

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 9:12 a.m. on March 18, 2005 in Room 231-N of the Capitol.

All members were present except: Representative Judy Morrison - 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:

John Federico, Kansas Cable Telecommunications Assn, Topeka, KS
Coleen Jennison, Cox Communications, Topeka, KS
Debbie Schmidt, Sunflower Broadband, Lawrence, KS

Others attending: See Attached List

Coleen Jennison, Director of Government Affairs for Cox Communications, shared their views relating to competition (Attachment 1). Ms. Jennison said that Cox continues to maintain a healthy video market share in Kansas and is moving into the telephony market. They are a facilities based Competitive Local Exchange Carrier. They welcome the challenge to bring further competition to Kansas.

Debbie Schmidt, Director of Telephone Services for Sunflower Broadband, spoke about the company's history and their commitment to providing superior, advanced technology for the latest products and services (Attachment 2).

John Federico, Executive Director of the Kansas Cable Telecommunications Association, addressed the committee on the issues relating to the cable television industry (Attachment 3). Mr. Federico spoke on the issues of deregulation, competition, inequities and Voice over Internet Protocol (VoIP).

Ms. Jennison, Ms. Schmidt, and Mr. Federico responded to questions from the committee.

SB 93 - Eminent domain for wind energy projects

Chairman Holmes opened the debate on **SB 93**.

Representative Svaty moved to recommend SB 93 favorable for passage. Representative Mast seconded the motion. Representative Sloan moved to table SB 93. Representative Olson seconded the motion. The motion to table prevailed. Representatives Mast, Svaty, Carter, and Watkins requested their 'no' votes be recorded in the minutes.

The meeting adjourned at 10:12 a.m.

The next meeting is Monday, March 21, 2005 at 9:00 a.m.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 18, 2005

NAME	REPRESENTING
Deen Jensen	LOW
Debra Schmidt	Sunflower Broadband
Jim Garkner	SBC
HARRY BERG	MIDWEST ENERGY
Sandy Braden	Great Plains Energy
Mike Murray	Sprint
Trudy Allen	KRTC
Steve Johnson	Kansas Gas Service
Drew Hansen	self
Damon Porter	TIME WARNER
Tom Krewson	COMCAST
Allie Dewine	Ks. Livestock Association
Mike Beam	Ks. Livestock Assn.
Paul Krida	SBC
Mark Schreiber	Westar Energy
TOM DAY	KCC

House Utilities Committee
Coleen Jennison
March 18, 2005



Thank you Mr. Chairman and members of the Committee, I am Coleen Jennison, Director of Government Affairs for Cox Communications.

We appreciate your allowing us to share our views as they relate to competition, both cable and telephone, and the role we play in the state of Kansas. First, I would like to provide a little background about our company, then address the subject of competition, and conclude with some thoughts about the provision of telephone service.

Cox serves over 90 communities in Kansas from Wichita to Gas (pop. 532) from Cherryvale to Lindsborg. To give you some idea of our geography we serve Topeka, Manhattan, Garden City, Dodge City, Hutchinson, El Dorado, Great Bend and numerous communities in between. 100% of our customers, including those in Gas, Kansas, are served with state-of-the-art broadband technology. The service we provide throughout Kansas is equal to or surpasses any video and data service offered from Chicago to LA. and has been built with 100% private risk capital – no tax breaks, no subsidies.

Aside from providing state-of-the-art broadband services, we proudly give back to our communities in many ways. We believe that we are only as successful as the communities we serve. That's why we offer free cable television and high speed Internet to K-12 schools in our service areas. That's why we gave more than \$9 million in cash and in-kind donations back to our communities last year alone. That's why we provide more than 80 city and educational channels in our state valued at more than \$10 million annually.

Furthermore, we staff 22 local offices across the state and employ over 940 Kansans with a payroll of \$43 million. We also pay more than \$8.4 million in municipal franchise fees.

To wrap up the back ground, one misconception we face is that cable isn't regulated. In fact, the cable industry is regulated at the federal level by the Cable Act (the Cable Act specifically is Title VI of the communications Act of 1934, as initially adopted by the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, and as further amended by the Telecommunications Act of 1996). Additionally, we are required to obtain franchises from the Local Franchising Authorities where we provide or intend to provide service.

