

MINUTES OF THE HOUSE UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on March 15, 2006 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

David Kerr, AT &T
Coleen Jennison, Cox Communications
Laura McConwell, Mission Mayor
Peter Salmeron
Darrell Pope, NAACP
Ron Nutt, KCTU, Wichita, KS
RJ Dickens, KCTU, Wichita, KS
Harriet Lange, KS Association of Broadcasters
Mike Welch, Topeka, KS

Others attending:

See attached list.

Representative Annie Kuether moved to accept the minutes : January 25, 26, and February 2, 10, 14, 15, 16, 17, 20, 21 as presented. Seconded by Representative Margaret Long. Motion carried unanimously.

Hearing on

SB 449 **Sub for S 449 by Committee on Commerce - Video competition act.**

Proponents:

David Kerr, AT &T, (Attachment 1), gave detailed background on why **SB 449** is necessary and how it would be technically implemented. Additionally, they wanted to offer two changes to the bill.

Coleen Jennison, Cox Communications, (Attachment 2), offered testimony in support of **SB 449** noting that the bill was not perfect noting certain section changes that were necessary for them to continue to support it.

Laura McConwell, Mission, Kansas, Mayor, (Attachment 3), explained how the current franchising process is cumbersome and certain components of the process and resulting franchises do not cultivate new investment and new service providers. They are opposed to the current language that allows companies to come in and break existing contracts without letting them expire first.

Peter Salmeron, (Attachment 4), included with his testimony a resolution that Wichita Hispanic Chamber of Commerce passed in support of **SB 449**.

Darrell Pope, NAACP, (Attachment 5), along with their testimony of support included a resolution passed by Hutchinson Kansas and Johnson County NAACP in support of **SB 449**.

Ron Nutt, KCTU, Wichita, KS, spoke in favor of **SB 449**.

CONTINUATION SHEET

MINUTES OF THE House Utilities Committee at 9:00 A.M. on March 15, 2006 in Room 231-N of the Capitol.

RJ Dickens, KCTU, Wichita, KS, (Attachment 6), presented written testimony in favor of **SB 449** and alluded to a letter included with the testimony from Cox Media and access rates that they pay.

Harriet Lange, KS Association of Broadcasters, (Attachment 7), gave reasons why cable serving as the primary "gate keeper" in Kansas of local television programming, broadcasters, as well as consumers will be well-served if others are encouraged and able to compete in this arena allowed by **SB 449**.

Mike Welch, Topeka, KS, (Attachment 8), a local consumer gave various view on why **SB449** would benefit his family.

Written Proponents:

Bruce Armstrong, Mayor of Haysville, Kansas, (Attachment 9), offered written testimony supporting **SB 449**, including some of his concerns with the bill.

David P. McClure, President, US Internet Industry Association, (Attachment 10), offered written testimony in favor of **SB 449** noting how in the past decade, virtually everything we knew about telecommunications has been rendered obsolete by advances in technology.

Questions were asked of those testifying and comments given by Representatives: Jason Watkins, Carl Krehbiel, Tom Sloan, Melody Miller, Carl Holmes, Oletha Faust-Goudeau, Annie Kuether, and Don Myers.

Hearing on Sub **SB 449** will continue tomorrow at our next scheduled meeting, March 16, 2006.

Meeting Adjourned.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 15, 2006

NAME	REPRESENTING
Mike Welch	Consumers
Anne Spiess	KTIA
Tom Day	KCC
J. Chubb	SOS
J. Borjoni	SOS
Jim Englebert	abc
David Kerr	AT+T
Wouneta Browne	AT+T
Paul Snider	AT+T
Martha Summell	City of Mission
Laura McConwell	city of Mission
Peter X. Salmeron	consumer
Ed Cross	KIOGA
Shirley Allen	Ks Rural Indip Teleco's
Mike Santos	Osevlund Parle
Beccy Yocham	City of Leneya
Rochel Reiber	Everest Connections
Nelson Krueger	EVE REST
Logan Lopez	Ks Rising Broadcasters
Samuel Lopez	NAACP



David D. Kerr
President-Kansas

Kansas
220 SE 6th Street
Suite 500
Topeka, KS 66603

785.276.8201 Phone

Testimony of David D. Kerr, President – AT&T Kansas
220 S.E. 6th Street, Room 500, Topeka, Kansas 66603
In support of SB 449 – The Kansas Video Competition Act
Before the House Utilities Committee
March 15, 2006

Chairman Holmes, members of the Committee, good morning. My name is David Kerr and I am the President of AT&T Kansas. I thank you for the opportunity to be here today and speak in support of Senate Bill 449, the Kansas Video Competition Act.

Senate bill 449 presents you the opportunity to update Kansas' video franchising laws, which have not been reviewed since 1972. This bill would simplify the franchising process, and make the State of Kansas, rather than hundreds of local municipalities, the single "franchising authority" for all providers seeking to provide video service in the state. This will enable prospective video providers, such as AT&T, to quickly enter the Kansas video market and bring consumers the benefits of the newest technologies and much needed competition to the video market. Additionally, these consumer benefits will not result in the loss of "local control," and the cities will continue to receive franchise fees (up to 5% of gross revenues) and maintain the exact same control over the right of way that they have today. It is a true win-win-win situation: consumers win with better choices and pricing; providers win with streamlined regulations; and, cities win as they maintain the status quo in fee collection and right of way management and benefit from investment in their community.

