

2/27/85

Approved

Jayne Aylward
Date

MINUTES OF THE HOUSE COMMITTEE ON COMMUNICATION, COMPUTERS AND TECHNOLOGY

The meeting was called to order by Representative Jayne Aylward at
Chairperson

3:30 ~~xxx~~ p.m. on February 19, 1985 in room 522-S of the Capitol.

All members were present except:

Representative Dean (excused)
Representative Brown (excused)

Committee staff present:

Scott Rothe, Research Department
James A. Wilson, III, Senior Assistant Revisor
Jean Mellinger, Secretary to the Committee

Conferees appearing before the committee:

Don Low, Director, Utilities Division, Kansas Corporation Commission
Ron Fox, Representative, 21 District, Overland Park
Jerry Brantley, Southwestern Bell Mobile Systems, Dallas, Texas
Robert Ellis, Haviland Telephone Company, Haviland
Phil Woodbury, Mobilfone, Emporia
Ronald Phillips, Mobilfone, Emporia

Chairman Jayne Aylward opened the meeting for hearing on HB 2257.

Don Low gave some background for the bill (Attachment 1) and said the Commission had arrived at a temporary resolution pending agreement of the parties or further hearings that RCCs should be viewed as joint providers of telephone service.

Representative Friedeman asked for an explanation of joint providers of telephone service. Mr. Low said joint providers of telephone service were allowed a percentage of toll calls instead of being charged an access charge as an interexchange carrier.

Chairman Aylward inquired regarding page 4 of Docket No. 137,538-U and the mention of RCCs as nebulous necessity and asked that this be defined. Mr. Low said that unlike other basic utilities, customers have less of a need for RCCs and those services have to be marketed and promoted. The chairman asked concerning page 6 where the point is brought up that there is a great deal of competition in the areas where radio common carriers operate. Mr. Low said he didn't know about great but there is some at this point. In Kansas City cellular services are being provided, and there will be another non-wire line cellular company that will be certificated sometime in the near future. They have a couple radio common carriers and also a paging service. She asked if there has been competition to the point where it has brought down prices and was told this has been seen.

Representative Green asked if this is the same as a utility company. Mr. Low said it had a separate set of statutes and has a slightly different definition, but they still regulate it pretty much as a utility.

Representative Goossen asked what surrounding states have done with RCC regulation and, in general, how the rates compare. Mr. Low said he didn't know but he would be glad to look into it.

Ron Fox, as a private citizen, said he had followed divestiture since before Judge Green's order as related to the telecommunication industry and he wanted to make a few points relative to the RCCs. He considers it a luxury service; there are other regulated services that can provide everything needed. Second, a cellular phone brings up the point of why deregulation should occur. It is a fairly new technology that does provide a particular service to those who want it, but it also provides a framework whereby that technology is brought to the consumers. Initial cost is high; but, as more and more competition occurs in the area, the cost will go down, eventually, he believes, to where it can and will become affordable to most consumers who desire it. If we continue to regulate these high tech advances in telecommunications, we are not going to see them come as rapidly. They should

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and must be given a chance to work in the open market when it is not involving basic life services that need to be there.

Representative Erne asked if he agreed that cellular is one of the most innovative things that has happened in years in this area and if it didn't happen under regulation. Mr. Fox said it was close and that it did occur under regulation but it occurred very slowly and there was no commercial application until after divestiture. He said Bell Laboratories has a tremendous amount of technology setting on the shelf, and he feels as long as it is regulated it won't be brought out very rapidly. Representative Erne inquired concerning a mobile phone in a salesman's car and it being a tool of his trade. Mr. Fox said it made it much easier for him to communicate and carry on his business, but it does not prohibit from carrying on service. The chairman pointed out that the KCC in their hearings considered it a luxury item.

Chairman Aylward asked about the State of Missouri deregulating this service as of January 1, 1986 and the effect on people in Kansas City, Kansas and Missouri. Mr. Fox said it was creating regulatory problems of those systems that cross state lines. He thinks development will continue eastward much greater than cells in Kansas because of the competition over there. She asked if because of competition the rates would be more in Kansas. He replied that the KCC is going to take that into consideration, but appearing for rate hearings increases the cost.

Jerry Brantley appeared in support of HB 2257 (Attachment 2) and gave a description of cellular mobile telephone service.

Representative Roper said that from the second paragraph on page two and the first paragraph on page five, this appears to be a necessity now instead of a luxury. Mr. Brantley said in his opinion, it is far from being like gas or electricity. One of the problems with cellular today is the high cost of equipment--approximately \$1,000 to \$1,500 plus the monthly service in the neighborhood of \$100 to \$150 a month--and you have to gauge the need against what they get out of it.

The chairman asked if their company did advertising to tell what services are available as opposed to a basic telephone company. He said where there are two companies on line, there is competitive advertising and their main reason for asking for deregulation is that competition and regulation do not mix.

Representative Roper asked how many other states have deregulated. He said the last time he checked 15 states have deregulated services and there are bills pending in about ten to fifteen more.

Representative Erne asked Mr. Brantley if he considered this as a luxury item and if it was sold as a luxury item. Mr. Brantley said they sell it on the basis of need. Representative Erne asked how many cellular systems there were in Kansas and was told there were two, Kansas City and Wichita, and Southwestern Bell Mobile Systems owned them.

Representative Helgerson asked how many cellular service providers will be in some of the markets. Mr. Brantley said that by FCC order there will be two in each market. Representative Helgerson asked if that was enough competition--that it seemed regulated and with only one competitor, the two companies might get together. Mr. Brantley said it hasn't proven that way; where there is competition, the consumer has benefitted through lower prices. Representative Helgerson asked if both the firms have the same costs. Mr. Brantley said that one company may have gone on line with a smaller coverage system--the prices hold about the same but it depends upon whether they want to go after a larger percentage of the market. Representative Helgerson asked if the stockholders of the Southwestern Bell holding company did not own and share the profits of the Mobile Systems and Southwestern Bell. Mr. Brantley said they did only SWB was not a profit-making company.