HOUSE UTILITIES
DATE: 3-18-05
ATTACHMENT 1

My job requires that I do this for the eastern half of Kansas. The last franchise that I had the pleasure of renewing took 3 years and was over 30 pages long. Finally, we are under obligation to adhere to the rules and regulations of the Federal Communications Commission (FCC) requiring dozens of reports and plant specifications annually.

Regarding competition, during my four years with Cox the legislative directive has been consistent – bring competition to Kansans. Companies have answered the call, Cox among them, and competition is budding in Kansas. Not quite blooming, as other companies would have you believe, but certainly budding.

In terms of cable, long gone are the days where we enjoyed product exclusivity in the marketplace. Just as the ILECS, we face competition from wireless. Competition in the form of Direct Broadcast Satellite (DBS) is formidable. While SBC currently has teamed up with Dish Network to provide the video portion of their bundle, they have announced plans to build a new fiber network that will provide 18 million households IP-based television in addition to other services.

While Cox continues to maintain a healthy video market share in Kansas, it is a result of our aggressive roll out of new products. In addition to the 260 channels of video, Cox offers High Speed Internet, High Definition Television (HDTV), Digital Video Recorders (DVRs), Interactive Program Guides (IPGs) and commercial free music channels.

So, we come to telephone. It was mentioned in the Senate utilities committee that “it is a world where the distinction between services is becoming more and more blurred because of advances in such technology as wireless, Internet, and broadband telephony. It is a world where one service can easily be substituted for another service or completely replace it.” I would agree with that.

But I would point out that if we wanted it all tied up in a neat package, we would have left it as it was and we wouldn't be having this conversation about competition.

Cox began offering traditional switch telephone in Wichita in March 2003 and subsequently the surrounding areas of Goddard, Park City, Kechi, Bel Aire, Valley Center, and Maize. Ours is a facilities based Competitive Local Exchange Carrier (meaning we build and utilize our own separate infrastructure), that operates under Cox Kansas Telecom, LLC. Cox does pay into E911 and the Kansas Universal Service Fund. The only KUSF money we are eligible for in return is that which reimburses us for providing life line services. Cox offers local service, features (such as Caller ID, Call Waiting and Voice Mail), and long distance.

There are many that have decided that “competition has worked” in Kansas. I would submit that notion is slightly premature. Just last year the KCC stated that “no competitor has amassed a significant share of the market. Thus, competition is not yet firmly established.” In fact, 94.6% of the wireline telecommunications market is controlled by the ILECs in Kansas. Sprint in a similar presentation to the Senate Utilities committee pointed to the FCC report indicating CLECs had garnered about 22% of the

1-2

local market in Kansas. In reality 78% of the market is held by ILECs, 16.6% is held by ILECs and leased to CLECs (resale and UNEs) and only 5.4% is held by facilities based CLECs, such as Cox. In a nutshell 94.6% of local telephone lines still reside on the ILECs network.

While we understand and respect the Federal and State obligations required of traditional telephone companies, Cox unlike our competitors, has built our infrastructure with 100% private risk capital. Since 1996 we have invested more than \$350 million in Kansas alone to ensure that our customers have access to the most technologically advanced services available. We continue to invest more than \$50 million annually to upgrade and maintain our infrastructure. Cox is very proud of what we bring, not just to metropolitan areas, but to small and large communities across the state. However, because the local telephone market has been served by a monopoly for over one hundred years, competition in the market will not occur naturally.

As Cox continues to make a facilities based investment in Kansas, we would encourage the legislature to look carefully at the true state of competition. Finally, after 100 years, consumers are beginning to have choices. A favorable regulatory environment will allow Cox and other cable companies to continue investing their private capital in Kansas. Cox is excited about the possibilities technology will afford in this and other states.

The legislature has issued the challenge – bring competition to Kansas. Cox and cable companies are doing just that.

