

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Scott Emler at 9:30 A.M. on February 17, 2005 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
Diana Lee, Revisor of Statutes' Office
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Jay Allbaugh, Cox Communications, Wichita
Rachel Reiber, VP, Everest Connections, Lenexa
Mark Johnson, Nu Vox Communications, Kansas City, MO
John Federico, Kansas Cable Telecommunications Assn.

Others in attendance: See attached list

Chairman opened for action on:

SB 93 - Eminent Domain for wind energy projects

Moved by Senator Lee, seconded by Senator Francisco, amend SB 93 as shown on the attached balloon prepared by the Revisor's Staff. Motion carried. (Attachment 1)

Moved by Senator Lee, seconded by Senator Pine, SB 93 be passed out favorably as amended.

The Chairman cautioned the committee that this is an unprecedented step in terms of limiting eminent domain for utilities and should be taken cautiously. The committee needs to make it quite clear whether the intent is that this apply to all utilities, generation, transmission, telecommunication, etc., or it means to limit this to the siting of wind generators.

Taddiken questioned whether language should be placed in the bill to show the actual intent. Staff indicated language to set out the specific intent could be added.

Moved by Petersen, language be added to S.B 93 to make the intent clear. No second.

Substitute motion by Senator Taddiken, seconded by Senator Petersen, further amend S.B. 93 with a conceptual motion "except for the restrictions contained in this subsection, the provisions of this subsection shall not limit or restrict the authority of a public utility to use the power of eminent domain authorized under subsection (a)". Motion carried.

Moved by Senator Lee, seconded by Senator Reitz, S.B. 93 be passed out favorably with both amendments as stated in prior action. Motion carried.

Chair continued hearing on:

SB 120 - Telecommunications, regulation thereof, KUSF

Opponents

Jay Allbaugh, Cox Communications, Wichita, stated there is not sustainable competition yet in Kansas for several reasons set forth in his written testimony. For these reasons, Cox questions whether adequate competition exists in Kansas' local telephone market to require further regulation. Cox Communication does not support piecemeal deregulation until a full understanding of the following things is gained: (1) to what extent local competition exists in Kansas; (2) what deregulation, if any, is appropriate; (3) what impact would deregulation have on competitors; (4) what effect would deregulation have on consumers. (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE Senate Utilities Committee at 9:30 A.M. on February 17, 2005 in Room 526-S of the Capitol.

Rachel Reiber, Vice President, Everest Connections, Lenexa, set out their specific concerns on the impact that deregulation would have on providers and consumers. **S.B.120** will not result in long-term benefits to consumers and telecommunications companies. (Attachment 3)

Mark Johnson, NuVox Communications, (presented for Ed Cadieux) noted that NuVox is a competitive local exchange carrier which has done business in Kansas for a number of years. The point he addressed is the prospect of discriminatory pricing which is where a carrier gives one customer a certain price and another customer for the same service another price. This legislation would allow that to occur throughout the state of Kansas. The whole State under the terms of this legislation would be deregulated. (Attachment 4)

John Federico, Kansas Cable Telecommunications Assn., quoted from an article in Prospectus written in November 2004“deregulation is always a tricky business, on the one hand the whole purpose of economic regulation in the first instance is to prevent dominate incumbent firms from exercising their considerable market power. While often a difficult balance, throughout the history of the telecommunications industry, policymakers have prudently opted to seek solid evidence of workable competition before deregulating incumbents. It’s stark contrast where the FCC has decided to wing it, such as in the case of providing the Bells with pricing flexibility for special access services. The results have been a disaster. After all, as the old maxim goes, competition policy should focus on probabilities, not upon possibilities.” Voice over Internet Protocol (VoIP) is one of the basis of this legislation. A survey showed there will be a tremendous shift of customers from land line to voice in the future. Can the committee predict with accuracy the impact that price deregulation would have on the rural parts of Kansas? (Attachment 5)

The Chairman announced that two opponents were yet to be heard and due to the lack of time, the hearing on **S.B. 120** would be continued on Monday, February 21.

Approval of Minutes

Moved by Senator Taddiken, seconded by Senator Reitz, minutes for the meetings of the Senate Utilities Committee held on February 15, 2005 and February 16, 2005 be approved. Motion carried.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 5