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Representative Friedeman asked if the FCC wasn't already regulating cellular and was told it was. He inquired if several competitors were allowed if this wouldn't be great by-pass technology, and Mr. Brantley said not at present prices. He said prices of equipment have gone down but not for service.

Mr. Ellis spoke in support of the legislation (Attachment 3).

Representative Roper asked if SWB and Mr. Ellis's company were the two competitors and was told they were in a partnership with SWB owning 60% and the other three companies owning 40%.

Representative Helgerson asked how they were chosen and was told that you have to have a presence there as a wireline company to file an application. Wichita SMSA is made up of Sedgwick and Butler Counties so the four applications were possible in that area.

Representative Erne asked if Southwestern Bell had control and set all the prices. Mr. Ellis said that in essence they did. Chairman Aylward asked further concerning this and was told they have periodic meetings with Bell Mobile Systems and are allowed a lot of input as to the operations.

Replying to Representative Helgerson, Mr. Ellis said the profits were divided according to the percentage ownership and the limited partnership put up 40% of the upfront money with his company's coming out of general funds.

Representative Friedeman asked why the prices were too cheap to justify an expansion of the home office. Mr. Ellis explained that their prices were \$50 a month and sets cost between \$3,000 and \$4,500--to buy a set and lease it would never pay off. That was their rates back in 1963 and small companies cannot afford to file a rate case. Representative Friedeman said he understands cellular will be much more expensive and asked what the great advantage of cellular was. Mr. Ellis said he didn't think there was any advantage to cellular per se in Kansas. Asked if deregulation would help them, he replied that it would allow them to raise their rates a little.

Phil Woodbury appeared as an opponent of HB 2257 (Attachment 4).

Representative Helgerson asked if he had, had any experience with prices charged by SWB. Mr. Woodbury said that they paid \$7.40 a month for one circuit that after divestiture was \$69.99 later corrected to the \$50's and KCC set at \$8.50.

Ronald Phillips spoke opposing HB 2257 and said his firm has been regulated by the KCC since its inception in 1969 and had been a competitor with SWB mobile phone since then. He stated that SWB's rate was 13¢ a minute when he started; but, after a complaint to KCC, the rate was raised to \$1 a minute so his company could compete. He is a partner of a non-wireless group for Kansas City, but they haven't received their license. As a competitor of SWB, he feels his company needs continuing regulation. Their basic rate is \$32 a month plus 32¢ a minute.

Representative Shore asked if he felt there was a probability that in sparsely populated parts of the state, the cellular might replace the wire lines. Mr. Woodbury said the new technology in time will.

Asked what his mobilfone cost, Mr. Woodbury said in most places it was about \$20 a month plus 30¢ a minute and all he sells is the service.

Representative Friedeman said low power was mentioned and asked if the radius of contact could be increased by the increase of power with present technology. Mr. Woodbury said you could.

The meeting adjourned at 5:15 p.m.

The next meeting of the committee will be at 3:30 p.m. on Wednesday, February 20, 1985.

PRESENTATION OF THE
STATE CORPORATION COMMISSION
TO THE HOUSE COMMITTEE ON
COMMUNICATIONS, COMPUTERS AND TECHNOLOGY

THE CORPORATION COMMISSION LAST MAY ISSUED AN ORDER ADDRESSING REGULATION OF RADIO COMMON CARRIER SERVICES, INCLUDING CELLULAR RADIO SERVICES. HEARINGS WERE HELD ON THE COMMISSION'S OWN MOTION BECAUSE IT FELT THAT ITS REGULATORY POLICIES NEEDED RE-EVALUATION IN LIGHT OF NEW TECHNOLOGIES SUCH AS CELLULAR RADIO AND PRE-EMPTION BY THE FCC IN BOTH THE CELLULAR AND PRIVATE PAGING AREAS. THE ORDER IN FACT DID RESULT IN SOME CHANGES IN THE REGULATION OF PROVIDERS OF MOBILE COMMUNICATION SERVICES.

FOREMOST OF THE CHANGES WAS THE LOWERING OF REQUIREMENTS FOR POTENTIAL NEW PROVIDERS OF MOBILE SERVICES. UNDER PRIOR PROCEDURES A NEW ENTRANT ESTABLISHED NECESSITY FOR THE SERVICE BY A CUSTOMER SURVEY. HOWEVER, IT WAS PRESUMED THAT AN EXISTING PROVIDER (OR PROVIDERS) IN AN AREA WAS SUFFICIENT TO MEET PUBLIC CONVENIENCE AND NECESSITY. A POTENTIAL ENTRANT HAD TO SHOW THAT THE EXISTING PROVIDER COULD NOT OR WOULD NOT, IN A REASONABLE TIME, PROVIDE THE SERVICE PROPOSED. THE NEW ORDER CREATES A PRESUMPTION OF NEED FOR SERVICES AND PLACES THE BURDEN ON EXISTING CARRIERS TO SHOW THAT THE PUBLIC WOULD BE HARMED BY CERTIFICATION OF ADDITIONAL CARRIERS.

THIS CHANGE WAS MADE BECAUSE OF THE COMMISSION'S CONCLUSION THAT THE RADIO COMMON CARRIER INDUSTRY LACKED CHARACTERISTICS OF UTILITY SERVICE WHICH NORMALLY REQUIRE REGULATION AS A MONOPOLY. IT FOUND THAT COMPETITION ALREADY EXISTED BETWEEN LAND LINE AND

(Attachment 1)
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RADIO COMMON CARRIER SERVICES IN CERTAIN AREAS AND THAT SUCH COMPETITION HAS TENDED TO INCREASE THE KINDS OF SERVICES AVAILABLE WHILE LOWERING PRICES, AND ALSO CONTINUING GROWTH IN DEMAND.