Thank you Mr. Chairman for your time.



sunflower | B R O A D B A N D

Before the House Utilities Committee
Remarks by
Debra Schmidt, Director of Telephone Services
Sunflower Broadband
1 Riverfront Plaza, Suite 301
Lawrence, Kansas 66044
785-841-2100
dschmidt@sunflowerbroadband.com

Thank you Mr. Chairman and members of the House Utilities Committee for the opportunity to talk to you about Sunflower Broadband. My name is Debra Schmidt. I am the Director of Telephone Services for WorldNet, L.L.C. Through a contractual arrangement, Sunflower Broadband provides the HFC distribution network, marketing, and customer support for WorldNet's telephone service. Therefore, I will refer to all of our voice, video and data services as Sunflower Broadband.

Sunflower Broadband's origins date back over 100 years in the newspaper and publishing business and it is privately owned by the Simons family—now on its fourth generation of management. In 1970 Sunflower entered the cable television business. Customers were offered just 10 channels and a better picture quality than an antenna provided. Lawrence customers were eager for the service and Sunflower quickly became a household name. In 1975 Sunflower provided its first broadcast of Channel 6 News and became Lawrence's only local television news operation. Channel 6 has developed into an award-winning station offering newscasts Monday through Friday (and recently added Sunday newscasts) and a broad offering of locally produced programming, including replays of local high school and collegiate sporting events, local government and election coverage, and local interest programs. The company is involved within the community and supports local efforts as a top contributor to the United Way and as a supporter of the Lawrence Schools Foundation.

As in the early developmental and growth stages, Sunflower remains committed to providing superior, advanced technology for the latest products and services. In 1995 Sunflower was the first cable company in the country to launch high-speed Internet service using DOCSIS modems (DOCSIS is the acronym for Data Over Cable Service Interface Specification and is the industry standard for data delivery over cable facilities). Digital cable service was launched in 1998 providing customers with clearer picture quality and more programming options. In 2001 the triple play of services became available for Lawrence customers when voice services were deployed. 2003 marked the launch of High Definition (HD) service; Sunflower has one of the most robust High Definition lineups in the country offering sports and movies, as well as programming from local broadcast affiliates that broadcast in HD.

HOUSE UTILITIES
DATE: 3-18-05
ATTACHMENT 2

Sunflower has continued the deployment of advanced technology with the availability of an advanced Personal Video Recorder (Moxi) which is similar to TiVo, only better. The Moxi equipment allows customers to record two programs at one time – even in High Definition and start or stop a program in one room and pick it up in another room. Sunflower recently launched Video on Demand (VOD) service with access to thousands of hours of programming, giving customers the ability to watch what they want, when they want—all with VCR-like functionality. In the future programming available on VOD will include local events, school events, election forums, etc. so that our subscribers never have to miss anything important to them.

Recently, we have provided rural residents Internet access through over-the-air signals. Previously, these rural customers were unable to receive high speed Internet service because there are no advanced telecommunications facilities reaching their homes.

The 2001 telephony launch was the type of service envisioned by the 1996 Telecommunications Act. We invested heavily in our own switching equipment (which is circuit-based) and upgraded the cable distribution facilities for telephone services. All of the investment made in switching equipment and facility upgrades was done on a risk basis with private capital.

The telephone services were initially provided to customers only in Lawrence. Recently we have expanded telephone services to customers outside of Lawrence in Douglas County where the cable network exists and in the communities of Eudora, Basehor and Tonganoxie. Other expansion areas may be announced in late summer and fall. Although we offer services with equal or better quality, the market share we have obtained has not been easy. Difficulties in obtaining market share include competing against a company with considerably more resources in targeting customers with very aggressive winback campaigns. Despite these obstacles, we remain committed to providing customers with a competitive option for voice, video and data services at a reduced rate.

Recently, there has been a lot of discussion regarding Voice over Internet Protocol (VOIP). The definitions of VOIP can vary depending on the VOIP provider and technology. One type of VOIP is peer-to-peer calling where both sides of the call must be connected to the VOIP provider. An example of this type of VOIP would be Skype where you can download free software from the Internet and make free calls to other Skype customers. Another type of VOIP that is becoming increasingly popular is telephone service that is provided over a customer's existing broadband connection. This is the type of service provided by Vonage. In both of these examples the VOIP providers do not have complete control over the infrastructure. These are "best effort" services, but there are no guarantees in quality. In addition, most of these companies do not provide E911 or comply with the government wiretapping regulations specified in CALEA. Because these services have been classified as "information services", most do not contribute to the Universal Service Funds. In the near future, VOIP will be available through wireless companies and those with wireline and wireless partnerships will deploy

seamless integration of services. This will give customers the ability to have one number regardless of their location and the ability to receive converged voice or email messages on either their computer or phone.

