

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on January 24, 2006 in Room 526-S of the Capitol.

Committee members absent:

Committee staff present: Athena Andaya, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes' Office
Ann McMorris, Committee Secretary
Leann Hirschfeld, Intern

Conferees appearing before the committee:
David Kerr, President, AT&T Kansas

Others in attendance: See attached list

Bill introduction

The Special Interim Committee on Energy requested introduction of a bill relating to oil and gas research and amending KSA 79-4227. Senator Emler explained the intent of the bill was to establish the KUERC oil and gas research fund and provide for the funding thereof. (Attachment 1)

Moved by Senator Apple, seconded by Senator Reitz, introduction of the Special Interim Committee on Energy bill 5rs1753. Motion carried.

KCC provided maps requested by members of the committee at a prior meeting on (1) AllTel FUSF Areas; (2) Sprint KUSF & FUSF Areas; (3) RCC Minnesota, Inc. FUSF Areas; and (4) Western Wireless KUSF & FUSF Areas. (Attachment 2)

Chairman Emler opened the hearing on:

SB 350 - Regulation of Telecommunications

Proponents

David Kerr, president of AT&T, in an overview of **SB 350**, reviewed (1) the various choices in voice communications; (2) developments of the past year regarding competition, regulatory process and laws in surrounding states; (3) highlights of **SB 350**; (4) consumer protection; and (5) consumer benefits. (Attachment 3)

At the conclusion of questions presented by the committee, Mr. Kerr offered an amendment to **SB 350**. (Attachment 4) No action taken on this proposed amendment.

The committee requested maps of the three areas with over 75K customers from AT&T.

With only five minutes remaining in the meeting time, Chairman Emler announced that the opponents to **S.B. 350** would be scheduled for the following day, January 25, 2006.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 4

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: JANUARY 24, 2006

Name	Representing
Tim Grogan	AT&T
Steve Korman	Comcast
Jeff Wick	Nex-Tech
Linda Johnson	Net-Tech / RTs
Scott Ediger	KCC
Janet Buchanan	KCC
Tom Day	KCC
Don Low	KCC
Tom Behner	KCC
Nelson Krueger	EVEREST
Debbie Vignatelli	AT&T
Paul Snider	PSI
John C. Bollenby	AT&T
Anne Spiess	AT&T
Holly Damm	Sprint Nextel
Chris Wilson	KCC
STEVE KEARNEY	ALLTEL
Debra Schmidt	WiredNet LLC

By Committee on Utilities
(By request of Select Joint Committee on Energy)

AN ACT relating to oil and gas research; establishing the KUERC oil and gas research fund; providing for the funding thereof; amending K.S.A. 2005 Supp. 79-4227 and repealing the existing section.

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

New Section 1. (a) There is hereby established in the state treasury the KUERC oil and gas research fund which shall be administered by the university of Kansas. All expenditures from the KUERC oil and gas research fund shall be for the university of Kansas energy research center in accordance with the provisions of this section. All moneys credited to the KUERC research fund shall be used as follows:

(1) Seventy percent of the money credited to the fund shall be to fund oil or gas energy demonstration projects, including the use and development of technology new to Kansas;

(2) twenty-five percent shall be used for seed money for the development of long-range oil or gas energy projects; and

(3) five percent may be used for administration of the fund.

(b) All expenditures from the KUERC oil and gas research fund shall be made in accordance with appropriation acts, upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chancellor of the university of Kansas or the designee of the chancellor.

(c) The university of Kansas energy research center shall present an annual report on the use of the funds from the KUERC oil and gas research fund by April 1 of each year to the governor's office and the Kansas legislature.