NEW PROVIDERS THUS STILL NEED TO SHOW FINANCIAL AND TECHNICAL ABILITY TO PROVIDE SERVICE IN ORDER TO OBTAIN A CERTIFICATE BUT ARE NOT FACED WITH AN "ALMOST INSURMOUNTABLE BARRIER" IN SHOWING UNMET NEED. SINCE THAT ORDER WAS ISSUED THREE NEW CARRIERS HAVE BEEN CERTIFICATED, INCLUDING LANDLINE CELLULAR PROVIDERS FOR KANSAS CITY AND WICHITA.

AS FOR RATE REGULATION, THE CARRIERS ARE STILL REQUIRED TO FILE TARIFFS FOR APPROVAL. THE COMMISSION DID DECIDE, HOWEVER, THAT IN AREAS WHERE COMPETITION EXISTS, GOOD CAUSE EXISTS FOR LESS THAN THIRTY DAYS NOTICE OF PROPOSED CHANGES IN RATES. SINCE THAT TIME TWO RATE REDUCTIONS HAVE BEEN APPROVED ON AN EXPEDITED BASIS WHEREBY RATES ARE PUT IN SUBJECT TO REFUND IF PROTESTS ARE RECEIVED.

BEFORE CLOSING, I SHOULD ALSO NOTE ANOTHER PROCEEDING RELATING TO RCC'S. AS A RESULT OF A COMPLAINT THE COMMISSION INITIATED A GENERIC PROCEEDING TO DETERMINE PROPER CHARGES OF LOCAL TELEPHONE COMPANIES FOR THE INTERCONNECTIONS WITH RCCs, PURSUANT TO K.S.A. 66-1,145. THE MAIN CONTENTIONS CONCERNED WHETHER RCCs SHOULD BE VIEWED AS END USERS, INTEREXCHANGE CARRIERS OR JOINT PROVIDERS OF TELEPHONE SERVICE. THE COMMISSION ARRIVED AT A TEMPORARY RESOLUTION PENDING AGREEMENT OF THE PARTIES OR FURTHER HEARINGS.

RCCs

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

BEFORE COMMISSIONERS: MICHAEL LENNEN, CHAIRMAN
R. C. (PETE) LOUX
KEITH R. HENLEY

IN THE MATTER OF GENERAL COMMUNICATIONS)
SYSTEMS, INC., MOBILE RADIO)
COMMUNICATIONS, INC., MOBILFONE OF) DOCKET No.
KANSAS, INC., LETT ELECTRONICS, INC.,) 139,896-U
FRANK SCHMALE, DBA TEAM ELECTRONICS,)
AND LARRY L. DICKEY, DBA KAR KALL.)

v.

SOUTHWESTERN BELL TELEPHONE COMPANY

AND

IN THE MATTER OF THE APPLICABILITY OF)
ACCESS CHARGE TARIFFS TO RADIO COMMON) 140,960-U
CARRIERS.)

ORDER

THE ABOVE-CAPTIONED MATTERS COME ON FOR CONSIDERATION BY THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS ON A COMPLAINT FILED BY THE ABOVE-NAMED RADIO COMMON CARRIERS (RCCs) AND ON ITS OWN MOTION. HAVING HEARD THE TESTIMONY, REVIEWED ITS FILES AND RECORDS AND BEING FULLY ADVISED IN THE PREMISES THE COMMISSION FINDS AND CONCLUDES AS FOLLOWS:

1. ON DECEMBER 6, 1983, THE ABOVE-NAMED RCCs FILED A COMPLAINT WITH THIS COMMISSION ASSERTING THAT THE ACCESS CHARGE TARIFF THEN BEING CONSIDERED BY THE COMMISSION SHOULD NOT BE MADE APPLICABLE TO RCCs AS SEEMED TO BE THE INTENT. NO TESTIMONY AS TO ITS APPLICABILITY TO RCCs HAD BEEN PRESENTED AT THE HEARING. ON DECEMBER 23, 1983, THE COMMISSION ADOPTED ACCESS CHARGES, INCLUDING THE PORTION APPLICABLE TO RCCs. RCCs HAD PREVIOUSLY PURCHASED SERVICES FROM SWB PURSUANT TO CONTRACT. TOWARD THE END OF 1982 SWB, AS AUTHORIZED BY THE CONTRACT, HAD GIVEN NOTICE TO THE RCCs THAT THE CONTRACT WOULD TERMINATE DECEMBER 31, 1983, COINCIDENT WITH DIVESTITURE.

2. ON FEBRUARY 15, 1984 THE FEDERAL COMMUNICATIONS COMMISSION (FCC) ISSUED A MEMORANDUM OPINION AND ORDER IN DOCKET 78-72. IN THAT ORDER THE FCC STATED THAT IT HAD NOT INTENDED THAT INTERSTATE ACCESS CHARGES BE APPLICABLE TO RCCs. IT CONTINUED

THAT ACCESS CHARGES WERE APPLICABLE TO END USERS AND INTEREXCHANGE CARRIERS AND THAT RCCS DID NOT PROPERLY FIT INTO EITHER OF THOSE CATEGORIES. THE FCC ALSO STATED "[T]HE RCCS PROVIDE "EXCHANGE SERVICE" UNDER SECTION 2(B) AND 221(B) OF THE COMMUNICATIONS ACT, AND WE HAVE CONSISTENTLY TREATED THE MOBILE RADIO SERVICES PROVIDED BY RCCS AND TELEPHONE COMPANIES AS LOCAL IN NATURE." (FEBRUARY 15 OPINION §149) THE FCC DID NOT GO SO FAR AS TO SAY THAT RCCS ARE LOCAL EXCHANGE CARRIERS. THE FCC'S FINDING THAT INTERSTATE ACCESS CHARGES WERE NOT INTENDED TO APPLY TO RCCS DOES NOT, HOWEVER, RESOLVE WHETHER ACCESS CHARGES SHOULD BE APPLICABLE TO RCCS FOR INTRASTATE PURPOSES.

