

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 9:05 a.m. on February 11, 2005 in Room 231-N of the Capitol.

All members were present except: Representative Bonnie Huy - Excused  
Representative Annie Kuether - Excused  
Representative Judy Morrison - Excused  
Representative Lynne Oharah - 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  
Judy Moler, Kansas Association of Counties, Topeka, KS  
Tom Gleason, Kansas Rural Independent Telephone Companies, Lawrence, KS  
Jason Talley, Nuvio, Overland Park, KS

Others attending: See Attached List

**HB 2050 -VoIP enhanced 911 act; application of KUSF to VoIP providers**

Chairman Holmes opened the hearing on **HB 2050**.

Representative Sloan addressed the committee in support of **HB 2050 (Attachment 1)**. Representative Sloan detailed history regarding Enhanced 911 service and why this legislation is important to that structure. He told the committee that he had contacted staff at the Federal Communications Commission, seeking their input on the legislation. He stated they struggled with whether Kansas can require VoIP providers to be required to contribute to the KUSF and that they were pleased to have the opportunity to assess their policy decisions in terms of states' interests and needs.

Judy Moler, General Counsel for the Kansas Association of Counties, testified in support of **HB 2050 (Attachment 2)**. Ms. Moler stated they believe the bill is a step in the direction of keeping a level playing field, as technology advances, in 911 services.

Tom Gleason, on behalf of the Kansas Rural Independent Telephone Companies, appeared as a proponent of **HB 2050 (Attachment 3)**. Mr. Gleason stated that the bill is intended to assure compatibility between enhanced 911 emergency services and Voice over Internet Protocol (VoIP) telephone service. As VoIP is an emerging technology that may be used in many ways, it is necessary to address it's relationship to the 911 system.

Jason Talley, CEO of Nuvio Corporation, testified in opposition to **HB 2050 (Attachment 4)**. Mr. Talley stated they believe the proposed legislation threatens the innovative climate of the development of VoIP. He also told the committee that it attempts to fit VoIP into a telephone service, while it is clearly an application that depends on Internet access.

Neutral testimony was submitted in writing by Janet Buchanan, Kansas Corporation Commission. (Attachment 5)

The conferees responded to questions from the committee.

Chairman Holmes closed the hearing on **HB 2050**.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 231-N, Statehouse, at 9:05 a.m. on February 11, 2005

**HB 2084 -Electric utilities; additional rate of return allowed for cost savings from fuel switching**

Chairman Holmes opened the debate on **HB 2084**.

Representative Sloan distributed a balloon amendment on the bill (Attachment 6). Representative Sloan moved adoption of the balloon. Representative Krehbiel seconded the motion. The motion carried. Representative Krehbiel moved to change the words ‘the utility’s authorized rate of return’ to ‘105% of the authorized rate of return.’ Representative Miller seconded the motion. Following discussion and with approval of the second, Representative Krehbiel withdrew his motion. Representative Krehbiel moved to recommend **HB 2084**, as amended, favorable for passage. Representative Olson seconded the motion. The motion carried. Representative Miller will carry the bill.

The meeting adjourned at 10:29 a.m.

The next meeting is Monday, February 14, 2005 at 9:00 a.m.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 11, 2005

NAME	REPRESENTING
Tom Gleason	Kansas Rural Independent Tel. Co's
Andy Moler	KAC
Nelson Kraeger	Everest
JAMES BUCHANAN	KCC
Paul Snider	SBC
Colleen Mull	Coop
Gabrielle Mashe	Gov office
Jamie Bowser	" "
TOM DAY	KCC
Andy Shaw	Alltel
Jason Talley	Novio
Mark Schreiber	Westar Energy
Dave Holtkamp	KEC
Dan Spryng	curb
Debbie Vignatelli	SBC
LARRY BERB	MIDWEST ENERGY
STEVE JOHNSON	Kansas Gas Service
Doug Smith	SITA
Bruce Graham	KEPC
Anne J. J. J.	KITA