This subject is very important to my company. In October 2004, the then SBC and now the new AT&T announced the introduction of Project Lightspeed, a \$4 billion initiative to push fiber optic facilities much closer to the home and use the power of the Internet to bring video programming to consumers. Our video product is called "IPTV" short for Internet protocol television. Very simply, IPTV is a very efficient technology that will allow AT&T to seamlessly combine video, broadband, and communications to bring consumers services that were unimaginable just a few years ago. Our plans include greater access to video on demand services, interactive programming, and even the ability to pick the angle to view a sporting event; in the near future, you could watch the Super Bowl from a bird's eye view, from the end zone, or from the 50 yard line, and switch back and forth; or the World Series from the catcher's or first baseman's perspective. We believe IPTV service will revolutionize the video experience.

Even more amazing is the speed at which AT&T plans on deploying Project Lightspeed. Our current plans call for deployment in 1500 cities nationwide, to reach about 18 million households, or 50% of our residential customers, in three years. This seems fast to us, but it's really fast when compared to the rollout of cable services, which took 35 years to offer service to half the country. It's also fast when compared to the rate of deployment other services: the wireless industry took 16 years and the broadband industry took 9 years to reach the same target. Again, AT&T intends to do all of this in three years.

Unfortunately, the greatest barrier to this deployment may prove to be outdated regulations, which could require city-by-city negotiation of "cable franchise" agreements. This is a slow process, and if we were able to reach one agreement per week, it would take 30 years to cover our initial 1,500 city deployment. We believe the most efficient, fastest way to bring competing video services like IPTV to Kansans is to adopt a streamlined video service authorization process. Senate Bill 449 would do exactly that, and unleash a host of new video alternatives.

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Other states are also reevaluating the traditional video franchising processes. Last year, the Texas Legislature passed SB 5 by a near unanimous vote. Like SB 449, the Texas bill also established a statewide franchising authority and eliminated the inefficient city-by-city negotiation process. Texans are already seeing the benefits from the bill. AT&T has announced an \$800 million investment plan in Texas to deploy Project Lightspeed as a direct result of that landmark legislation. In addition to growing the economy through new investment and jobs, consumers have already realized significant price decreases. For example, in Keller, Texas, cable customers saw their bills drop 25 percent when Verizon introduced its new video product as the incumbent lowered prices to compete with Verizon. Other companies including Cox, Time Warner, and several smaller providers also applied for statewide authorizations in Texas.

Support for this type of legislation goes well beyond Texas. Just recently, Indiana passed and enacted a similar bill, HB 1279. An ALEC subcommittee unanimously approved model statewide franchising legislation. The Council of State Governments has adopted SB 5 as "suggested state legislation." Other state legislatures are now reviewing similar bills in a virtuous race to be at the forefront of new investment and receive the benefits of competition.

Under this streamlined process, the State acts as the franchising authority, and an appropriate state agency simply certifies the registration of a video service provider on a statewide basis. In the Texas and Indiana bills, no fiscal note was associated with this process as the functions were absorbed by the appropriate state agency without the need for additional resources. The lack of significant additional resources by the certifying agency was also documented in similar legislation currently being considered by the Missouri Legislature.

This should be the same for Kansas, as the Secretary of State must simply verify the application information submitted by a prospective video service provider. The application process is clearly defined in this bill at section 3(a) and (b). Thereafter, any additional issues that may arise with respect to this act are addressed by the cities and customers directly with the video providers, including informal dispute resolution, mediation, and a method to go to court, if necessary. This is all addressed in section 3(n) on page 6.

It's easy to understand why there is wide-spread support of bills like SB 449. Cable rates have increased 86 percent since 1995 and 40 percent in the last five years. On the other hand, the Federal Communications Committee has reported that those few consumers with wireline video competitors have seen their rates decrease by more than 27 percent.

Here is exactly what SB 449 will do:

- o It will streamline the franchising process. SB 449 will create a state-wide, uniform set of terms and conditions under which all video providers, including cable companies, will operate. Video providers will have only one stop along the way to receive authorization to provide service in Kansas, which will reduce the time to market, speed the benefits of competition to customers, and quickly bring new jobs and investment to the state.

- It will protect local franchise revenues. All municipalities will continue to have the option to collect franchise fees of up to 5% of gross revenues, the maximum level allowed under federal law, from all wireline video service providers.
- It will continue local management of the right of way. All municipalities will maintain the exact same control over the right of way that they have today under SB 397 approved by this very Committee and enacted in 2002.
- It will preserve local community programming. All video providers must retransmit community programming, such as governmental meetings and educational programming.
- It will ease barriers to entry. It is simply not practical to require new entrants to negotiate an agreement with every one of the hundreds of cities in Kansas. Instead, SB 449 will apply the same “light touch” regulation that has been extended to new entrants to the telecommunications industry since 1996, which has created the highly competitive market for local, long distance and wireless calling as well as Internet access.

But despite all of the benefits that consumers will derive from this bill, opponents will try to have you believe it is flawed.

- *Opponents will argue the bill will allow new providers to redline or cherry pick.*

Nothing could be further from the truth. First, federal law already prohibits discrimination based on income, as does SB 449, so this simply can't happen. And this is bad business anyway. For example, we provide telephone service to all customers, not just a select few like our cable competitors. Our commitment to narrowing the digital divide will continue as we enter the video market place.

- *Opponents will argue that new entrants should be subject to legacy cable regulation.*

This claim directly conflicts with the position the cable industry has taken in the past and even during the current session under this dome in regards to telecommunications reform. After 10 years of light touch regulation and the development of a highly competitive telecommunications market, cable still contends that traditional incumbent carriers should be saddled with more restrictive requirements while new entrants enjoy virtually no regulation. AT&T is not advocating that legacy regulation should be applied to incumbent cable companies. But new entrants should not be saddled with the old rules.