Sec. 2. K.S.A. 2005 Supp. 79-4227 is hereby amended to read as follows: 79-4227. (a) All revenue collected or received by the director from the tax imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall first credit

such amount as the director shall order to the mineral production tax refund fund created under subsection (b) of this section. Except as otherwise provided by this section, the state treasurer shall credit the remainder of such amounts as follows: (1) Seven percent to the special county mineral production tax fund created under subsection (c) of this section; (2) one percent to the KUERC oil and gas research fund created by section 1, and amendments thereto, except that not less than \$1,200,000 of such amounts shall be credited to the KUERC research fund each fiscal year; and ~~(2)~~ (3) the remainder shall be credited to the state general fund. On and after July 1, 2008, and thereafter, the state treasurer shall credit the remainder of such amounts for oil and gas for any county which in fiscal year 2005 or any fiscal year thereafter had \$100,000 or more in receipts of the excise tax upon the severance and production of oil and gas as follows: (1) Seven percent to the special county mineral production tax fund created under subsection (c); (2) 4.96% from July 1, 2008, through June 30, 2009, to the oil and gas valuation depletion trust fund; 7.44% from July 1, 2009, through June 30, 2010, to the oil and gas valuation depletion trust fund; 9.93% from July 1, 2010, to June 30, 2011, to the oil and gas valuation depletion trust fund; and 12.41% from July 1, 2011, and thereafter, to the oil and gas valuation depletion trust fund; and (3) the remainder shall be credited to the state general fund.

(b) A refund fund designated as "mineral production tax refund fund" not to exceed \$50,000 is hereby created for the prompt payment of all tax refunds. The mineral production tax refund fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act.

(c) There is hereby created a special county mineral production tax fund. On December 1, 1983, and quarterly thereafter, the director of taxation shall distribute all moneys credited to such fund to the county treasurers of all counties in

which taxes were levied under K.S.A. 79-4217, and amendments thereto, for the severing and producing of coal, oil or gas from property within the county, in the proportion that the taxes levied upon production in each county bears to the total of all of such taxes levied in all of such counties. Such distribution shall be based on returns filed, with any adjustments or corrections thereto made by the director of taxation.

(d) The secretary of revenue shall make provision for the determination of the counties within which taxes are levied under K.S.A. 79-4217, and amendments thereto, for the severance of coal, oil or gas and shall certify the same to the director of accounts and reports.