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 11, 2005

NAME	REPRESENTING
Lewis Kinsey	SRS
D.S. Koch	SBC
Sandy Braden	Great Plains Energy
Mike Rebert	Great Plains Energy

## TOM SLOAN

REPRESENTATIVE, 45TH DISTRICT  
DOUGLAS COUNTY

STATE CAPITOL BUILDING  
ROOM 446-N

TOPEKA, KANSAS 66612-1504  
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TOPEKA

HOUSE OF  
REPRESENTATIVES

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

Testimony on HB 2050  
Utilities Committee  
February 11, 2005

Mr. Chairman, Members of the Committee: Veteran members of the Committee will recall the several year effort necessary to secure funding for E-911 services and the Kansas Universal Service Fund (KUSF) from wire and wireless telecommunications providers. Currently both types of service providers, plus cable telephony companies, contribute to both funds.

HB 2050 was drafted to require providers of Voice over Internet Protocols (VoIP) to contribute, either directly or as an assessment on their customers' bills. As many of you know, last year at this time the Chairman of the Federal Communications Commission (FCC) was in Kansas for a Rural Broadband and Telemedicine Summit. One of the topics of discussion was how to stimulate competition by various technologies and corporate providers in order to stimulate benefits to customers of lower prices and increased innovation.

As Chairman Holmes has noted, VoIP is a rapidly growing technology. He has discussed and demonstrated his VoIP communication device over land lines and we will test it over a wireless broadband system in the near future. In addition, last year I visited the FCC and the AT&T VoIP center in Washington, D.C. The technology is very impressive as it can link a person's home phone, cellular connection, pager, and other communications devices so that you can be found at home or at the beach.

Funding the E-911 program is vital for maintaining public safety officers' ability to locate and provide emergency police, fire, and health care services to persons in distress. Without funding from VoIP customers, as consumers switch to VoIP services, the remaining land line and wireless customers would pay a disproportionate share of E-911 operating costs. This would be not only unethical, but also reduce pressures on VoIP providers to develop and deploy the technologies necessary to fully integrate VoIP customers into the E-911 "locate" system.

Because questions exist over the delineation of responsibilities between the FCC's "light regulation" of VoIP providers and Kansas' legitimate public welfare and safety protection interests, I contacted the FCC staff and Chairman about the contents of HB

*HOUSE UTILITIES*

DATE: 2-11-05

ATTACHMENT 1

2050. In their opinion, the State of Kansas can require VoIP providers to contribute to the E-911 Fund through the mechanisms contained in HB 2050. However, they did suggest a few technical adjustments to remove potential problems:

1. On page 2, lines 12-13 and line 25 – substitute “VoIP subscriber whose primary residence is in the state of Kansas” for VoIP subscriber account with primary place of use in the state of Kansas. The same change should be made for every use of the same phrase.
2. Page 4, line 36 – add “As permitted by FCC regulations,” the VoIP enhanced 911 service “provided in Kansas as” described in this act.....
3. Page 5, line 15 – add per VoIP subscriber “whose primary residence is in the state of Kansas”
4. Page 12, line 27 – end bill

The FCC staff and Chairman continue to struggle with whether Kansas can require VoIP providers to contribute to the KUSF. My arguments in support of that right are based on our State’s vested interest in maintaining affordable telephone service to customers in high cost exchanges and our interest in the health, public welfare, and educational/economic opportunities for our citizenry through the KAN-ED program. FCC staff indicate that the division between federal and state interests and policies is being reassessed at this time.

Candidly, Commission staff were very pleased to receive HB 2050 because it provides them and the Commissioners an opportunity to assess Commission policy decisions in terms of states’ interests and needs. Telecommunications providers inundate the FCC with information about how each provider’s ability to compete successfully is dependent on FCC decisions. Kansas has introduced another element into the equation – our interests in protecting the public health, welfare, and safety of our citizens. Our introduction of this bill is influencing decision-making processes at the FCC. I cannot stress enough how important our Committee is right now in the FCC’s internal discussions.