3. BY ORDER OF MARCH 16, 1984, THE COMMISSION SET THESE MATTERS FOR HEARING ON APRIL 5, 1984. ON MARCH 28, 1984, THE RCCS FILED A REQUEST FOR CONTINUANCE TO PERMIT THEM TO STUDY A SETTLEMENT PROPOSAL OFFERED BY SWB. SWB FILED IN OPPOSITION TO THE REQUEST. THE COMMISSION FOUND IT REASONABLE TO CONTINUE THE MATTER FOR TWO WEEKS AND SET THE MATTER FOR HEARING ON APRIL 19, 1984, AT ITS OFFICES ON THE FOURTH FLOOR OF THE STATE OFFICE BUILDING, TOPEKA, KANSAS, IF A SETTLEMENT COULD NOT BE REACHED.

4. SETTLEMENT WAS NOT REACHED AND THE HEARING WAS HELD AS SCHEDULED. APPEARANCES OF COUNSEL WERE AS FOLLOWS:

DENTON ROBERTS, OVERLAND PARK, KANSAS, APPEARING ON BEHALF OF UNITED TELEPHONE COMPANY OF KANSAS.

JAMES M. CAPLINGER, TOPEKA, KANSAS, APPEARING ON BEHALF OF THE COMPLAINANT, THE RADIO COMMON CARRIERS.

MICHAEL C. CAVELL, TOPEKA, KANSAS, APPEARING ON BEHALF OF SOUTHWESTERN BELL TELEPHONE COMPANY.

THOMAS E. GLEASON, OTTAWA, KANSAS, APPEARING ON BEHALF OF SUNFLOWER TELEPHONE COMPANY AND JETMORE TELEPHONE COMPANY.

EVA POWERS, ASSISTANT GENERAL COUNSEL, APPEARING ON BEHALF OF THE COMMISSION'S STAFF AND THE PUBLIC GENERALLY.

5. NOTICE OF THE HEARING WAS PROVIDED TO ALL PARTIES OF RECORD AND ALSO TO OTHERS HAVING SHOWN AN INTEREST IN TELECOMMUNICATIONS MATTERS GENERALLY BY ORDER OF THE COMMISSION. THE COMMISSION FINDS THAT NOTICE WAS ADEQUATE AND THAT IT HAS JURISDICTION OVER THE PARTIES AND THE SUBJECT MATTER.

6. THE KANSAS LEGISLATURE HAS IDENTIFIED RADIO COMMON CARRIERS AS A UNIQUE ENTITY IN THE PROVISION OF COMMUNICATIONS SERVICES. K.S.A. 66-1,143 ET SEQ. K.S.A. 66-1,143 DISTINGUISHES RADIO COMMON CARRIERS FROM TELEPHONE COMPANIES BY THE USE OF THE LANGUAGE "BUT NOT ENGAGED IN THE BUSINESS OF PROVIDING A PUBLIC LAND LINE MESSAGE TELEPHONE SERVICE OR A PUBLIC MESSAGE TELEGRAPH SERVICE WITH THIS STATE." K.S.A. 66-1,144 REQUIRES RCCs TO OBTAIN A CERTIFICATE OF CONVENIENCE FROM THE COMMISSION. K.S.A. 66-1,145 AUTHORIZES RCCs TO INTERCONNECT WITH THE TELEPHONE COMPANY SERVING THE AREA IN WHICH THEIR BASE STATION IS LOCATED PROVIDED THE TELEPHONE COMPANY AND THE RCC CAN REACH AGREEMENT. IF AGREEMENT CANNOT BE REACHED, THE RCC MAY PETITION THE COMMISSION FOR THE RIGHT OF INTERCONNECTION. THE COMMISSION MAY ORDER INTERCONNECTION ON REASONABLE TERMS. THUS, THE LEGISLATURE HAS DEEMED IT NECESSARY TO ADDRESS RCCs SEPARATELY FROM TELEPHONE UTILITIES. THE FCC HAS DETERMINED THAT THEY ARE NEITHER END USERS NOR INTEREXCHANGE CARRIERS; THE KANSAS STATUTES MAKE CLEAR THAT THEY ARE NOT "LOCAL TELEPHONE COMPANIES" EITHER, SINCE THEY DO NOT PROVIDE "PUBLIC LAND LINE MESSAGE SERVICE." THE CRITICAL QUESTION WHICH MUST BE DETERMINED IN THIS PROCEEDING, HOWEVER, IS NOT WHAT FUNCTION OR ROLE THE RCCs PLAY IN THE PROVISION OF SERVICES BUT WHAT COSTS IT CAUSES THE TELEPHONE COMPANY TO INCUR IN PROVIDING THE REQUISITE FACILITIES TO THE RCCs.