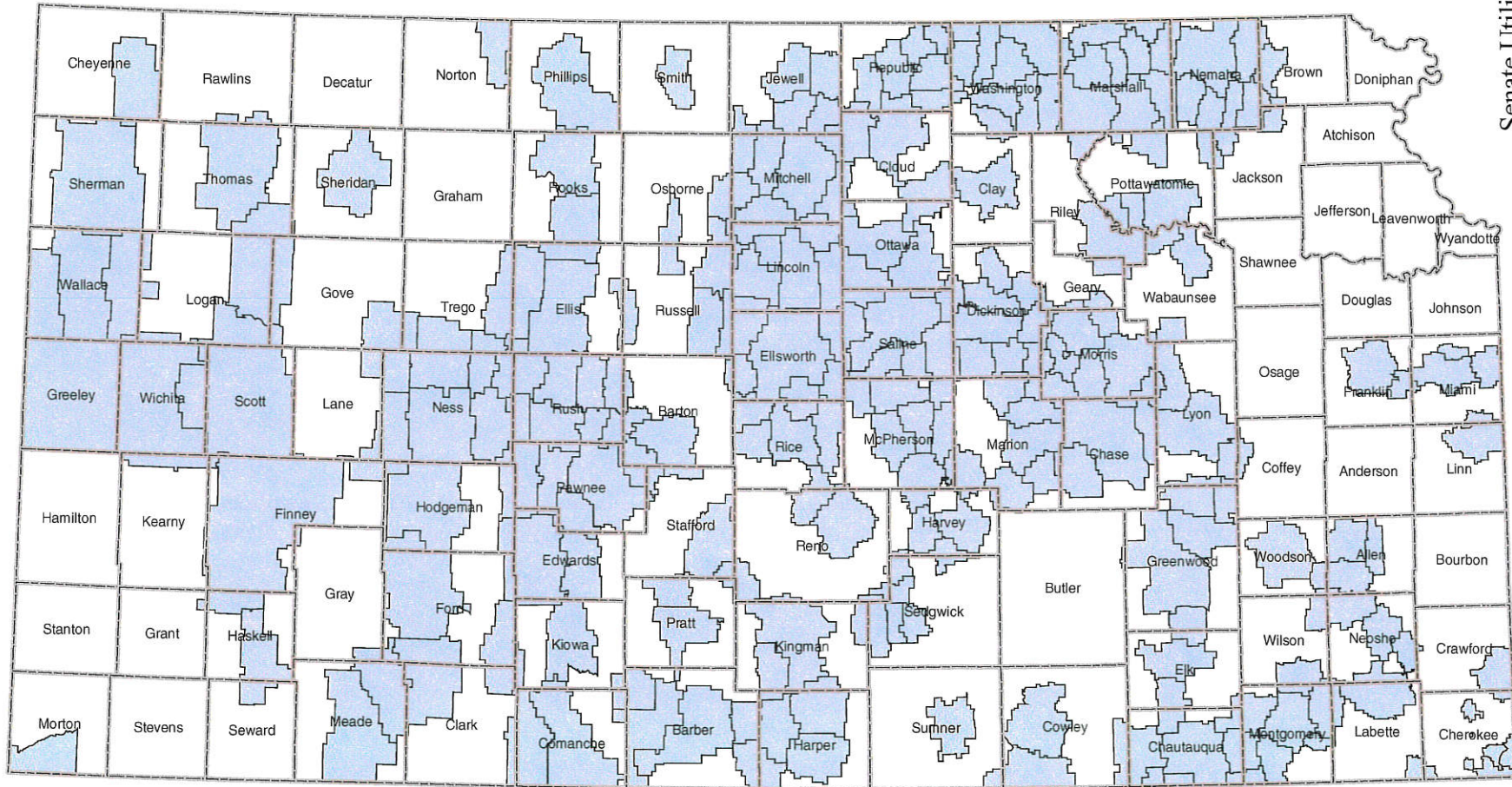
(e) The director of accounts and reports shall draw warrants on the state treasurer payable to the county treasurer of each county entitled to payment from the special county mineral production tax fund upon vouchers approved by the director of taxation. Upon receipt of such warrant, each county treasurer shall credit 50% of the amount thereof to the county general fund and shall distribute the remaining 50% thereof to the treasurer of each school district all or any portion of which is located within the county in the proportion that the assessed value of coal, oil and gas properties within each district bears to the total of the assessed value of all coal, oil and gas properties within the county. Such assessed valuation shall be determined upon the basis of the most recent November 1 tax roll. The treasurer of each school district shall credit the entire amount of the moneys so received to the general fund of the school district.

Sec. 3. K.S.A. 2005 Supp. 79-4227 is hereby repealed.

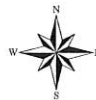
Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