Mr. Chairman, I encourage the Committee to adopt HB 2050 with the indicated revisions and will be pleased to respond to questions.



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To: House Utilities Committee  
From: Judy Moler, Legislative Services Director/General Counsel,  
Kansas Association of Counties  
Date: February 11, 2005  
Re: HB 2050

Thank you for the opportunity to offer comments on HB 2050. Both the Kansas Association of Counties and the League of Kansas Municipalities support this forward-thinking legislation.

As most of you know, our organizations worked for nearly 10 years to secure passage of enhanced wireless 911 legislation. One of our prime objectives in this effort was to achieve tax equity between wireline customers who were paying for 911 services and wireless customers who were not contributing to the system.

As technology advances, it is important that we continue to keep the playing field level and for this reason, we believe that HB 2050 is a step in that direction. We urge your favorable consideration of this legislation.

I would be happy to answer questions at the appropriate time. Thank you in advance for your work on this and other legislation of importance to local governments.

*HOUSE UTILITIES*

DATE: 2-11-05

ATTACHMENT 2

Blue Valley Telephone Company  
*Home*

Bluestem Telephone Company  
*Dodge City*

Columbus Telephone Company

Council Grove Telephone Company

Craw-Kan Telephone Coop., Inc.  
*Girard*

Cunningham Telephone Company, Inc.  
*Glen Elder*

Elkhart Telephone Company, Inc.

Golden Belt Telephone Assn., Inc.  
*Rush Center*

Gorham Telephone Company

H&B Communications, Inc.  
*Holyrood*

Haviland Telephone Company, Inc.

Home Telephone Company, Inc.  
*Galva*

JBN Telephone Company, Inc.  
*Wetmore*

KanOkla Telephone Assn., Inc.  
*Caldwell*

LaHarpe Telephone Company, Inc.

Madison Telephone Company, Inc.

MoKan Dial, Inc.  
*Louisburg*

Moundridge Telephone Company, Inc.

Mutual Telephone Company  
*Little River*

Peoples Mutual Telephone Company  
*LaCygne*

Pioneer Telephone Assn., Inc.  
*Ulysses*

Rainbow Telephone Coop. Assn., Inc.  
*Everest*

Rural Telephone Service Company, Inc.  
*Lenora*

S & A Telephone Company, Inc.  
*Allen*

S & T Telephone Coop. Assn.  
*Brewster*

South Central Telephone Assn., Inc.  
*Medicine Lodge*

Southern Kansas Telephone Co., Inc.  
*Clearwater*

Sunflower Telephone Company, Inc.  
*Dodge City*

Totah Telephone Company, Inc.  
*Ochelata, OK*

Tri-County Telephone Assn., Inc.  
*Council Grove*

Twin Valley Telephone, Inc.  
*Miltonvale*

United Telephone Association, Inc.  
*Dodge City*

Wamego Telephone Company, Inc.

The Wheat State Telephone Co., Inc.  
*Udall*

Wilson Telephone Company, Inc.

Zenda Telephone Company, Inc.



**KANSAS**  
RURAL INDEPENDENT  
Telephone Companies

*Investment that works for all Kansans*

## TESTIMONY ON HOUSE BILL 2050 FEBRUARY 11, 2005

Mr. Chairman and members of the House Utilities Committee:

The Kansas Rural Telephone Companies support House Bill 2050, intended to assure compatibility between E911 emergency services and Voice over Internet Protocol telephone service. Rural companies have been leaders in the original implementation of E911 service for wireline customers. They have contributed experience and support to the important expansion of E911 to include wireless telephone services. Now the rural companies are pleased to support another valuable expansion of public health and safety: the merging of E911 capabilities with the new calling technology known as VoIP.