- *Opponents will argue new providers should be forced to build-out everywhere.*

AT&T will go as far as we can as fast as we can, and we hope to bring Project Lightspeed to almost all of our customers in the future. But the truth is that complete build-out requirements are a huge barrier to entry, which is why only a handful of cities in Kansas, or anywhere in America, have wireline video alternatives. The elimination of barriers to entry and the development of a competitive marketplace will ensure that new technology will make its way to customers.

AT&T proposes two technical changes to the bill that addresses "home rule" concerns:

- First, it is suggested the language in new section 3(h)(1) regarding PEG channel requirements be modified such that a video service provider be required to provide no more than three (3) PEG channels. The current language requires three (3) PEG channels for cities with a population in excess of 50,000 and 2 PEG channels in cities with a population of less than 50,000.
- Second, it is suggested the language in new section 4(c) be modified to require the video service provider to pay a fee of up to 5% on gross revenues. The current language calls for the lesser of 5% or the percent paid by the incumbent cable provider.

Both of these very minor changes are to the benefit of cities and will make the bill uniform, consistent with the "Home Rule" amendment to the Kansas Constitution.

I urge your support of SB 449. Kansas has already benefited from Project Lightspeed, even before AT&T deployed one strand of fiber. This is because Mission, Kansas was selected as the site for one of the two AT&T national hubs that will deliver programming to our customers nationally. AT&T invested tens of millions of dollars and created new high quality jobs in northeast Kansas. We hope this is just the beginning. Consumers want competition for video services and the provisions in Senate Bill 449 are the best and fastest way to make this a reality.

Thank you for taking the time to consider the important issues associated with this bill and I am happy to answer any questions you may have.

Senate Bill 449 Testimony
House Utilities Committee
Coleen Jennison, Cox Communications
March 15, 2006



Chairman Holmes and members of the committee, I am Coleen Jennison, Director of Government Affairs for Cox Communications. Thank you for the opportunity to make a statement regarding Senate Bill 449. Cox Communications supports Senate Bill 449 as amended.

Background

As originally drafted in the Senate we opposed this bill. Cox Communications took this position largely because the bill created a three tier regulatory framework for essentially the same service. As originally drafted, Senate Bill 449 handicapped the incumbent cable operator while allowing a new entrant a more flexible regulatory framework and at the same time gave satellite, our largest competitor, no regulation.

Senate Bill 449 as amended by the Senate Commerce Committee is not perfect, but it is better than it was. Critical to this bill is New Section 3 (j)(1 thru 4). This language creates a process by which incumbent cable operators can modify their existing franchises to mirror the competitive terms being created by this piece of legislation under certain conditions. Without this language we will oppose SB 449.

This section, accomplishes three objectives; first, it can only be used when a competitor enters a market; second, it would only modify the franchise to mirror the competitive terms of this legislation; third, if equal protection language existed in a franchise we could utilize that language. While other states are instituting immediate opt-in language, we supported a more limited process. Again, existing franchises would remain in tact until such time a competitor obtained a less burdensome statewide agreement, or our current franchise expired.

Currently in many franchises, there exists equal protection language. That language allows that if a franchising authority grants a more favorable agreement to another provider, the incumbent provider is allowed the benefit of any more such favorable terms. While the state of Kansas would become the authority under this legislation, the intent of equal protection should be recognized.

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Cox Communications Goal:
Less Regulation in a Non-Discriminatory Regulatory Framework

Cox Communications was created with an entrepreneurial spirit that is familiar to many Kansas companies. Competing for market share is a core business practice we embrace. Our experience with competition has taught us that regulation only for regulations' sake eventually impacts market conditions and can create less demand for a meaningful product.

If the State Legislature is going to change how cable franchises are created we ask that two questions be asked when considering each issue:

- 1) Does it actually reduce the regulatory burden?
- 2) Does the regulation treat each video service provider the same?

If regulation must exist it should be the right type of regulation. Regulatory outcomes should resemble laws that foster competition, protect the consumers and ensure one company is treated in a similar manner as another regardless of their size or influence.

One unnecessary layer of regulation that is contrary to the intent of this bill is on page 7 line 38. We would suggest the removal of (e)1 which states that gross revenues do not include: *Discounts, refunds and other price adjustments that reduce the amount of compensation received by a video service provider, provided however, that for the sole purpose of calculating the level of the video service provider fee, any such discounts, refunds and other price adjustments shall not be disproportionately allocated to the video segment of the (sic) any package of the provider's products that is offered to subscribers with the purpose of such allocation being to evade or decrease the amount of the video service provider fee to be paid to the city under this section;*

Such language does not exist in the present regulatory framework. This language will simply lead to disputes over whether marketing campaigns were intended "to evade or decrease the amount of the video service provider fee."

Another concern is that uniformity of this legislation is in question. To remedy that, we recommend changing the language in New Section 3 (h) 1) to a video service provider shall not be required to provide more than a maximum of two PEG channels. This language is consistent with the provisions of PEG access under current federal law.

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House Utilities Committee
Coleen Jennison, Cox Communications
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Cox Communications has never and does not request special treatment, so today we are asking that this committee take an in-depth look at the impact Senate Bill 449 will have on the various parties involved in delivering quality video service products to Kansas customers.

Thank you for your consideration and I will stand for any questions the Committee might have.

Testimony on behalf of SB 449
Mayor Laura McConwell, Mission, Kansas

Mr. Chairman and committee members, my name is Laura McConwell and I am the Mayor of Mission, Kansas. Mission is located in northeast Johnson County and has approximately 10,000 residents.

