

MINUTES OF THE HOUSE UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on March 3, 2006 in Room 231-N of the Capitol.

All members were present except:

Jim Morrison- excused  
Judy Morrison- excused  
Peggy Mast- excused

Committee staff present:

Mary Galligan, Kansas Legislative Research  
Dennis Hodgins, Kansas Legislative Research  
Mary Torrence, Revisor's Office  
Heather Klaasen, Kansas Research Intern  
Rena Hansen, Committee Secretary

Conferees appearing before the committee:

Janet Buchanan, KCC  
Mike Murray, Sprint

Others attending:

See attached list.

Hearing on:

**SB 463**      **Sub for SB 463 by Committee on Utilities - Repealing K.S.A. 50-675a, notification requirements on telemarketing by carriers.**

Proponents:

Janet Buchanan, KCC, (Attachment 1), offered testimony to the committee concerning **SB 463** and what the amended version attempts to do for the consumer protection act related to telemarketing. She additionally gave history on the origination of the bill.

Michael Murray, Sprint, (Attachment 2), presented testimony in favor of SB 463 as well as giving a history of the "do not call" issue.

Questions were asked and comments made by Revisor Mary Torrence, and Representatives: Tom Sloan, Carl Krehbiel, Melody Miller, Carl Holmes, Virginia Beamer, Lynne Oharah, Don Myers, and Tom Hawk.

Hearing on **SB 463** closed.

Action on:

**SB 464**      **Kansas underground utility damage prevention act, rules and regulations.**

Discussion took place concerning **SB 464** by Representatives: Annie Kuether, and Carl Krehbiel.

Representative Tom Sloan moved to pass SB 464 favorable for passage to the house floor. Seconded by Representative Robert Olson. Motion passed unanimously.

Representative Melody Miller will carry the **SB 464** on the house floor.

Action on:

**SB 463**      **Sub for SB 463 by Committee on Utilities - Repealing K.S.A. 50-675a, notification requirements on telemarketing by carriers.**

CONTINUATION SHEET

MINUTES OF THE House Utilities Committee at 9:00 A.M. on March 3, 2006 in Room 231-N of the Capitol.

Representative Tom Sloan moved a conceptual amendment to return **SB 463** to its' original language with the information included in carrier phone books and requiring all phone books to carry this "do not call" contact information. Seconded by Representative Virginia Beamer.

Discussion followed on **SB 463** with Representatives: Carl Krehbiel, Lynne Oharah, Annie Kuether, Don Myers, and Forrest Knox.

Representative Tom Sloan closed on his motion.

Motion failed with a vote count of 6-9.

Representative Carl Krehbiel moved to pass **SB 463** favorably as amended by the Senate to the House floor. Seconded by Representative Robert Olson. Motion passed.

Representative Annie Kuether will carry **SB 463** to the house floor.

Chairman Holmes reminded the committee that next week we would hear and work **SB 350** and would stay on Friday to work the bill until we are completely done.

The next meeting is scheduled for March 6, 2006.

Meeting Adjourned.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 3, 2006

NAME	REPRESENTING
JACET BUCKANAN	KCC
LOW STANTON	NORTHERN NATURAL GAS
JOHN C. BOTTEMBERG	AT&T
Phil Black	Community Access TV of Sedona
Shudy Allen	KRTC
Steve Johnson	Kansas Gas Service
Jim Gortner	<del>at&amp;t</del>
Wade Haggood	Sprint
Mike Murray	Sprint
DINA FISK	VZW
Tom Day	KCC
Bob Tollen	KCA
Mark Tomb	LKM



# KANSAS

CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR

BRIAN J. MOLINE, CHAIR

ROBERT E. KREHBIEL, COMMISSIONER

MICHAEL C. MOFFET, COMMISSIONER

Testimony of  
Janet Buchanan, Chief of Telecommunications  
Kansas Corporation Commission

Before the House Utilities Committee  
Regarding SB 463  
March 3, 2006

Chairperson Holmes and Committee Members:

Thank you for allowing me to appear before you this morning on behalf of the Kansas Corporation Commission to support SB 463. My name is Janet Buchanan. I am the Commission's Chief of Telecommunications.