Just as responsible public officials and communications providers addressed and solved the technological challenge of wireless E911, a renewed commitment can generate comparable solutions in the VoIP environment. In that way customers will gain the benefits of a new calling technology without sacrificing the advanced police, fire and emergency health care services already available over traditional wireline service. Without this commitment Kansans may save modest amounts on their communications costs, but only at the cost of placing themselves and their families at increased risk in emergency situations.

Early commitment to the interaction of VoIP and E911 is particularly appropriate and important. As municipalities move toward broader deployment of wireless E911, an awareness of the coming VoIP technology can improve their planning while minimizing obsolescence or additional retrofitting expenses. Forward-looking legislation can spare Kansas a repeat of the tragedies that characterized delays in the availability of wireless E911 service. All Kansans should be able to count, as soon as is practical, on the benefits of E911 services without concern for the particular technology they might choose for their voice communications.

*HOUSE UTILITIES*

DATE: 2-11-05

ATTACHMENT 3



VoIP is a young technology, and some aspects of its regulation remain unsettled. We believe, however, the public health and safety interests of the states will continue to be acknowledged by the Federal Communications Commission. In the case of emergency services it is not prudent to wait for final resolution of every administrative detail; instead, the public interest is best advanced by early action, positioning Kansas to take prompt advantage of the full range of its authority.

The rural companies stand ready to contribute time, energy and experience toward the latest opportunity for expansion of E911 service in the public interest. They support legislation authorizing VoIP service's contribution to that process just as we support VoIP customers' right to benefit from the resulting protection.

House Bill 2050 appears intended to address the use of Voice over Internet Protocol as that technology can be used for the origination of voice calling. In that context its relationship to E911 is the same as with calls using other technologies. VoIP technology, however, can be utilized to route traffic between local exchanges not affecting the caller's ability to benefit from automatic location identification. Ideally the bill should clarify that the VoIP service addressed by the bill is the service over which a customer could initiate a call to local emergency service providers; this clarification would foreclose unintended impediment to uses of VoIP other than those intended in the bill.

There is a question about one definition, that of "VoIP Project" at Page 1, Line 38. It appears the intent of the bill could be enhanced and clarified by specifying that covered projects are only those that "facilitate the establishment of VoIP *enhanced 911* service," not VoIP service in general.

In addition to VoIP and E911, House Bill 2050 covers other matters. These require careful attention to avoid repeating or expanding problems that have arisen following adoption of the 1996 Telecommunications Act.

The proposed KUSF responsibilities and opportunities for VoIP providers assume a technologically neutral approach. However, in order to avoid abuse of the ratepayer-generated KUSF, the bill should limit access to KUSF support to *intrastate* local exchange services of VoIP providers just as it is limited for state-mandated services provided by other carriers, **and just as the responsibility for KUSF contributions is limited to *intrastate* VoIP providers.** Sections 16-18 should refer specifically to "*intrastate* local exchange VoIP service" and to "providers of *intrastate* local exchange VOIP service" in order to avoid unwarranted demands on the fund and "gaming" of state support that would distort the competitive market.

Section 17 in particular makes reference to VoIP in connection with Carrier of Last Resort (COLR) obligations set out in the Kansas Telecommunications Act. The current regulatory policy of the KCC toward COLR has been of concern to revenue-limited rural carriers serving high cost areas. Disputed interpretations of the intent of K.S.A. 66-2009 on this subject could be affected by inclusion of the mere reference to that section in this bill, even though it appears no such effect is intended. In order to avoid what could be unintended consequences, the rural companies specifically request that this Committee include in its minutes an express statement that no such effect is intended.

The Revisor's office indicates provisions of Section 18 related to Kan-Ed funding are intended as "clean-up." Consideration of funding re-authorization is likely in a separate measure. The Kansas Rural Independent Telephone Companies have been instrumental in the organization and deployment of the Kan-Ed network for the benefit of the communities they serve, but it seems it would be premature to address Kan-Ed in this hearing.