AIITel FUSF Areas

Senate Utilities Committee
January 24, 2006
Attachment 2-1



 FUSF



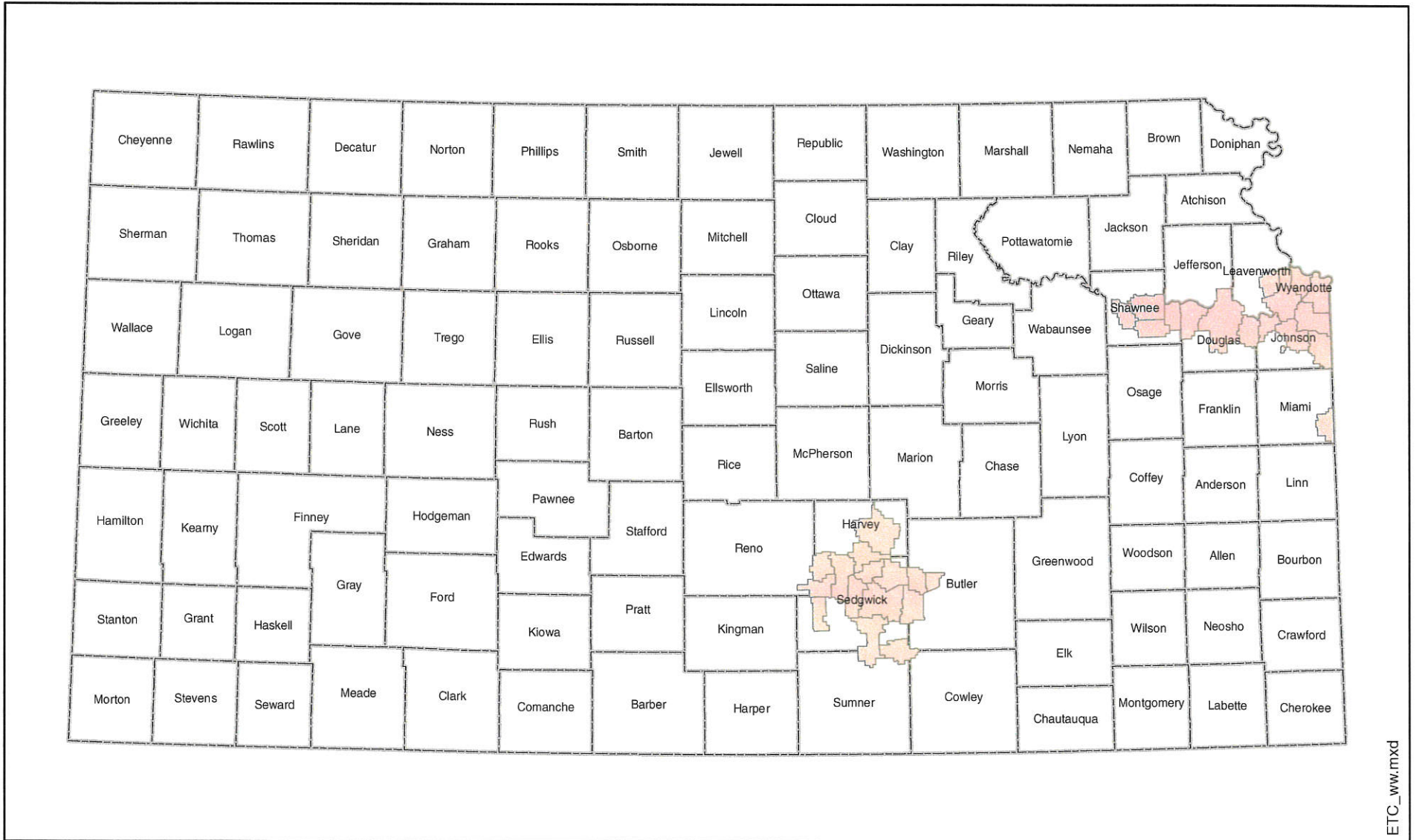
**KANSAS
CORPORATION
COMMISSION**

15 December 2004

ETC_AIITel.mxd

Sprint KUSF & FUSF Areas

2-2



ETC_ww.mxd

 FUSF & KUSF

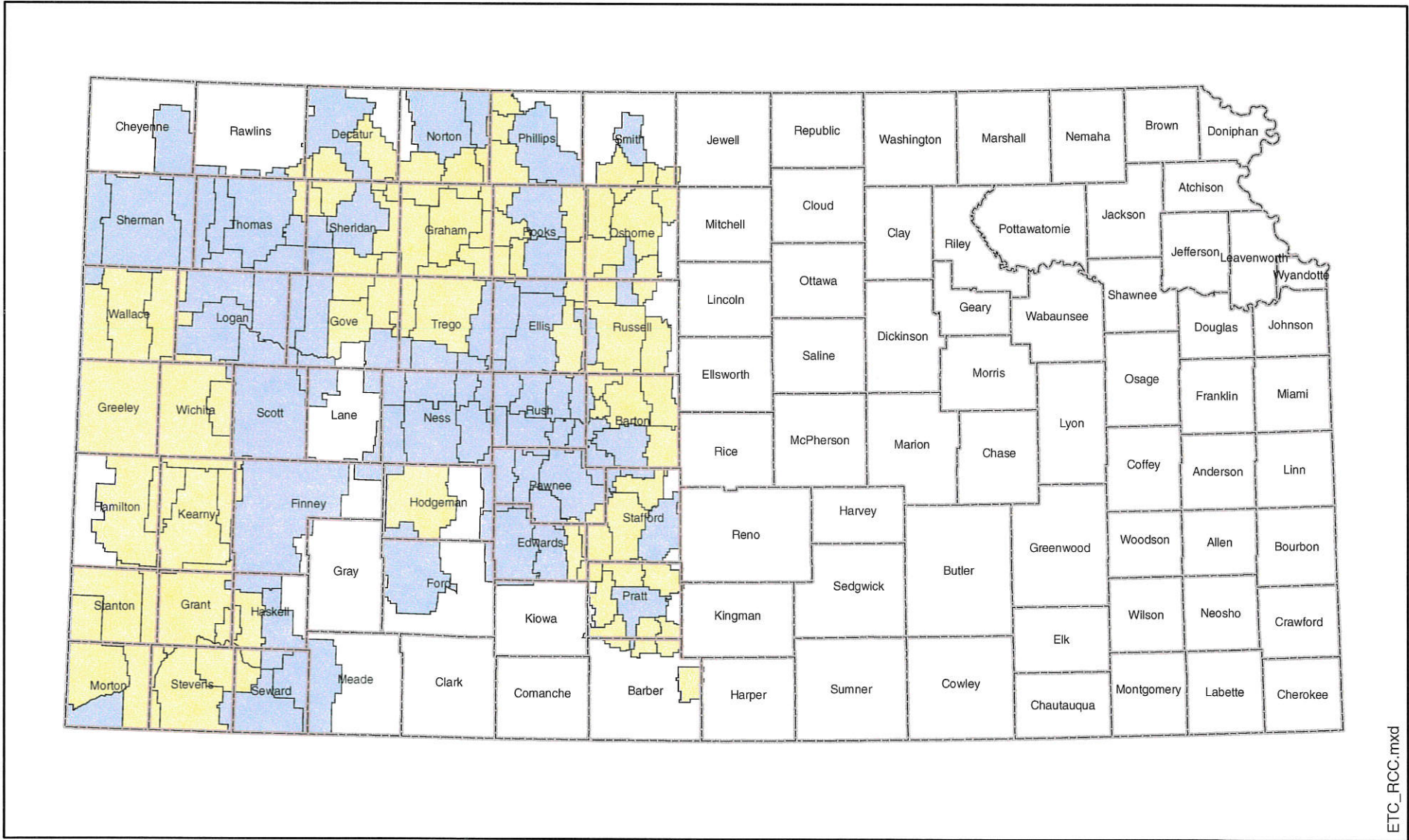


KANSAS CORPORATION COMMISSION