For some time, the citizens of my city have been paying 20% to 30% more for cable services than their neighbors in the community across the street to the south. As you may know, Everest Connections has built cable and phone networks in Overland Park and two other cities in Johnson County. Where Everest operates, Time Warner has lowered rates substantially; but, where they do not operate, cable rates have continued to rise. It appears that competition is the reason.

As a lawyer and city official, I have never thought of the franchising process as particularly cumbersome. Yet, I can also understand that certain components of the process and the resulting franchise don't cultivate new investment and new service providers. To encourage competition, policy makers must think both creatively and realistically. Perhaps SB 449 is a catalyst for the video competition we all want and need.

Competition in video services is vital and should be a goal for us all. A bill like SB 449 would make it easier for new providers to deploy a state-of-the-art communications network infrastructure in Kansas. The city of Mission is already benefiting from AT&T's Project Lightspeed initiative. In late 2004, AT&T (then SBC) requested and received permits from the city of Mission to construct and build a new Super Head End office and video operations center to capture video programming, and deliver it through their fiber network.

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That multiple million dollar capital investment started in 2005, and continues today. In addition to the value of the network infrastructure investment, scores of new employees are now working in Mission and patronizing our local businesses.

Clearly, every city will not receive these types of investments. However, Mission does illustrate the point that the promise of new providers does not just mean lower consumer bills and new options. It means new investment, and Kansas desperately needs investments by businesses to help grow our economy.

Although I believe SB 449 serves to benefit consumers through lower prices, enhanced services, and expanded choices, I am adamantly opposed to language in this bill that would allow cable providers with existing city-issued franchise agreements to renegotiate if another company with a state-issued franchise agreement is also providing services to that same city. Current franchise agreements with local municipalities must be honored until they expire. Allowing this language to remain in SB 449 will set a terrible precedent that could undermine a wide range of existing contracts with local municipalities.

I urge you to consider adopting SB 449 with this modification and therefore advancing video competition in Kansas.

Thank you.

Mayor Laura McConwell
Mission City Hall
6090 Woodson
Mission, KS 66202
Tel: 913-676-8350

**Testimony of Peter Salmeron
In support of SB 449
House Utilities Committee
March 15, 2006**

Chairman Holmes; members of the committee, thank you for the opportunity to be here today speaking in support of Senate Bill 449.

My name is Peter Salmeron. I own a landscaping business in Wichita and I am the Chairman of the Board of Directors for the Wichita Hispanic Chamber of Commerce.

I want to express my support for allowing more competition and less regulation in today's marketplace. I don't know a lot of details about cable TV or video services, but I know that I—as a consumer--have to write a check if I want to subscribe to cable TV service. I like to know that I'm getting the best value for my dollar.

I've learned as a businessman that competition for the consumers' business is the quickest way to establish a fair and marketable price. As I understand Senate Bill 449, it allows for new video and cable providers to quickly enter existing markets, where currently we often have only one choice.

I can assure you that in my business, I look for efficiencies and cost savings every day so that I can establish affordable prices and attract more business. I think the big cable companies would have to do the same thing if they were competing with other providers for my TV dollars.

I mentioned my position as Chairman of the Board with the Wichita Hispanic Chamber. Our organization has passed a resolution in support of SB 449. The Hispanic Chamber supports economic expansion and consumer choices. Our economy works best when the consumers can make their purchasing decisions in a competitive marketplace. That's how my customers choose to hire me for my landscaping services, and that's how I would like to shop for cable TV.

Thank you for your time and attention today and please consider the benefits this law would bring to Kansans like me who enjoy the opportunity to comparison shop.

Peter Salmeron
Complete Landscaping Systems
2141 South Mead
Wichita, KS 67213
316-832-0061

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The Wichita Hispanic Chamber of Commerce

**A Resolution Supporting Public Policies That Encourage
Greater Competition Across the Entire Communications Marketplace**

WHEREAS, consumers benefit from greater choice, better products and better prices when the communications marketplace is driven by competition between many different providers and technologies, instead of by multiple layers of outmoded regulation, and

WHEREAS, recent technological advances like wireless telephony and broadband communications are widely available and competitively priced today because policy makers empowered consumers, instead of regulation, to drive the marketplace, and

WHEREAS, consumers are best served by public policy that removes barriers that could delay or prevent providers from deploying infrastructure to offer new communications services, including Internet-based video services that would provide much-needed competition to traditional cable television service, and

WHEREAS, placing new video service providers under a modernized, streamlined municipal compensation system would remove a significant barrier to entry while at the same time providing municipalities with greater certainty and stability in communications fee revenues, and

THEREFORE, BE IT RESOLVED, that The Wichita Hispanic Chamber of Commerce encourages policy makers to update and streamline communications laws to encourage greater competition and remove barriers to entry by new competitors offering consumers greater choice of voice, video and data services, and further

BE IT RESOLVED, that Wichita Hispanic Chamber of Commerce, on behalf of its membership shall convey its support for modernized, streamlined communications laws that remove barriers to entry by new voice, video and data competitors to Legislature of Kansas.

Approved this 30 day of January 2006.


Peter Salmeron

Chairman -Board of Directors

1150 N BROADWAY, SUITE 700
WICHITA KANSAS, 67214
316.265.6334: ph 316.264.9965: fx
www.wichitahispanicchamber.org

Testimony in Support of Senate Bill 449

**The Video Competition Act
Prepared by Darrel Pope, Hutchinson, KS NAACP
Before the House Utilities Committee
March 15, 2006**

Good Morning:

To Chairman Holmes and ladies and gentlemen of the Committee, I am Darrel Pope. I live in Hutchinson, Kansas, where I have been president of the Hutchinson Chapter of the National Association for the Advancement of Colored People (NAACP) for the past 30 years. I am here this morning to voice my support for the Kansas Video Competition Act.