7. THE RCCs PROVIDED DIRECT TESTIMONY OF TWO WITNESSES, JOHN VRANA AND JAN DAVID JUBON. MR. VRANA TESTIFIED AS TO THE RELATIONSHIP OF RCCs AND SWB UNDER CONTRACT AND THE IMPACT ON RCCs OF BILLING PURSUANT TO ACCESS CHARGES. HE ASSERTED THAT RCCs PROVIDED LOCAL EXCHANGE SERVICE SIMILAR TO LOCAL TELEPHONE COMPANIES AND THAT LESS EFFORT WAS REQUIRED BY SWB IN HANDLING RCC

TRAFFIC THAN IN HANDLING TRAFFIC BETWEEN LAND LINE TELEPHONES BECAUSE THE RCCs' EQUIPMENT HANDLES SOME OF THE SWITCHING AND TRANSPORT. HE REQUESTED THAT THE COMMISSION ORDER SWB TO CONTINUE TO PROVIDE SERVICE UNDER THE CONTRACT. HE STATED THAT HE DID NOT KNOW WHAT SWB'S COSTS TO SERVE RCCs WERE, OR HOW THOSE COSTS MIGHT DIFFER FROM COSTS OF SERVING OTHER CUSTOMERS REQUIRING THE SAME FACILITIES. HE ALSO ASSERTED THAT NOTICE THAT ACCESS CHARGES MIGHT BE MADE APPLICABLE TO RCCs HAD BEEN INADEQUATE. MR. JUBON TESTIFIED AS TO THE TREATMENT OF RCCs IN THE FCC RULES. HE ASSERTED THAT RCCs WERE PROVIDERS OF EXCHANGE SERVICE AND THAT THEY WERE MOST LIKE A LOCAL TELEPHONE COMPANY AND SHOULD BE TREATED SIMILARLY - AS A JOINT PROVIDER OF LOCAL SERVICE. HE STRESSED THAT RCCs ONLY PROVIDE LOCAL SERVICE. HE TESTIFIED THAT SINCE THE FCC HAD DETERMINED THAT ACCESS CHARGES SHOULD NOT BE APPLICABLE TO RCCs AT THE INTERSTATE LEVEL, THEY SHOULD ALSO NOT BE APPLIED AT THE STATE LEVEL AND THAT THE RCC'S CONCLUSION THAT INTERSTATE ACCESS CHARGES SHOULD BE APPLICABLE ONLY TO INTEREXCHANGE CARRIERS AND END-USERS PRECLUDED THEIR APPLICATION TO RCCs ON AN INTRASTATE BASIS. HE ALSO CLAIMED THAT APPLICATION OF THE ACCESS CHARGE TO RCCs WOULD LEAD TO DOUBLE RECOVERY OF THE CARRIER COMMON LINE CHARGE ABSENT A PROPER CREDIT. THE RCC WITNESSES WERE CONCERNED THAT A PROPER CREDIT COULD NOT BE ASSURED BECAUSE OF THE NECESSITY OF USING SURROGATE NUMBERS.

8. ROGER BALES TESTIFIED FOR SWB. HE ASSERTED THAT IT WAS APPROPRIATE TO BILL RCCs PURSUANT TO THE ACCESS CHARGE TARIFF BECAUSE RCCs USE SWB'S SERVICE IN THE SAME MANNER AS INTEREXCHANGE CARRIERS. HE TESTIFIED THAT UNDER CONTRACT THE RCCs HAD BEEN CHARGED BELOW COST AND THAT IT WAS MOST APPROPRIATE TO NOW CHARGE THEM IN THE SAME MANNER AS INTEREXCHANGE SERVICES - UNDER ACCESS CHARGE TARIFFS. HE EXPLAINED THAT SWB WOULD NOT DOUBLE RECOVER THE CARRIER COMMON LINE CHARGE AS LONG AS THE RCCs ADVISED SWB OF THE AMOUNT OF THEIR LOCAL CALLING SO THAT THE CREDIT COULD BE APPLIED. HE ALSO TESTIFIED THAT THE INCREASES WHICH THE RCCs ASSERTED THEY WOULD RECEIVE WERE INCORRECT AND PROVIDED BILLING

NUMBERS DEVELOPED BY SWB WHICH INDICATED THAT AN OVERALL - FOR ALL RCCs - INCREASE OF APPROXIMATELY 70% WOULD RESULT UNDER ACCESS CHARGE BILLING, GIVEN THE PRESENT RCC SYSTEM CONFIGURATIONS. MR. BALES ALSO EXPLAINED THE CONTACT BETWEEN THE RCC INDUSTRY AND SWB CONCERNING BILLING SINCE THE NOTICE OF CANCELLATION OF THE CONTRACT. HE FURTHER ASSERTED THAT THE 33% CREDIT FOR TOLL CALLS PROVIDED FOR IN THE CONTRACT WAS NOT JUSTIFIED SINCE SWB'S COSTS FOR A TOLL CALL ORIGINATING OR TERMINATING ON A MOBILE PHONE WERE NO LESS THAN FOR ANY OTHER SIMILAR TOLL CALL.

9. VICTOR DOBRAS TESTIFIED FOR UNITED TELEPHONE COMPANY OF KANSAS THAT INTRASTATE ACCESS CHARGES SHOULD MIRROR INTERSTATE ACCESS CHARGES AND THAT CONSEQUENTLY SINCE THE FCC HAD DETERMINED THAT RCC SHOULD NOT BE SUBJECT TO INTERSTATE ACCESS CHARGES, THEY SHOULD NOT BE SUBJECT TO INTRASTATE ACCESS CHARGES EITHER. HE FURTHER TESTIFIED THAT UNITED IS STILL BILLING THE RCCs ON ITS SYSTEM UNDER CONTRACT AND THAT THE CONTRACTS WILL REMAIN IN EFFECT UNTIL OCTOBER 26, 1984. IN ITS BRIEF UNITED STATED THAT WHEN THE CONTRACT EXPIRES A SPECIALIZED RCC TARIFF WOULD BE MOST APPROPRIATE FOR BILLING THEM AND EXPRESSED THE OPINION THAT THE RECORD IN THIS MATTER INDICATED THAT RCCs HAD DIFFERENT USAGE CHARACTERISTICS THAN OTHER CUSTOMERS.

