



Written Testimony Submitted to the

Senate Utilities Committee

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Testimony in Opposition to Senate Bill 380

Kansas Municipal Utilities (KMU) is the statewide association of community owned and operated electric, natural gas, water, wastewater, stormwater and telecommunications utilities across Kansas. As a non-profit association established by its member utilities in 1928, KMU is dedicated to serving the training needs and legislative & regulatory interests of our 185 consumer-owned utilities and the citizens, businesses and industries that they serve. Our membership ranges in size from some of the largest utilities in the state such as those operated by Kansas City Board of Public Utilities and the City of Wichita, down to some of the smallest utility systems in the state, some serving fewer than 100 customers.

As a representative organization of cities across the state and their utility operations, KMU opposes Senate Bill 380. While the proponents of the bill claim that this legislation would only codify federal law and regulation, there is still much uncertainty about the federal status as it continues through the court system with no current or immediate resolution.

SB 380 has several key issues that drive our opposition. The amendments proposed in Section 2(f) provide several key provisions that infringe on a city's right to control access to its public right-of-way in the same manner as provided to other utilities. Management and coordination of the right-of-way is of critical importance to local governments. As demand continues to increase for access to public rights-of-way and access to public infrastructure, municipalities need to be able to coordinate right-of-way access so utilities and other users of the rights-of-way do not infringe on the access and rights of others. It is equally important that utilities are treated in an equal, nondiscriminatory manner. If this bill is passed as currently written, it puts cities in a tenuous position when one utility service provider is treated in a different and discriminatory manner from other utilities.

Use of the public rights-of-way requires significant coordination as more and more utilities are requesting access to these rights-of-way. To help facilitate this coordination, local governments may require a review and approval process which often necessitates the filing of a formal application. Whether through an application process or other filing for the use of the right-of-way, this coordination requires a certain level of oversight.

The way the bill is currently written, we have concerns that the coordination and oversight is removed from the process for video service providers where such oversight is absolutely necessary for effective

management of the public right-of-way and the safety of other utilities operating in that same right-of-way. Those sections where coordination appears to be preempted are the following sections:

- Section 2(f)(7) indicates that video service provider would not be required to make application, pay any fee, tax, or rent for any of its micro-wireless facilities.
- Section 2(f)(8) states that a municipality shall not require the holder of a certificate of video service to obtain “any authorization or pay any fee, license or tax for the provision of wireless service.”
- Section 2(f)(9) further states that a municipality shall not “otherwise regulate the provision of wireless services over such holder’s micro wireless facilities in the right-of-way.”

Every utility that requires access to the public rights-of-way and/or requires access to public infrastructure should be treated in a fair, consistent, and non-discriminatory manner. The amendments in SB 380 do not meet that criteria.

KMU and its member utilities reaffirms its opposition to this bill, and we ask that this bill not be advanced in its current form.

Thank you for the opportunity to provide this testimony in opposition to Senate Bill 380. KMU continues to express its willingness to work with your Committee on legislative and regulatory matters affecting the municipal utilities of Kansas.