SB 463 amends a portion of the consumer protection act related to telemarketing, K.S.A. 50-675a, to remove language that is no longer appropriate. The Legislature enacted these provisions during the 2000 Legislative Session (HB 2580) to require the Commission to adopt rules and regulations requiring all local exchange carriers and telecommunications carriers to notify residential subscribers of the Kansas do-not-call registry utilizing the Direct Marketing Association's telephone preference list by July 1, 2001.

The Commission opened a proceeding on August 3, 2000, and solicited comments from local exchange carriers and telecommunications carriers regarding how to implement the statute. After reviewing the comments of interested parties, Staff drafted regulations that were submitted to the Department of Administration and the Kansas Attorney General for approval. Notice of the regulation was provided, a 60 day public comment period permitted, and a public hearing was scheduled for March 22, 2001 as required for implementation of regulations. K.A.R. 82-1-250 was adopted by the Commission on May 28, 2001. The regulation required all interested local exchange carriers and telecommunications carriers to participate in a forum to develop the form, content and method or methods of providing notice of the Direct Marketing Association's telephone preference list. The parties agreed that information regarding the Direct Marketing Association's telephone preference list should be disseminated through the publishing of relevant information (as determined by the forum) in the telephone directories published by local exchange carriers.

In June 2003, the FCC and FTC agreed to jointly administer the national do not call registry and do not call regulations. Shortly thereafter, the Kansas Attorney General adopted the national do-not-call registry as the Kansas do-not-call registry. With this decision, the information published

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in telephone directories no longer directed consumers to the registry designated by the Attorney General. However, the statute and K.A.R. 82-1-250 do not give the Commission the flexibility to adjust the language in the telephone directories. As introduced, SB 463, attempted to correct this problem by utilizing general terms to provide flexibility in responding to any future changes in the provider of the Kansas do not call registry. After receiving comment from the industry and the Commission, the Senate Utilities Committee amended SB 463 to remove the entire provision.

We support this approach. Because the FCC requires notification, it was determined that duplicative notification at the state level was not necessary. The FCC has promulgated rules requiring all carriers providing local service to notify their subscribers regarding the availability of the do-not-call registry. Carriers are required to provide an annual notice, through a bill insert or bill message, informing the subscriber of his or her right to register or revoke registrations on the national do-not-call database and informing the subscriber of methods for exercising these rights. The FCC indicated that such notice must be clear and conspicuous. The FCC also indicated that the notice must, at a minimum, include the toll-free telephone number and the internet address for registering or revoking registration on the do-not-call database.

Thank you for the opportunity to appear before you today. I will stand for questions at the appropriate time.



Before the House Utilities Committee  
Friday, March 3, 2006  
Michael R. Murray  
Director of Governmental Affairs, Sprint  
Substitute for SB 463

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to comment on Substitute for SB 463 which gives us the opportunity to do something we rarely see—the repeal of a legislative mandate contained in KSA 50-675(a).

I expect it would be helpful to review the history of the “do not call” issue.

Do Not Call legislation was batted around in a number of legislative session prior to 2000. But, in the 2000 Session, the Legislature passed HB 2580 (KSA 50-675 (a) which required the KCC to adopt rules and regulations to notify residential customers annually about the availability and accessibility of the Direct Marketing Association’s Telephone Preference Service, which is a listing of consumers who had registered with the Direct Marketing Association saying they did not want to receive telemarketing calls. The DMA list is one which was and still is used by most legitimate telemarketers to avoid calling people who do not want to receive such calls.

The KCC convened a meeting at the SBC (now AT&T) offices in Topeka with the local exchange carriers. The meeting resulted in agreed upon language which was to be placed in the telephone directories of the local exchange carriers and subsequently the KCC issued an order to that effect.

Then, the 2002 Kansas Legislature passed House Substitute for Substitute for SB 296 establishing a Kansas no call list and empowered the Attorney General to enter into a contract with the Direct Marketing Association to administer the list as part of its Telephone Preference Service.

Those negotiations failed to produce an agreement and the Attorney General then contracted with an entity known as Gov Connect to administer the state no call list.

In 2003, the Federal Trade Commission and the Federal Communications Commission created a national no call list, and the FCC issued rules which local exchange carriers must follow to annually notify their residential customers of the federal no call list via a bill message or a bill insert.

During that period, the new Kansas Attorney General merged the Kansas no call list with the federal no call list so now there is only one official no call list in Kansas.