10. STAFF'S WITNESS TESTIFIED THAT IT WAS PREFERABLE THAT RCCs BE BILLED UNDER TARIFF RATHER THAN UNDER CONTRACT. HE ASSERTED THAT RCCs SHOULD BE BILLED FOR SERVICES IN THE SAME MANNER AS OTHERS TAKING THOSE SAME SERVICES WOULD BE BILLED. IN ALMOST ALL INSTANCES THE SERVICES USED BY RCCs ARE ALSO USED BY OTHERS AND PROVIDED UNDER AN APPROVED TARIFF. HE STATED THAT HE COULD SEE NO REASON WHY RCCs SHOULD NOT ALSO BE BILLED FOR THOSE SERVICES FROM THOSE TARIFFS.

11. SWB AND THE RCCs ALSO PUT ON REBUTTAL WITNESSES. THE RCC WITNESSES TESTIFIED THAT AS OF THE DATE OF THE HEARING THEY HAD RECEIVED NO CORRECT BILLS FROM SWB. MR. BALES TESTIFIED AS TO SWB'S DISAGREEMENT WITH THE ISSUES RAISED BY THE RCCs.

12. THE VOLUME OF TESTIMONY PRESENTED ON THESE MATTERS WAS CONSIDERABLE. HOWEVER, THE COMMISSION FINDS THAT THE INFORMATION PRESENTED LEAVES IT WITH A LESS THAN CLEAR PICTURE AS TO WHAT COSTS SWB INCURS IN SERVING RCCS AND WHAT IS THE MOST APPROPRIATE WAY TO BILL THOSE CARRIERS. BECAUSE THE RECORD IS INADEQUATE TO MAKE A "PERMANENT" DETERMINATION, THE PROCEDURE WE ADOPT IN THIS ORDER IS INTENDED TO REMAIN IN EFFECT FOR A TEMPORARY PERIOD ONLY. DURING THAT PERIOD, WE ENCOURAGE SWB AND THE RCCS TO ATTEMPT TO ARRIVE AT A MUTUALLY SATISFACTORY AGREEMENT AS CONTEMPLATED BY THE STATUTE, K.S.A. 66-1,145, WHICH SHOULD BE SUBMITTED TO THE COMMISSION. WE WILL REQUIRE STAFF TO PROVIDE ANY APPROPRIATE ASSISTANCE. IF THE PARTIES FAIL TO REACH AGREEMENT WITHIN SIX MONTHS FROM THE ISSUANCE OF THIS ORDER, THEY SHOULD SO NOTIFY THE COMMISSION SO THAT A HEARING CAN BE SCHEDULED FOR THE PURPOSE OF DETERMINING REASONABLE TERMS OF INTERCONNECTION. IT IS OUR TENTATIVE OPINION THAT A SEPARATE TARIFF SECTION APPLICABLE ONLY TO RCCS WOULD THEN BE MOST APPROPRIATE. IN ORDER TO FACILITATE THIS PROCESS, BOTH FOR PURPOSES OF NEGOTIATIONS AND THE POSSIBILITY OF A NEED FOR A COMMISSION HEARING, WE BELIEVE THAT COST STUDIES WITH REGARD TO CERTAIN SERVICES WOULD BE BENEFICIAL, AS DISCUSSED BELOW. STAFF SHALL WORK WITH THE PARTIES TO ENSURE THAT ALL ISSUES ARE ADDRESSED AND THE NECESSARY DATA DEVELOPED.

13. THE COMMISSION CONCLUDES THAT RCCS ARE UNIQUE IN THE PROVISION OF COMMUNICATIONS SERVICES. ALTHOUGH THEY ARE CUSTOMERS OF TELEPHONE COMPANIES, THEY ARE NEITHER END-USERS NOR INTEREXCHANGE CARRIERS. WE, THEREFORE, CONCLUDE THAT IT IS NOT APPROPRIATE TO BILL RCCS UNDER ACCESS CHARGES AND REQUIRE ADJUSTMENTS TO THE BILLINGS FOR SERVICES SINCE JANUARY 1, 1984. THE LEGISLATURE HAS RECOGNIZED THAT RCCS DO NOT FIT NEATLY INTO ANY OF THE PREVIOUSLY ESTABLISHED CATEGORIES BY SEPARATELY ADDRESSING THEIR FUNCTION AND PROVIDING THAT THEY MAY CONTRACT WITH TELEPHONE COMPANIES FOR SERVICE. THE CONTRACT WAS CANCELLED AS OF DECEMBER 31, 1983 AND WE DO NOT FIND IT APPROPRIATE TO ORDER SWB TO CONTINUE TO PROVIDE SERVICE PURSUANT TO ALL THE RATES SET FORTH IN

THAT CONTRACT. K.S.A. 66-1,143 ET SEQ. HOWEVER, THE CONTRACT ALSO APPARENTLY SET FORTH OTHER TERMS AND CONDITIONS OF INTERCONNECTION WHICH WERE NOT SUBJECT TO DISPUTE. WE EXPECT THAT IN THE ABSENCE OF TARIFFS OR CONTRACTS, THE PARTIES WOULD NONETHELESS ABIDE BY SUCH NON-RATE PROVISIONS.

14. THERE ARE SEVERAL CATEGORIES OF SERVICES OR CHARGES INVOLVED IN THE INTERCONNECTIONS BETWEEN EXCHANGE TELEPHONE COMPANIES AND RCCs. ONE IS THE LINES FOR CARRYING CALLS FROM THE RCC SYSTEM TO THE LANDLINE TELEPHONE NETWORK. THESE LINES WOULD NOT SEEM ANY DIFFERENT THAN ORDINARY BUSINESS LINES, AND CONSEQUENTLY, WE FIND THEY SHOULD BE CHARGED AT GENERAL EXCHANGE RATES. IT ALSO SEEMS THAT THE LINES CONNECTING THE RCC SWITCH AND TRANSMITTER LOCATIONS ARE NOTHING OTHER THAN REGULAR PRIVATE LINES WHICH ARE APPROPRIATELY PRICED FROM THE END USER PRIVATE LINE TARIFFS.