I am sure you will hear plenty in these debates about consumer benefits of competition. Those benefits are typically associated with lower bills that will be paid by Kansans. Everyone supports lower bills. Without question, African-Americans, like nearly all segments of today's America, spend money on cable television and other entertainment options. Efforts to lower those bills should be embraced by all.

I'd like you to also think of cultural advantages of having more than one video provider in a market.

When there is one video provider in a marketplace, consumers have limited options and leverage to drive programming and packaging options. But if there are two or more, now providers have an incentive to pursue niche programming. Perhaps that comes in the form of content directed toward African-Americans, or Hispanics, or seniors. The potential is real, if yet undefined.

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In the end, without options, people are powerless. With competition, there are possibilities.

I would urge you to look beyond AT&T when you contemplate new video providers in Kansas. Indeed, AT&T has received much publicity for its plans to deploy a video product. But any new provider or incumbent cable provider will have new opportunities through this bill to deploy new video, voice and data networks in Kansas.

While I am before you I would like to address the concept of "redlining." Cable companies in other states have painted legislators and the public an unsettling picture of where companies may or may not offer service. They've claimed new providers will target only the wealthy. I find these scare tactics reprehensible. Fortunately cable companies in Kansas have not resorted to such tactics and I hope they do not begin now. I hope you'll recognize my support for this bill as a vote against misleading attacks and a vote for new technology, broadband deployment and cable choice.

Thank you very much for your time today. Just as I urged members of the Senate Commerce Committee, I urge you to support the Video Competition Act.

Darrel Pope
610 East Second Street
Hutchinson, Kansas 67501
(620) 665-8184

NAACP HUTCHINSON

Resolution Supporting SB 449 – *The Video Competition Act*

The Hutchinson Chapter of the National Advancement of Colored People (NAACP) support Telecommunications and Video competition in all African American Communities and Marketplaces.

WHEREAS; the NAACP has a long history as this nation's most significant civil rights organization and fully understands the significance of technology as a tool for the advancement of it's mission; and

WHEREAS; African Americans are among the fastest growing populations of internet and entertainment users and increasingly look to broadband and video services for a myriad of educational, business and entertainment purposes; and

WHEREAS; access to technology innovations and choices in the areas of telecommunications, broadband, entertainment and video services is one of the greatest equalizers in the area of political, educational, social and economic equality; and

WHEREAS; African American consumers benefit from greater choice, better products and better prices when the communications and entertainment marketplace is driven by competition between many different providers and technologies, instead of by multiple layers of regulations; and

WHEREAS; the impact of immediate legislative action would serve as a catalyst for increased capital investment and job growth in Kansas, which leads to overall economic growth and deployment of advanced communications networks, services and applications to Kansas consumers, particularly to low-income and underserved communities; and

WHEREAS; the Kansas NAACP recognizes that investment and economic growth is good for African American business suppliers, vendors and consumers as well; and

WHEREAS; the telecommunications and entertainment industry is changing rapidly, and Kansas lawmakers should recognize that failing to act now to pass SB 449 will only harm consumers and preserve the status quo.

THEREFORE, BE IT RESOLVED BY THE HUTCHINSON CHAPTER OF THE NAACP that we call upon the Kansas Legislature to support and pass SB 449 – *The Video Competition Act.*


CHAPTER OF NAACP

PRESIDENT, HUTCHISON

NAACP Kansas

Johnson County Branch

Resolution Supporting SB 449 – *The Video Competition Act*

The Johnson County, Kansas branch of the National Association for the Advancement of Colored People (NAACP) support Telecommunications and Video competition in all African American Communities and Marketplaces.

WHEREAS; the NAACP has a long history as this nation's most significant civil rights organization and fully understands the significance of technology as a tool for the advancement of it's mission; and

WHEREAS; African Americans are among the fastest growing populations of internet and entertainment users and increasingly look to broadband and video services for a myriad of educational, business and entertainment purposes; and

WHEREAS; access to technology innovations and choices in the areas of telecommunications, broadband, entertainment and video services is one of the greatest equalizers in the area of political, educational, social and economic equality; and

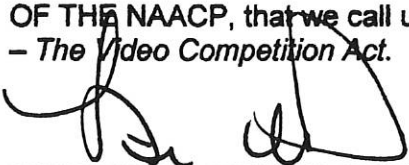
WHEREAS; African American consumers benefit from greater choice, better products and better prices when the communications and entertainment marketplace is driven by competition between many different providers and technologies, instead of by multiple layers of regulations; and

WHEREAS; the impact of immediate legislative action would serve as a catalyst for increased capital investment and job growth in Kansas, which leads to overall economic growth and deployment of advanced communications networks, services and applications to Kansas consumers, particularly to low-income and underserved communities; and

WHEREAS; the Johnson County, Kansas NAACP recognizes that investment and economic growth is good for African American business suppliers, vendors and consumers as well; and

WHEREAS; the telecommunications and entertainment industry is changing rapidly, and Kansas lawmakers should recognize that failing to act now to pass SB 449 will only harm consumers and preserve the status quo.

THEREFORE, BE IT RESOLVED BY THE JOHNSON COUNTY, KANSAS BRANCH OF THE NAACP, that we call upon the Kansas Legislature to support and pass SB 449 – *The Video Competition Act*.