17 December 2004

RCC Minnesota, Inc. FUSF Areas

2-3



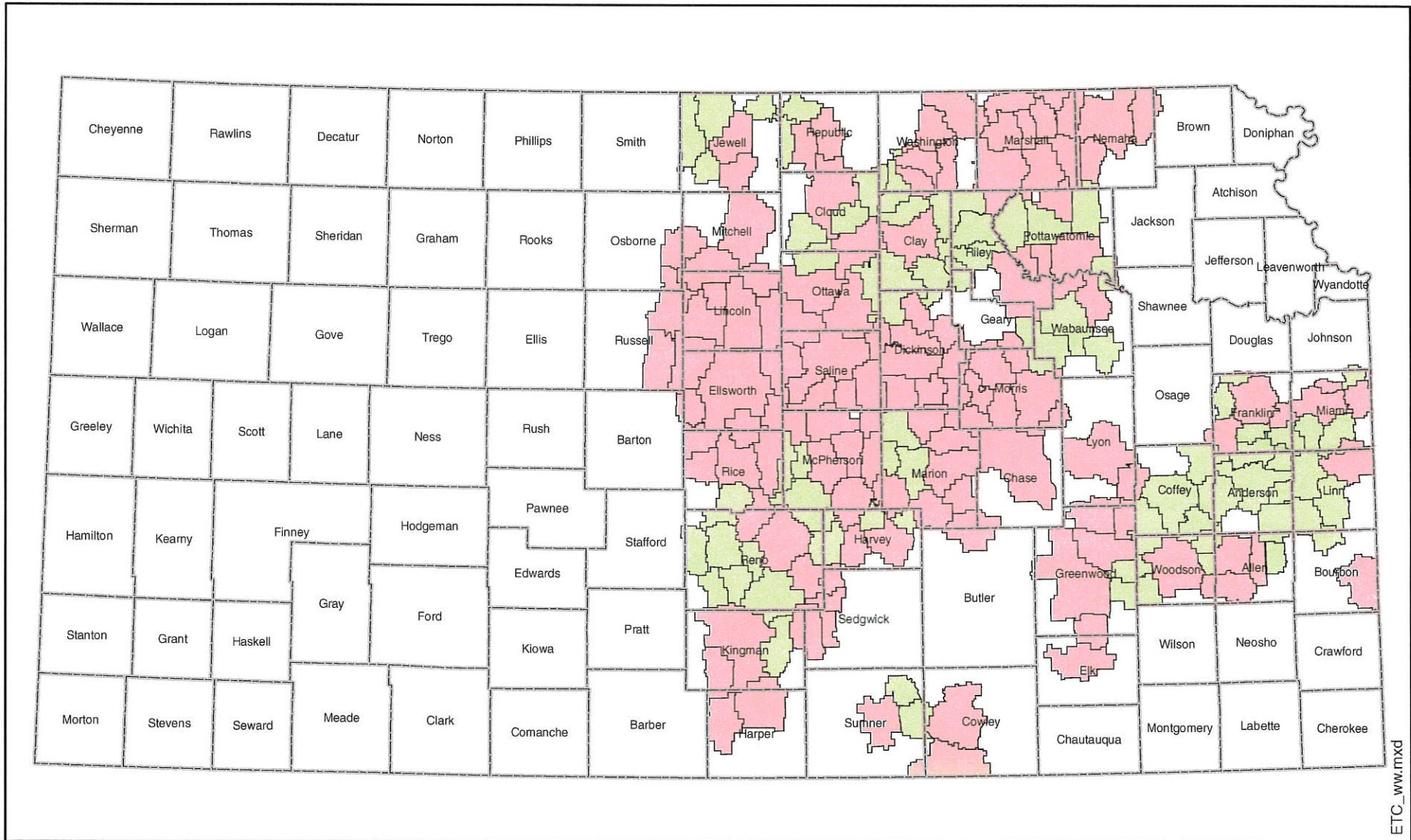
- FUSF
- FUSF - Pending



ETC_RCC.mxd

Western Wireless KUSF & FUSF Areas

2-4



ETC_ww.mxd

 KUSF & FUSF
 KUSF



**KANSAS
CORPORATION
COMMISSION**

15 December 2004



David D. Kerr
President-Kansas

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Testimony of David D. Kerr, President, AT&T Kansas
In support of SB 350
Before the Senate Utilities Committee
January 24, 2006

Good morning Chairman Emler, and members of the committee. I am David Kerr, President of AT&T Kansas. I appreciate the opportunity to speak to you today in support of Senate Bill 350.