15. MOST OF THE CONTROVERSY CENTERS ON THE LINES CARRYING CALLS INTO THE RCC SYSTEM. THESE INTERCONNECTIONS APPARENTLY ARE PHYSICALLY SIMILAR TO REGULAR PBX TRUNKS, WITH DID (DIRECT INWARD DIAL) CAPABILITIES. THE RCCs, HOWEVER, CONTEND THAT THE TELEPHONE COMPANIES INCUR LESS COSTS FOR THEM THAN REGULAR PBX DID TRUNKS BECAUSE THE RCCs PERFORM BILLING AND OTHER ADMINISTRATIVE SERVICES NORMALLY PERFORMED BY THE TELEPHONE UTILITY FOR PBX CUSTOMERS. THERE WERE ALSO QUESTIONS RAISED AS TO WHETHER THE MINUTES OF USE FOR RCCs IS DIFFERENT THAN GENERAL PBX CUSTOMERS. THIS IS ONE CATEGORY OF SERVICE FOR WHICH SPECIFIC COST STUDIES WOULD BE BENEFICIAL. FOR THE TIME BEING, HOWEVER, WE BELIEVE IT IS APPROPRIATE FOR THE CHARGES TO REMAIN AT THE FORMER CONTRACT RATE, BOTH BECAUSE SWB HAS NOT SHOWN THAT ITS CHANGE IN RATES IS REASONABLE AND BECAUSE OF THE SIGNIFICANT IMPACT ON RCCs OF SUBSTANTIAL INCREASES IN THESE RATES. WE DO NOTE THAT UNITED TELEPHONE COMPANY HAS TARIFFS ON FILE TO BECOME EFFECTIVE UPON TERMINATION OF ITS CONTRACT IN OCTOBER OF THIS YEAR. THOSE TARIFFS WOULD ACTUALLY RESULT IN LOWER DID TRUNK RATES FOR RCCs THAN GENERAL EXCHANGE CUSTOMERS, APPARENTLY DUE TO STUDIES SHOWING

LESS HOLDING TIME FOR RCCs. UNLESS AN OBJECTION AND SHOWING IS MADE THAT THOSE RATES ARE UNREASONABLE, WE WILL PERMIT THEM TO BE IMPLEMENTED.

16. THE TELEPHONE COMPANIES ALSO CHARGE FOR THE ACTUAL TELEPHONE NUMBERS ASSIGNED TO RCCs FOR THEIR CUSTOMERS, IN BLOCKS OF ONE HUNDRED. AT THIS POINT, WE SEE NO REASON WHY SUCH CHARGES SHOULD BE DIFFERENT FOR RCCs THAN FOR REGULAR GENERAL EXCHANGE CUSTOMERS. THIS IS AN AREA WHERE THE DETERMINING FACTOR MAY NOT BE COSTS INCURRED BUT RATHER, WHETHER RCCs SHOULD BE TREATED CONCEPTUALLY DIFFERENT THAN END USERS FOR DECIDING APPROPRIATE RATES. IF THE PARTIES ARE UNABLE TO REACH AGREEMENT ON THIS ISSUE, THE COMMISSION WILL REQUIRE FURTHER TESTIMONY ON THE APPROPRIATE VIEW OF RCC RELATIONSHIPS TO EXCHANGE TELEPHONE COMPANIES.

17. THE LAST AREA OF DISPUTE INVOLVED IS CHARGES FOR TOLL CALLS. UNDER THE ACCESS CHARGE ARRANGEMENTS, THE ONLY CHARGES WOULD BE FOR THE LOCAL TRANSPORT FUNCTION AND NOT THE INTEREXCHANGE CARRIAGE. THIS IS OPPOSED TO THE OLD CONTRACT TREATMENT WHEREBY INTEREXCHANGE CALLS ARE CHARGED IN ACCORDANCE WITH TOLL RATES BUT THE RCCs RECEIVE A CREDIT OF 33 PERCENT. THIS CREDIT WAS APPARENTLY BASED ON THE PREMISE THAT RCC CUSTOMERS ACTUALLY GENERATED LONG-DISTANCE CALLS FOR THE TELEPHONE UTILITIES AND THAT THE REVENUES SHOULD BE SHARED WITH THE RCCs. BECAUSE WE BELIEVE THAT RCCs CANNOT PROPERLY BE CHARACTERIZED AS INTEREXCHANGE PROVIDERS, WE WILL NOT PERMIT THE ACCESS CHARGE BILLINGS. RATHER, THE 33 PERCENT CREDIT SHOULD BE CONTINUED. THESE CHARGES SHOULD, HOWEVER, BE CHARGED ONLY PROSPECTIVELY SINCE WE ARE INFORMED THAT IT IS NOT POSSIBLE TO RETROSPECTIVELY CHANGE TO TOLL RATE BILLING. AGAIN, THE PERMANENT RESOLUTION OF THIS SPECIFIC ISSUE WOULD DEPEND ON WHETHER RCCs SHOULD BE VIEWED AS END USERS OR JOINT PROVIDERS OF TELEPHONE SERVICES WITH THE LOCAL EXCHANGE COMPANIES. SINCE THERE WAS AN INADEQUATE SHOWING THAT A CHANGE IN THE CONTRACT METHOD IS WARRANTED, WE ORDER A CONTINUATION PROSPECTIVELY OF THAT METHOD.