Leon Woods - President, Johnson County, Kansas NAACP

Mr. Chairman, Ladies and Gentlemen of the Committee.

My name is R.J. Dickens. For the past 10 years, I've been affiliated with KCTU TV in Wichita, currently as News Director and anchor.

At a small station, I have to wear a lot of hats, one of which is to track and lobby on legislation...something a lot of people don't think a reporter should be doing. I wish I didn't have to do it.

And it is in the hope that I might actually be able to do my job someday that I rise in support of the substitute for Senate Bill 449.

Unlike most of the stations you're familiar with, KCTU is required by law to broadcast local programming in the public interest...a requirement most of the stations on cable do not share.

Unlike our larger brethren, Cox Communications, the cable franchisee in Wichita, isn't required to carry our station. And boy, do they let us know it.

In November of 2004, we submitted a petition to Cox signed by nearly 6,000 mostly Cox subscribers. Cox responded by raising their demand for payment to be on their cable system by... \$6,000 a month. Coincidence? You decide.

Cox does not require any of the stations on cable to pay them a penny for that right.

Cox sent us a letter...a copy of which is attached as part of my testimony...explaining the so-called "basis" for this fee.

I'll get back to that in just a moment. But first, let me get to the point. The bottom line is, we support the substitute for Senate Bill 449.

Cox obviously doesn't value their customers who signed our petition. But if Cox doesn't want these customers...perhaps AT&T or Verizon would like several thousand potential customers ready to switch to a company that will give them what they want.

The substitute for Senate Bill 449 is not just about competition and choice.

We see it as a jobs bill. If we are carried by AT&T and/or Verizon, we feel that we can add up to 80 to 100 new jobs at KCTU over the next three to five years. If there is competition for Cox in Kansas--and those competitors see the advantage of offering their customers more options in local programming--I believe there is a potential for as many as 300 new broadcast jobs in Kansas at stations Cox doesn't feel like carrying.

Research from the Center for Economic Development and Business Research at Wichita State University points out that every job created in broadcasting creates 2.67 additional jobs in the community. Every dollar paid to a broadcasting employee returns \$5.73 to the local economy.

When you see the potential we see, the question is, "why wait"?

We ask the committee to consider amending the bill to make it effective upon publication in the official state newspaper. The consensus is there. The technology is there. There is simply no reason to wait until July 1st.

Now, let me revisit the point I touched on earlier.

In the letter from Cox attached to my testimony, you see the rates they say they're basing their demands on. If you do the math, you don't get \$70,000, but just over \$58,000 a month...which is still obscene when you realize that nobody else is being charged anything.

Where do they get the extra \$12,000? They won't tell us. They just mention that we have the right under FCC regulations to audit them...by their accountant, at our expense.

HOUSE UTILITIES

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ATTACHMENT 6

This is why we especially like the audit provision of this bill. The \$2,500 cap is reasonable and appropriate. We ask that you consider making the cap applicable to all audits.

In summary, the substitute for Senate Bill 449 is a badly needed change, not only for consumers, but potentially for community broadcasters such as us.

We believe it represents such a positive change, that it should be made effective upon publication in the official state newspaper. We also believe that the \$2,500 cap on shared audit costs should be made applicable to all audits of video providers.

I thank the members of the committee for your valuable time today.

December 6, 2004

Ron Nutt
President / General Manager
KCTU TV5 / River City Broadcasters, Inc.
2100 East Douglas Avenue
Wichita, Kansas 67214

Dear Mr. Nutt:

We have received your request dated November 23, 2004 for leased access on the Cox Wichita system. The Wichita system does currently have available channel capacity set aside for leased access. Availability is subject to change.

The system cannot guarantee, however, the availability of time on a channel and/or that a channel will continue to carry leased access programming.

Enclosed are (1) a copy of our leased access rates and (2) an application which will enable us to respond properly to your request. Please fill out the requested information and return it to me for processing should you choose to proceed.

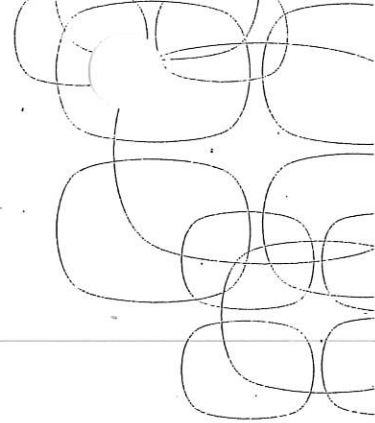
Please note that your return of this information does not hold or reserve leased access time for you. Time is not reserved until your completed contract is returned and the contract is accepted and signed by the system.

Sincerely yours,



Curt McMurphy
Business Manager

Enclosures



807 East Douglas
Wichita, Kansas 67202
fax (316) 858-3300 X 316
fax (316) 262-7484



KANSAS (WICHITA HEADEND) LEASED ACCESS RATE CARD

A. FULL TIME CARRIAGE

Leased Access Rate for Tiered Services \$70,646.70 Monthly

B. PART TIME CARRIAGE

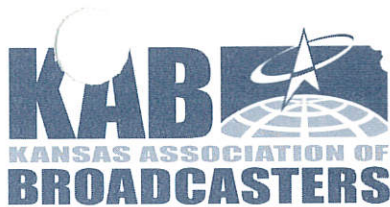
12AM - 6AM \$ 38.71 Hourly
 6AM - 12PM \$ 58.07 Hourly
 12PM - 5PM \$ 69.68 Hourly
 5PM - 12AM \$ 199.08 Hourly

NOTES:

1. A security deposit, insurance, and/or bond may be required.
2. If technical support is required, there will be additional charges.
3. If billing and collection services are provided to "a la carte" leased access programmers, there will be additional charges.
4. Rates are subject to change.