Thank you for the opportunity to provide this information. I would be happy to respond to any questions.

Tom Gleason  
Gleason & Doty, Chartered  
PO Box 6  
Lawrence, KS 66044  
(785) 842-6800

33

Written Testimony of Jason P. Talley  
CEO  
Nuvio Corporation  
[www.nuvio.com](http://www.nuvio.com)

OPPOSITION TO HOUSE BILL 2050

Chairman and distinguished representatives, thank you for allowing me the opportunity to speak to you today in opposition to House Bill 2050. I am deeply concerned about this bill, its impact on the Voice over IP industry, and the lasting effects on emerging technologies in Kansas.

We believe the bill under consideration today threatens the innovative climate that is permitting the development of VoIP and the use of the Internet to deliver this technology. This bill represents an attempt to classify next generation communications, including VoIP, into the same paradigm that has been classically used by states. Make no mistake about it, this is the opening salvo in legislation to stifle and eliminate a technology that is bringing choice and features to customers in order to easily fulfill funding shortfalls from other programs. This is tantamount to taxing email to support the US Postal System.

VoIP is an emerging transport technology that is being used in many different ways. There are no less than 4 different types of VoIP ranging from peer to peer technologies such as Free World Dialup and Xbox Live, Non facilities based providers like Nuvio and Vonage, Cable phone providers like Cox and Time Warner Cable, and PBX manufacturers such as Avaya. Some of these technologies connect to the Public Switched Telephone Network (PSTN) and some do not. This bill is extremely broad in its

*HOUSE UTILITIES*

application and analysis of VoIP. On its face, it would subject Xbox Live users to a tax to support 911 and KUSF charges. There is much minutia to distinguish between various technologies and this is exactly the reason that the Federal Communications Commission (FCC) has undertaken an extensive and far-reaching docket to solve and answer many of the questions surrounding VoIP.

There needs to be a realization that VoIP is still a nascent technology. Today there are less than 1,000,000 users of VoIP in the United States. Certainly, even the most optimistic projections for VoIP only predict 7,000,000 users in the next four years. This hardly supports the funding calamity that is being predicted and predicates this bill. Perhaps this funding shortfall is coming from other areas.

This bill requires a VoIP provider to determine whether a customer is using the services in Kansas. Today no such mechanism permits that. Our service is far too multifaceted for simple identification of the end user's location to indicate jurisdiction. Moreover, the significant costs and operational complexities associated with modifying or procuring systems to track, record and process geographic location information as a necessary aspect of the service would substantially reduce the benefits of using the Internet to provide the service, and potentially inhibit its deployment and continued availability to consumers. The FCC agrees with this position and has referenced it in the *Vonage Order Adopted November 9, 2004*. In addition, telephone numbers no longer have any jurisdictional meaning, certainly not one that can be relied upon for taxation purposes. There is no reliable method for complying with this bill and it would create an impossible

4-2

dilemma for VoIP Service Providers. Similarly, attempting to use the subscriber's billing address or address of residence is not legally sufficient to establish jurisdiction over the user by Kansas(See also *Vonage Order of November 9, 2004*).

Kansas's attempt to tax VoIP for 911 completely ignores what the FCC has done and is continuing to do in its analysis and rulemaking concerning VoIP. In the FCC's preemption of the *Minnesota Vonage Order*, the FCC clearly indicates that 911 requirements and capabilities will be addressed by the FCC in its pending *IP-Enabled Services Proceeding*. The FCC has **already** exerted federal jurisdiction over this matter. Kansas is rushing to legislate without adequate investigation into the technology and current federal preemption.

This bill also fails to acknowledge that Nuvio and other VoIP providers do not have access to the PSAP facilities in Kansas. Even if the technological challenges of user location could be solved, Nuvio has no ability to directly connect a call with the proper PSAP. Nuvio does not operate or use technology similar to traditional telephone companies or wireless providers. In order to connect to the PSAPs, Nuvio would need all PSAPs to implement IP interconnects for transfer of **data** not telephone calls. Before VoIP providers are asked to pay for 911 facilities, IP interconnects to the PSAPs should be mandated.