Last year, I appeared before you to support the advancement of Senate Bill 120, a bill which would have changed state law to more accurately reflect the competitive marketplace in Kansas. You may recall that we, SBC at the time, took a secondary role in that bill, instead opting to focus our efforts on a regulatory solution over the summer.

Indeed, an enormous amount of effort was put into the regulatory process. My company filed an application for "price deregulation" of most services in the three largest cities in Kansas (Kansas City, Topeka, and Wichita). We filed thousands and thousands of pages of documents and spent, including state assessments to pay for the Commission's and CURB's time, over \$400,000 on the case. Unfortunately, and despite what we believe was overwhelming evidence showing a fully competitive and evolved marketplace, the efforts failed to provide meaningful regulatory relief. It became apparent throughout the proceedings that the parties, the KCC staff and the Commissioners struggled to agree on a definition of "competition" or determine when it exists. The resolution of that dilemma is embedded in Senate Bill 350, which will provide much needed clarity and a bright-line test for competitive designation.

Today's competitive landscape looks nothing like it did ten years ago when the current law was written, with more cell phones than traditional landline phones in Kansas, with cable companies providing a full array of services, and with more than 80% of Kansans having access to broadband, allowing new technologies such as Voice over Internet Protocol (VoIP) to provide yet another meaningful option to consumers.

Since last year when you considered Senate Bill 120, and despite doomsday predictions from our opponents that the industry was heading for a collapse, competition is flourishing. In this ever expanding marketplace, traditional landline companies have only 33% of the communications connections in the state, and AT&T Kansas has 33% fewer lines today than in 2001. This is happening because consumers have more choices than ever before. In the last year, wireless companies have spent millions expanding and upgrading their networks. Cable companies continue to bring phone service to more and more communities, including here in Topeka. And VoIP companies like Vonage made significant upgrades to their systems to offer E911 service.

Senate Utilities Committee
January 24, 2006
Attachment 3-1

Also, in the last year states all around Kansas, including Colorado, Iowa, Missouri, Oklahoma, and Texas, have updated their telecom rules to match today's marketplace. These states join two other states in our region, Nebraska and Arkansas, that updated their telecom laws years ago.

Senate Bill 350 would allow the marketplace to function without unneeded government intervention in competitive markets. This bill will define competition, providing precise direction in competitive markets, and allow "price cap" companies to fully compete in competitive markets. History has shown that when the marketplace is allowed to function without government intervention, customers enjoy the benefits of new products and better prices. As they say, the proof is in the pudding, and the benefits of competition can clearly be seen in the price and expanded availability of wireless, long distance and broadband services. Clearly, similar benefits will occur in the local service arena when market-based pricing is embraced.

Some opponents may claim that prices will increase, trying to convince you there are no "alternatives" available or "competitors" competent enough to compete on a sustained basis. The existence of both national and strong local cable companies offering voice service and the predominate use of cell phones, excluding the existence of the many other alternatives, addresses this allegation. If committee members are like most Kansans, nearly everyone has a cell phone. Taken together, the wireline, cable, and wireless competitors would more than satisfy the telecom needs of all subscribers in these cities if AT&T Kansas itself disappeared and stopped providing service tomorrow.

We've done our best to make Senate Bill 350 a simple bill, focusing on competition-related issues. The most significant provisions of this bill will not be triggered until a "bright line" test is passed. As of today, only 17 residential exchanges would pass the test under this bill. Of course that will change as competition continues to develop. Just recently, the local cable provider announced they will offer phone service in Salina, which was not included in our review. There's no doubt in my mind that the cable companies in Kansas will soon offer service to many if not all of their customers in Kansas.

It is time to update our laws to match the realities of today's competitive marketplace. I urge your support of these changes and thank you for your consideration of these important issues.