*If Bought by the hour -
 \$12,000 cheaper than by month*

0.0	C	
6.0	X	
38.71	=	
232.26	*	
232.26	M+	
6.0	X	
58.07	=	
348.42	*	
348.42	M+	
5.0	X	
69.68	=	
348.4	*	
348.4	M+	
5.0	X	
199.08	=	
995.4	*	
995.4	M+	
1,924.48	M+	
1,924.48	X	
365.0	=	
702,435.2	*	
702,435.2	÷	
12.0	=	
58,536.2666666	*	
0.0	*	
0.0	C	



1916 SW Sieben Ct, Topeka KS 66611-1656
(785) 235-1307 * FAX (785) 233-3052
Web site: www.kab.net * E-mail: harriet@kab.net

Testimony
Sub for SB 449
House Committee on Utilities
March 15, 2006
By
Harriet Lange
Kansas Association of Broadcasters

Mr. Chairman, Members of the Committee, I am Harriet Lange, President, Kansas Association of Broadcasters (KAB). KAB serves a membership of free-over-the-air local broadcast stations in Kansas. We appreciate the opportunity to appear before you in support of Substitute for SB 449.

KAB and Kansas television broadcasters are interested in increased competition in the distribution of video programming because 60 to 70 percent of the one million-plus television homes in Kansas receive local broadcast television programming through cable. Of the remaining homes, 15 to 20 percent receive their local television stations over-the-air, and 20 to 25 percent receive their television programming via satellite.

With cable serving as the primary "gatekeeper" in Kansas of local television programming, broadcasters, as well as consumers will be well-served if others are encouraged and able to compete in this arena. This is why we support SB 449.

We believe that all video providers should have the same obligations related to government access channels, franchise fees, and customer service. The discussions among the interested parties as to how to accomplish increased competition in a fair and equitable way for all concerned were productive, resulting in the substitute bill before you.

Consumers always benefit when there is increased competition, and when competitors operate from a level playing field. Competition among video providers will result in more programming options from which your constituents may choose and such a robust marketplace should serve to make rates more competitive.

We urge your favorable consideration of SB 449.

HOUSE UTILITIES

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ATTACHMENT 7

Michael C. Welch
335 Yorkshire Road
Topeka, KS 66606

To: Honorable Carl Holmes and Committee Persons

Re: Senate Bill 449

Dear Representative Carl Holmes and Committee Members:

I am Mike Welch, and I live at 335 Yorkshire Road, Topeka, Kansas.

I am here to support the above video bill. As a consumer I am satisfied with my Cox cablevision and their service, my AT&T internet DSL service, Cingular cellular long distance phone service, and AT&T local phone service. I have been able to decrease my costs for telephone and internet services because there is excellent competition, fine service, and several choices. And those services are also much more convenient. For instance, I can access my internet service anywhere in the country. My wife and daughters have Cingular cell phone service and can talk to each other long distance free of charge between states; that alone has saved me a fortune. My local phone service is reliable and if it weren't, I could choose another provider.

Video is different. Regulations have limited access, and my cablevision has steadily risen in price since I originally subscribed to it. I have the basic service plus ESPN sports, but don't subscribe to other premium services. I don't know how the young, poor and disadvantaged people can afford cablevision, but many of them can afford cell phones, since the service is cheap.

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ATTACHMENT 8

The bill before you will help me by:

- Allowing other video services access to my community
- ~~Stirring up competition and reducing prices~~
- Providing my family more access to video channels and movies giving us more choices for less dollars
- Getting service more quickly from new entrants to the market by disallowing each City separate options on requirements and time durations for franchises
- Treating all service providers the same without any sweetheart deals assuring my family of competitive pricing
- Paying Topeka a 5% franchise fee, which will help maintain the infrastructure
- Not changing cities' easement requirements, protecting my streets, other utilities and sidewalks
- Allowing Topeka to audit all video supplier's financial records, making sure that the City's revenue from franchise fees is correct
- Ultimately permitting the rich and poor equal access to the technology that helps us learn, improving neighborhoods and economic conditions

I appreciate the opportunity to share my views, and respectfully ask for your support of this bill.

Thank you.



CITY OF HAYSVILLE, KANSAS

200 W. GRAND AVENUE • P. O. BOX 404 • HAYSVILLE, KANSAS 67060 • (316) 529-5900 • FAX (316) 529-5925 • WWW.HAYSVILLE-KS.COM

WRITTEN TESTIMONY OF BRUCE ARMSTRONG TO HOUSE UTILITIES COMMITTEE MARCH 15, 2006

MAYOR
BRUCE ARMSTRONG

Chairman Holmes and Utility Committee members my name is Bruce Armstrong, Mayor of Haysville, Kansas. Haysville is located approximately five miles south of Wichita. I submit this written testimony in support of Substitute for Senate Bill 449. I apologize that I am unable to attend in person but due to job demands I am traveling out of the state today.

CITY COUNCIL

WARD I
KEITH PIERCE
JOE HOLUB

In my professional career I am employed by a bank and have a firm grasp of the effects of competition. Competition has always afforded consumers more choices and better prices. Unfortunately, there is no real competition in the cable TV industry. Sub for SB449 promises to remove one hurdle for new entrants to make the kinds of investment in our state to provide meaningful competition for cable TV services.