This bill attempts to fit VoIP into constructs used for the last 100 years of telephone service. VoIP is **not** telephone service, rather it is an application that depends on access

to the Internet, much like email and web browsing. Do not confuse the user interfaces with the underlying technology, VoIP represents an entire paradigm shift from traditional telecommunications.

This bill calls for VoIP Service Providers that provide intrastate telecommunications services to contribute to the KUSF. Again this completely ignores the FCC's determination in the *Vonage Order* that VoIP services are interstate in nature and therefore not subject to state action or regulation. There is no ability to break down intrastate versus interstate in VoIP calls. Indeed, the whole traditional concept of local and long distance is meaningless with Nuvo.

Nuvo takes its responsibilities as a VoIP service provider very seriously and has been active at the federal level with solving many of the social issues that surround VoIP such as 911, CALEA, and USF funding. However, due to the intrinsic ubiquity of the Internet, nothing short of Nuvo ceasing to offer its service entirely could guarantee that a subscriber would not be subject to this proposed bill. These issue need to be solved at a federal level, not by Kansas and 49 other states.

I would urge you to not support this bill and to wait for the FCC to finish its investigation and rulemaking before attempting to tax and regulate this technology.

# KANSAS

CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR

BRIAN J. MOLINE, CHAIR

JOHN WINE, COMMISSIONER

ROBERT E. KREHBIEL, COMMISSIONER

Testimony of  
Janet Buchanan, Chief of Telecommunications  
Kansas Corporation Commission

Before the House Utilities Committee  
Regarding HB 2050  
February 11, 2005

Chairperson Holmes and Committee Members:

Thank you for allowing me to appear before you this morning on behalf of the Kansas Corporation Commission to express the Commission's views regarding HB 2050. My name is Janet Buchanan. I am the Commission's Chief of Telecommunications.

The Commission is not opposed to HB 2050, but is compelled to point out that there is likely to be controversy over the assessment of VoIP revenues for the KUSF. As you may be aware, the Minnesota Public Utility Commission required Vonage, a VoIP provider, to comply with regulations imposed on competitive carriers in that state. Vonage appealed to the District Court and the FCC. The District Court found that the Minnesota Commission did not have jurisdiction to regulate Vonage's services. The Minnesota Commission appealed the Court's decision to the United States Court of Appeals, Eighth Circuit. In November 2004, the FCC ruled on Vonage's request to preempt the Minnesota Public Utility Commission's regulation of Vonage's DigitalVoice service. The FCC determined that this VoIP service could not be separated into intrastate and interstate communications and thus could not be regulated at both the state and federal level. The FCC concluded that Vonage's service, though jurisdictionally mixed, is an interstate service. Additionally, the FCC found that regulation at the state level would thwart federal objectives. However, the FCC did not make any determinations with respect to the federal universal service fund, 911/E911, consumer protection, disability access requirements, "and the extent to which states have a role in such matters."<sup>1</sup> Following the FCC's decision, the United States Court of Appeals, Eighth Circuit upheld the decision of the District Court finding that the FCC's order supported the Court's conclusions regarding the Minnesota Commission's jurisdiction over Vonage. The Minnesota Commission has joined California, Ohio and New York in an appeal of the FCC's determination. Minnesota's appeal focuses on issues related to the provisioning of 911 services.