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ATTACHMENT 2

Since 2001, the information in all Kansas telephone directories published by local exchange carriers has informed consumers of the Direct Marketing Association's Telephone Preference Service as per the KCC order. This no call list still works just fine. However, it is not the official Kansas or federal no call list.

The original SB 463, as introduced in the Senate Utilities Committee, would have simply changed the language required in the telephone directories to comport with the current no call status. However, the Committee felt such dual notification was redundant and unnecessary, and that compliance with the FCC rules was sufficient notification to consumers and agreed upon a Substitute bill repealing KSA 50-675(a).

Thank you for your attention, and I'd be pleased to respond to questions.

database on March 1, 2003.<sup>189</sup> As noted above, Congress has approved the necessary funding for implementation of the national database.

56. Pursuant to section 227(c)(3)(D)-(C), we require each common carrier providing telephone exchange service to inform subscribers for telephone exchange service of the opportunity to provide notification that such subscriber objects to receiving telephone solicitations. Each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber's right to give or revoke a notification of an objection to receiving telephone solicitations pursuant to the national database and (ii) the methods by which such rights may be exercised by the subscriber. Pursuant to section 227(c)(3)(C), we conclude that, beginning on January 1, 2004, such common carriers shall provide an annual notice, via an insert in the customer's bill, to inform their subscribers of the opportunity to register or revoke registrations on the national do-not-call database. Although we do not specify the exact description or form that such notification should take, such notification must be clear and conspicuous. At a minimum, it must include the toll-free telephone number and internet address established by the FTC to register or revoke registrations on the national do-not-call database.

57. Section 227(c)(3)(D) requires the Commission to specify the methods by which registrations shall be collected and added to the database. As discussed above, consumers will be able to add their telephone numbers to the national do-not-call registry either through a toll-free telephone call or over the Internet.<sup>190</sup> Consumers who choose to register by phone will have to call the registration number from the telephone line that they wish to register. Their calls will be answered by an Interactive Voice Response (IVR) system. The consumers will be asked to enter on their telephone keypad the telephone number from which the consumer is calling. This number will be checked against the ANI that is transmitted with the call. If the number entered matches the ANI, then the consumer will be informed that the number has been registered. Consumers who choose to register over the Internet will go to a website dedicated to the registration process where they will be asked to enter the telephone number they wish to register.<sup>191</sup> We encourage the FTC to notify consumers in the IVR message that the national registry will prevent most, but not all, telemarketing calls. Specifically, we believe consumers should be informed that the do-not-call registry does not apply to tax-exempt nonprofit organizations and companies with whom consumers have an established business relationship. The effectiveness and value of the national registry depends largely on an informed public. Therefore, we also intend to emphasize in our educational materials and on our website the purpose and scope of the new rules.

58. Section 227(c)(3)(E) prohibits any residential subscriber from being charged for giving or revoking notification to be included on the national do-not-call database. As discussed above, consumers may register or revoke do-not-call requests either by a toll-free telephone call or over the Internet. No charge will be imposed on the consumer. Section 227(c)(3)(F) prohibits

<sup>189</sup> See also Letter from Michael Del Casino, AT&T, to Marlene Dortch, FCC, dated March 18, 2003.

<sup>190</sup> *FTC Order*, 68 Fed. Reg. at 4638-39.

<sup>191</sup> *FTC Order*, 68 Fed. Reg. at 4639.



**Murray, Michael R [LTD]**

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**From:** Taylor, Lilli M [REG]  
**Sent:** Wednesday, February 08, 2006 5:50 AM  
**To:** Murray, Michael R [LTD]; Roth, Diane M [LTD]  
**Subject:** Annual Federal Do Not Call Message

Mike,  
Residential customers receive the following annual Do Not Call Message as a bill message in their January invoice.

Let me know if you have any questions.  
Lil

**National Do Not Call list**

If you do not want to receive telephone solicitations, you may enter your telephone number into the National Do Not Call database by dialing 1-888-382-1222 (TTY 1-866-290-4236) or by visiting [www.donotcall.gov](http://www.donotcall.gov). This toll free number or Internet site may also be used if you wish to revoke your previous entry. If you have received a telephone solicitation even though you had entered your phone number into the National Do Not Call database, you may call 1-888-225-5322 (TTY 1-888-835-5322), email [donotcall@fcc.gov](mailto:donotcall@fcc.gov), or write to: FCC, Consumers Inquiries and Complaint Division, 445 12th Street SW, Washington, DC 20554.