WARD II
ROB WILKERSON
BILL YOUNGERS

WARD III
STEVEN G. CRUM
PAT EWERT

In reading this Bill, it's evident that a great deal of compromise was negotiated by the Senate Commerce Committee and the final language has addressed major concerns of Kansas municipalities. For example:

WARD IV
KEN HAMPTON
MICHAEL STREETS

- New video service providers must pay directly to cities a franchise fee equal to the current cable TV provider or up to 5% of gross revenues. This is fair.
- Cities maintain their current authority to manage their rights-of-way as was negotiated with the legislature in SB397 during the 2002 legislative session.
- Cities may require all providers to adopt customer service standards consistent with federal regulations. Furthermore, video service providers must implement a process to handle city or customer inquiries or complaints.
- New video service providers must provide a description of their service area and be capable of providing programming to all households within five years from the date of authorization.
- New providers must offer the same number of PEG channels as incumbent providers.

HOUSE UTILITIES

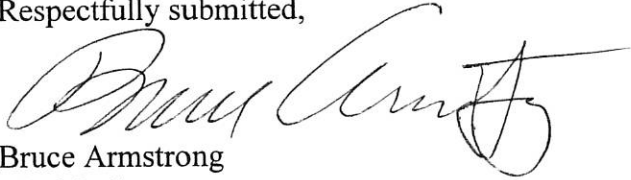
DATE: 3/15/06

ATTACHMENT 9

I understand that some people may have a concern with built-out issues. Again, as a professional banker, I understand the principals of investment and believe that the companies who make investments in our communities should be allowed to do so using good business practices. Requiring build-out by new entrants might hamper the ability of companies like AT&T to continue strong investments in our state.

For these reasons I support Sub for SB449. I look forward to the competition that will develop thanks to this bill and respectfully ask that you and the committee members support it as well.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Bruce Armstrong". The signature is written in black ink and is positioned above the typed name.

Bruce Armstrong
7456 S. Seneca
Haysville, KS 67060



Testimony of David P. McClure
Kansas State House of Representatives
Committee On Utilities
March 15, 2006

Chairman Holmes, members of the Commerce Committee, please accept this written testimony in support of Senate Bill 449.

As president of the US Internet Industry Association, the nation's leading trade association of companies engaged in Internet commerce, content and connectivity, I thank you for the opportunity to state our position on your efforts to reform and advance the telecommunications laws of the state of Kansas . . .and specifically your efforts to establish new and streamlined procedures for franchise agreements within the state. I testified before the Senate Commerce Committee to endorse Senate Bill 449 and continue to support the advancement to this legislation.

In the past decade, virtually everything we knew about telecommunications has been rendered obsolete by advances in technology and by the advancing information needs of the people of Kansas. Where once we could safeguard the interests of Kansans by regulating separately for local versus global telephony; for cable television services, for wireless and broadcast and for satellite. . .we are now faced with an environment in which these companies are striving to deliver to their customers the same sets of services – voice, video and data.

This is not a bill about cable television service. Bluntly put, there no longer is a separate and distinct cable television service, because the companies offering that service are now also Internet companies, telephone companies and more. This is a bill about broadband, and fiber, and about the wealth of opportunities that the people of Kansas will have

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DATE:

3/15/06

ATTACHMENT

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through video, Internet, telephony, education, health and security services that fiber will make possible.

USIIA advocates for continued investment in a single telecommunications platform called “broadband” that will deliver all of these services and more. . .from distance learning and e-government to expanded health care and entertainment. . .over a single connection. The regulatory regime of the past. . .one created before customers had choice. . .is standing in the way of greater broadband deployment across Kansas.

Just as we believe it is finally prudent to shed the three-percent federal excise tax on telephony that was used to fund the Spanish-American War, it is prudent and necessary to shed the regulatory barriers that might keep us from building a broadband network for the 21st Century. We believe that this can be done without harm to consumers, the communities within Kansas or the companies presently serving those consumers and communities.

This legislation addresses three goals:

- First. . .it sweeps away the monopoly franchises for broadband services and replace them with open, consumer-driven competition. Such competition is healthy for the companies that compete and for consumers, as it will result in innovation and a faster buildout of fiber networks across the state.
- Second. . .it continues to recognize the needs of communities to manage their own resources, and to derive fair revenue for those resources, in ways that do not interfere with this competition.
- Finally. . .it allows consumers and their needs to drive the market for broadband services, not artificial limits and goals. Specifically, it should encourage the buildout of broadband infrastructure as rapidly as possible statewide without emphasis on buildout requirements that might hamper the ability of companies to continue a strong investment in the state.

Here is the simple truth: the creation of a 21st-Century broadband network in Kansas will require a significant investment. Those dollars will be derived in part through incentives at the federal, state and local levels. But to a much larger degree, they must be obtained from the capital markets. . .Wall Street. And while companies across the state are prepared to make that investment, they must do so in a way that reassures investors that they will receive a timely return on their investment. At present, investors – recognizing the markets are competitive - are cautious about making these funds available because of the regulatory barriers that would inhibit a return on investment.

You have before you a bill that would tear down those barriers. Senate Bill 449 would ensure that the future of Kansas is built on a strong network of fiber optic strands that has the potential to stretch from Kansas City to Elkhart and from Galena to St. Francis.

But the bill needs to become law. . .the barriers need to be swept away. . .and consumers need to be given control of open, competitive markets for broadband. For these reasons, I am asking you to give your support to Senate Bill 449, and to use this bill as a critical first step in securing the future of Kansas.

Thank you.

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David P. McClure
President and CEO
US Internet Industry Association
(703) 924-0006
(703) 924-4203 fax
(703) 851-4784 mobile
david.p.mcclure@usiia.org
<http://www.usiia.org>
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