State of Kansas
Senate Bill 350
Telecom Reform

Bill Overview

David Kerr
AT&T Kansas

Choices in voice communications

- **Traditional wireline companies**
- **Competitive Local Exchange Companies (CLECs)**
- **Wireless (cellular)**
- **Cable Providers**
- **Voice over Internet Protocol (VoIP)**

During the past year...

- **Competition continues to develop**
- **Regulatory process**
- **Surrounding states updated laws**
 - **CO, IA, MO, OK, TX**

SB 350--Highlights

- **Price deregulates bundles statewide**
- **Price deregulates cities with more than 75K access lines**
- **Creates bright line (competitive trigger) test for pricing freedoms in cities less than 75K lines**
 - **For residential customers: facilities-based competitors required**

Consumer protection

- Competition will keep prices in check
- Lifeline service remains price cap regulated
- KCC resumes price regulation if competitive criteria is not met
- All services remain subject to KCC oversight for quality of service, 911, KUSF, etc.

Consumer benefits

- **Market pricing works. The marketplace is a better regulator than the government**
 - Long distance: 32 cents/minute to unlimited for \$20 or less
 - Wireless: 47 cents/minute to less than 10 cents
 - Broadband: \$50/month to less than \$20
- **None of these services face pricing regulations**

1 price cap regulation shall be as follows:

2 (A) Packages or bundles of services shall be price deregulated state-
3 wide, however the individual telecommunication service components of
4 such packages or bundles shall remain available for purchase on an in-
5 dividual basis at prices subject to price cap regulation in any exchange in
6 which the standards in subsections (q)(1)(B), (C) or (D) have not been
7 met;

8 (B) in any exchange in which there are 75,000 or more local exchange
9 access lines served by all providers, rates for all telecommunications serv-
10 ices shall be price deregulated;

11 (C) in any exchange in which there are fewer than 75,000 local
12 exchange access lines served by all providers, the commission shall price
13 deregulate all business telecommunication services upon a demonstration
14 by the requesting local telecommunications carrier that there are two or
15 more nonaffiliated telecommunications carriers or other entities providing
16 local telecommunications service to business customers, regardless of
17 whether the entity provides local service in conjunction with other services
18 in that exchange area, no more than one of which may be a nonaffiliated
19 radio communication services provider licensed by the federal commu-
20 nications commission to provide commercial mobile radio services in that
21 exchange;

22 (D) in any exchange in which there are fewer than 75,000 local
23 exchange access lines served by all providers, the commission shall price
24 deregulate all residential telecommunication services upon a demonstra-
25 tion by the requesting local telecommunications carrier that there are two
26 or more nonaffiliated telecommunications carriers or other entities pro-
27 viding local telecommunications service to residential customers, regard-
28 less of whether the entity provides local service in conjunction with other
29 services in that exchange area, using, in whole or in part, facilities in
30 which it or one of its affiliates has an ownership interest, no more than
31 one of which may be a nonaffiliated radio communication services pro-
32 vider licensed by the federal communications commission to provide com-
33 mercial mobile radio services in that exchange;

34 (E) rates for lifeline services shall remain subject to price cap
35 regulation.

36 (2) For the purposes of this subsection:

37 (A) Any entity providing voice service shall be considered as a local
38 telecommunications service provider regardless of whether such entity is
39 subject to regulation by the commission;

40 (B) a provider of local telecommunications service that requires the
41 use of a third party, unaffiliated broadband network or dial-up internet
42 network for the origination of local voice service shall not be considered
43 a local telecommunications service provider;

offered by
ATT

provided, however, until July 1, 2009, local exchange carriers shall offer to residential customers, in each such exchange satisfying the above criteria for price deregulation, a flat rate 1-party residential local exchange access line, at an initial rate not to exceed that charged by the local exchange carrier on January 1, 2006, and with the maximum rate for such line not to increase by more than \$1 per month in any 12 month period, and with such rate available only if the line is purchased without any call management features or broadband, video, or wireless services, and is the sole local exchange access line at the customer's premises;