<sup>1</sup> *In the Matter of Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, FCC 04-267, Memorandum Opinion and Order, released November 12, 2004, footnote 46. ("Vonage Order")

HOUSE UTILITIES

DATE: 2-11-05

ATTACHMENT 5

While the FCC has not specifically determined the role of states in the assessment of VoIP for universal service fund purposes, the Court has addressed whether a state can assess interstate revenues for a state universal service fund. The Texas Public Utility Commission instituted a state universal service fund in 1997. The Texas Commission imposed a fee on all telecommunications carriers providing any intrastate service. However, the fee was applied to the carriers' total revenue, including revenues derived from intrastate, interstate and international services. The application of the Texas fee to revenue from interstate and international services was challenged. The United States Court of Appeals, Fifth Circuit, issued a decision on June 30, 2004, affirming the finding of the district court that assessment of both intrastate and interstate revenues by the Texas Commission was inequitable, discriminatory and anticompetitive in violation of Section 254(f) and preempting the Texas statute imposing such fee.<sup>2</sup> Preemption of state law occurs under the Supremacy Clause when:

- (1) Congress expressly preempts a state law;
- (2) Congressional intent to preempt may be inferred from the existence of a pervasive federal regulatory scheme; or
- (3) state law conflicts with federal law or its purposes.<sup>3</sup>

The Court determined preemption based on conflict with federal law or its purpose. Thus, if VoIP services are interstate, then it is likely that the provision to collect KUSF assessments from VoIP services would be preempted.

Thank you for the opportunity to appear today. I will be available for questions at the appropriate time.

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<sup>2</sup> *AT&T Corp. and AT&T Communications of Texas LP v Public Utility Commission of Texas; et al*, No. 03-50454, United States Court of Appeals, Fifth Circuit, June 30, 2004.

<sup>3</sup> *Id*

5-2



HOUSE BILL No. 2084

By Committee on Utilities

1-19

Stoan  
2/11/05

HOUSE UTILITIES  
DATE: 2-11-05  
ATTACHMENT 6

9 AN ACT concerning certain public utilities; relating to energy efficiency  
10 and conservation programs for certain customers; providing for recov-  
11 ery of certain amounts therefor.

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

13 Section 1. (a) ~~The~~ state corporation commission shall authorize any  
14 electric public utility or natural gas public utility to recover ~~(12% of any~~  
15 investments by such utility in energy efficiency and conservation pro-  
16 grams for residential customers who have an energy audit and are current  
17 in the payment of their utility bills or payments under their utility bill  
18 payment plan.

For energy efficiency and conservation programs receiving prior approval  
of the commission, the

the utility's authorized rate of return on

19 (b) ~~The~~ commission shall authorize any electric public utility or nat-  
20 ural gas public utility to recover ~~(12% of any~~ investments by such utility  
21 in programs to reduce uncollectible bills of residential customers of the  
22 utility through prepaid energy cards or similar programs that place re-  
23 sponsibility for wise use of energy on customers at high risk of having  
24 uncollectible bills. Before the commission authorizes the recovery, the  
25 utility shall be required to submit to and obtain approval by the commis-  
26 sion of the utility's policies for identifying such high-risk customers. Such  
27 policies shall take into account the customer's previous failures to meet  
28 terms of payment plan agreements, landlord preferences and such other  
29 factors as agreed to by the utility and the commission. The cold weather  
30 rule adopted by the commission in docket 158-796-U shall not apply to  
31 ~~customers participating in programs instituted pursuant to this~~  
32 ~~subsection.~~

For energy efficiency and conservation programs receiving prior approval  
of the commission, the

the utility's authorized rate of return on

33 (c) The state corporation commission shall authorize any electric pub-  
34 lic utility or natural gas public utility to recover 110% of any investments  
35 by such utility in energy efficiency and conservation programs for com-  
36 mercial customers who have an energy audit and are current in payment  
37 of their utility bills.

a customer participating in a program instituted pursuant to this subsection  
if such customer has failed at least three times to fulfill agreements with  
the utility and the utility has notified such customer of the risk of losing  
utility service. The utility shall provide the state corporation commission  
with a list of such customers.

38 Sec. 2. This act shall take effect and be in force from and after its  
39 publication in the statute book.  
40