or other personal information, the form you use to do that may contain language that expressly authorizes that company to contact you by telephone. Also, if you have an established business relationship with a company within the proceeding 36 months, it is permitted to contact you. However, you have the right to tell the company to stop making consumer telephone calls under federal law.

How do I register for the No-Call list and what will it cost?

You may register for free online at www.donotcall.gov if you have an active e-mail address or by calling toll-free, **1-888-382-1222 (TTY 1-866-290-4236)**, from the number you wish to register. If any individual or company offers to register your number on the list for a fee, contact the Attorney General's Consumer Protection Division. This type of offer may be a scam.

Do I need to register every person in my household?

No, telemarketers are prohibited from dialing the phone number that appears on the list. Be sure to register all of your home phone numbers if you have more than one line.

Can I register my business phone also?

The Kansas No-Call Act applies to residential telephone numbers only. Some people use their home phone for business purposes, and this by itself will not prevent the registering of that number. However, it is a defense to an alleged violation if the telemarketer can prove that (1) the number was listed or held out to the public as a business number, (2) the telemarketer knew of that listing or holding out at the time of the call, and (3) that the purpose of the telemarketing call was directly related to the consumer's business.

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How soon after I register will telemarketers be prohibited from calling me?

Registrations submitted before August 7, 2003, will be enforceable by the Kansas No-Call Act starting November 1, 2003. Registrations submitted on August 7, 2003, or after will be enforceable three months after you register.

What prevents telemarketers from using my information for some other purpose besides removing me from their call list?

The Kansas No-Call Act prohibits telemarketers from using the list for any other purpose. Any violation of the Kansas No-Call Act is an unconscionable act or practice under the Kansas Consumer Protection Act (KCPA), and can result in penalties of up to \$10,000 per violation.

How long does my registration last?

Under the Kansas No-Call Act, a consumer's No-Call registration is valid for five years. The consumer is responsible for re-registering when that time has elapsed.

If my phone number changes, how can I remain on the No-Call list?

You will need to submit a new registration using your new phone number.

What happens if my phone number is disconnected and then reconnected?

You will need to submit a new registration for that telephone number.

What if I get a call I believe is in violation of the Kansas No-Call Act?

First, you should obtain whatever information you can about the telemarketer. Request the telemarketer's name and on whose behalf the call is being made. Get a phone number and address if you can. Without this information, it will be difficult to take any action against the telemarketer. You can then contact the Attorney General's office to file a complaint.

IMPORTANT: The information provided in this flyer is for informational purposes only. The Attorney General does not provide private legal advice. Any individual or business engaging in activity subject to the Kansas No-Call Act should consult the statutory language and seek private legal counsel regarding compliance.

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Kansas No-Call Act

Solicitor Information

What is the Kansas No-Call Act?

This Kansas law prohibits unsolicited "consumer telephone calls" by "telephone solicitors" to numbers appearing on the Kansas No-Call list. If a consumer's phone number is registered and appears on the list, it is a violation of the Kansas No-Call Act for a telephone solicitor to call that number unless the solicitor fits into one of the exemptions.

When is the No-Call list published, and how often is it updated?

The fourth edition of the Kansas No-Call list will be published on September 1, 2003. A change in technology occurring after that date will allow telephone solicitors to access and update their records on a daily basis. By law telephone solicitors must update their copy of the Kansas No-Call list quarterly. Thus, all telephone solicitors must update their records by November 1, 2003, February 1, 2004, May 1, 2004 and August 1, 2004. A dedicated, fully automated and secure website will provide this information to telephone solicitors.

How does the law define a consumer telephone call?

"Consumer telephone call" means a call made by a telephone solicitor to the residence of a consumer for the purpose of:

- Ⓒ soliciting a sale of any property or services to the person called;
- Ⓒ soliciting an extension of credit for property or services to the person called; or
- Ⓒ obtaining information that will or may be used for either of the first two purposes.

How does the law define a telephone solicitor?

"Telephone solicitor" means any natural person, firm, organization, partnership, association or corporation who makes or causes to be made a consumer telephone call, including, but not limited to, calls made by use of automatic dialing-announcing devices. The law applies to all telephone solicitors who call Kansas residents, regardless of whether the solicitor is located in Kansas.

What exemptions are in the Kansas No-Call Act?

The Kansas No-Call Act provides that a telephone solicitor may call a consumer if that consumer expressly requests the call. Also, telephone solicitors may call consumers with which they have had an "established business relationship" within the preceding 36 months.

Additionally, organizations soliciting for charitable donations, calls concerning political candidates or issues, or other calls unrelated to the sale of property or services do not fall within the scope of the Kansas No-Call Act. Organizations calling for those purposes would not be prohibited from calling persons registered on the No-Call list.

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How does a telephone solicitor obtain the No-Call list?

You may obtain the No Call list online at www.telemarketing.donotcall.gov, after September 1, 2003. Each telephone solicitors will need to register its company's information in order to obtain copies of the No-Call list. A change in the management of the list allows telemarketers a full listing of five area codes at no charge. An administrative fee is assessed for the sixth area code listing and all subsequent area code listings.

Can a telephone solicitor make copies of the No-Call list and distribute them?

No. The Kansas No-Call Act prohibits the transfer of the copy of the No-Call list.

What are the penalties for violating the Kansas No-Call Act?

The Kansas Consumer Protection Act provides penalties of up to \$10,000.00 per violation.

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