In contrast, cable operators such as Sunflower Broadband deploy telephone services over a managed network that can be monitored and controlled within the cable infrastructure. Sunflower is among the vast majority of cable operators that deliver the name and address location to PSAPs (Public Service Answering Points) on 911 calls. In addition, we contribute to the USF and KUSF, but do not receive money from the funds for further investment. We are embracing the future of telecommunications and remain excited about the possibilities. We are planning for the future of VOIP, but will do so with all the “social” issues in mind, i.e. E911, Universal Service and surveillance capabilities.

It is predicted that the market place will eventually shake out with two or three competitors—one being the incumbent provider and another being the cable provider. This is probably true because recent FCC decisions are forcing competitors that rely on unbundled network elements to rethink their business plans or discontinue services in various markets. Although we stand ready to compete head-to-head and are optimistic about the future, we are concerned about the outcomes of recent decisions and those still in progress. We urge legislators to be cautious in how any regulation or deregulation is applied so that true facilities-based competitors are not discouraged before they have had the chance to fully flourish in the competitive market and remain a viable option for consumers.



Kansas Cable Telecommunications Association

815 SW Topeka Blvd.
Second Floor
Topeka, Kansas 66612 • (785) 290-0018

**Presentation To;
House Utilities Committee
March 18, 2005**

**Presented By:
John J. Federico
Kansas Cable Telecommunications Association**

Mr. Chairman, thank you for the opportunity to speak to your committee about the cable television industry. I serve as the Chief lobbyist and the Executive Director of the Kansas Cable Telecommunications Association. As you can see from the attached handout, the cable telecommunications industry has a long history in Kansas of making significant financial investments and contributions to the state and local franchising authorities.

Cable is a unique "animal" and is sometimes mis-characterized as "not being regulated." Nothing could be further from the truth. We are regulated quite heavily on the federal level and again by local franchise agreements. It is important to note that the cable telecommunications industry is NOT in favor of increased or unnecessary regulation, but rather that careful consideration be given to the impact on the competitive environment and the consumer, both urban and rural, when any further regulation, or de-regulation is considered. As it relates to de-regulation specifically, we are supportive of well-crafted, purposeful, data-driven, timely and consumer-friendly deregulation.

Is it time for deregulation?

Deregulation on its face sounds very reasonable...
Challenge of unraveling a 100 year old monopoly. (Perspectives Article)
What impact does it have on customers in rural parts of the state?
Robust, sustainable competition must be established
To have competition, you need competitors!

What is the status of telephony competition in the state?

78% ILEC / 16% CLEC / 5.4% facilities-based competition
9 years to get 5.4%
Sprint Annual Report-7% cutting the cord / DSL removes necessity of 2nd phone line.
Do we have enough data? (KCC Report)

Numerous Inequities & Problems

Satellite/DBS
ROW
IP Telephony

What is the future of VoIP?

Forrester Study
Cable Telephony in Kansas (Sunflower Broadband/Cox/Time Warner)

HOUSE UTILITIES
DATE: 3-18-05
ATTACHMENT 3

What Impact Does The Cable Industry Have On Our Kansas Economy?

2-3

In 2005 The Cable Television Industry of Kansas...

- **Will Serve Approximately 250 Cities and Communities.**
- **Will Pay Over \$15,000,000 to Cities and Counties in Franchise Fees.**
- **Will Employ Nearly 2,000 Kansas Residents.**
- **Will Invest Approximately \$50,000,000 In System Improvements.**
- **Will Provide Free Cable Television to Nearly 1,200 Schools.**
- **Will Provide Nearly 400 Schools with Free High Speed Internet.**



"Connecting Kansas To The World!"

For More Information, Contact:

Your local cable operator or
Kansas Cable Telecommunications Association (KCTA)
John J. Federico, J.D., Executive Secretary
815 SW Topeka Blvd., Second Floor
Topeka, KS 66612
(785) 290-0018