18. THE RCCS THROUGHOUT THE COURSE OF THE PROCEEDINGS CONTENDED THAT THEY SHOULD BE VIEWED AS ANOTHER PROVIDER OF EXCHANGE SERVICE AND CONSEQUENTLY, SHARE IN TOLL REVENUES AND BE ASSIGNED SEPARATE TELEPHONE NUMBERS. THE COMMISSION BELIEVES THAT SUCH PROPOSALS ARE BEYOND THE SCOPE OF THESE PROCEEDINGS AND, EXCEPT INsofar AS NECESSARY IN DETERMINING RATES, HAS NOT ADDRESSED THESE ISSUES. IF THE RCCS WISH TO PURSUE THESE CONTENTIONS, THEY SHOULD FILE APPROPRIATE PLEADINGS. WE WOULD NOTE, HOWEVER, THAT THE IMPLICATIONS OF TREATING RCCS AS A JOINT PROVIDER OF TELEPHONE SERVICE COULD BE FAR REACHING AND WOULD REQUIRE A THOROUGH, COMPREHENSIVE, AND LUCID PRESENTATION OF ANY SUCH PROPOSAL, IF IT IS TO BE SERIOUSLY CONSIDERED.

19. AT THE END OF THE HEARING EXHIBIT 9 WAS RESERVED FOR FILING BY SWB TO COMPARE WITH EXHIBIT 4. EXHIBIT 9 WAS PROPERLY FILED. SUBSEQUENTLY THE RCCS FILED A MOTION FOR PRODUCTION OF INFORMATION ALLEGING THAT SWB HAD BEEN DIRECTED TO FURNISH INFORMATION WHICH WOULD SHOW THE EFFECT OF CHANGING TO ACCESS CHARGE BILLING FOR ALL THE RCCS; THAT EXHIBIT 9 DID NOT PROVIDE SUCH INFORMATION; AND THAT SWB BE DIRECTED TO FURNISH SUCH INFORMATION. SWB RESPONDED BY FILING A MOTION TO REOPEN THE RECORD. IT DENIED THAT IT HAD BEEN DIRECTED TO SHOW THE TOTAL ACCESS CHARGE BILLING EFFECT IN EXHIBIT 9, AND MOVED TO REOPEN THE RECORD TO ADMIT EXHIBIT 10, WHICH SHOWED THE TOTAL EFFECT. SWB IS CORRECT THAT IT WAS DIRECTED TO PROVIDE EXHIBIT 9 AS A COMPARISON TO EXHIBIT 4, WHICH REFLECTED SPECIAL ACCESS CHARGES AND IT CONSEQUENTLY WAS IN COMPLIANCE WITH THE COMMISSION'S DIRECTIONS. THE COMMISSION WILL REOPEN THE RECORD AND ADMIT EXHIBIT 10 WHICH PROVIDES ADDITIONAL USEFUL INFORMATION. WE WILL NOT FURTHER ADDRESS EITHER OF THE TWO MOTIONS.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT: RCCS BE BILLED DURING A TEMPORARY PERIOD IN THE MANNER SET OUT ABOVE. SWB AND THE RCCS ARE ENCOURAGED TO REACH AGREEMENT AS TO THE RELATIONSHIP AND STAFF SHALL PROVIDE REQUISITE ASSISTANCE. COSTS OF SERVING THE RCCS SHALL BE DEVELOPED AND ALL OTHER RELATED ASPECTS FULLY EXPLORED.

THE COMMISSION RETAINS JURISDICTION OVER THE PARTIES AND THE SUBJECT MATTER FOR THE PURPOSE OF ISSUING SUCH FURTHER ORDER ORDERS AS IT MAY DEEM NECESSARY.

LENNEN, CHM.; LOUX, COM.; HENLEY, COM.

DATED: AUGUST 22, 1984



JUDITH MCCONNELL
EXECUTIVE SECRETARY

EP: PAS

TESTIMONY TO HOUSE OF REPRESENTATIVES
COMMUNICATION, COMPUTERS AND TECHNOLOGY COMMITTEE
House Bill 2257, as Introduced.

February 19, 1985

Madame Chairman and Members of the Committee:

I am Jerry Brantley and I represent Southwestern Bell Mobile Systems. Our business is cellular mobile telephone service and I appear here today in support of House Bill 2257.

We are a wholly owned subsidiary of SOUTHWESTERN BELL CORPORATION, a holding company. SOUTHWESTERN BELL TELEPHONE COMPANY also is a wholly owned subsidiary of SOUTHWESTERN BELL CORPORATION.

- o We are fully separated from the telephone company by FCC order.
- o In fact, our business relationship with SOUTHWESTERN BELL TELEPHONE COMPANY is one in which we are a customer of theirs. We inter-connect to phone company facilities just like any other radio common carrier. We obtain these services under the same tariff arrangements as any other customer.

Cellular mobile telephone service is the marriage of two-way mobile radio with the computer. Here's how it works:

The market area to be served - say Metropolitan Kansas City - is divided into a grid of cells, each with its own low power transmitter. Each cell serves only customers located within its coverage area. When a customer moves from one cell to another within

(Attachment 2)
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the grid, a central computer "hands off" the call to an adjacent cell. Best of all, the customer won't even notice.

Two characteristics set cellular apart from other mobile technologies. One, it uses low power transmitters, making it possible to reuse the same frequencies in the coverage area. And two, as demand for the service grows, the cells can be divided into smaller cells. This technique, known as cell splitting, allows the system to grow along with customer needs. New cells also can be added to allow the system to cover larger areas.

The immediate benefits of cellular are:

- An almost unlimited number of customers can use the service within a given area;
- Quality of transmission is comparable to home or business telephone service; and
- Busy signals are reduced significantly.

It is a service that customers want and need. It has a potentially large impact on the productivity in our economy.

Before I go any further, I would like to address the changes as proposed in HB 2257.

Section 1 is the general jurisdiction statute which gives the KCC the power to regulate public utilities and radio common carriers. Radio common carriers are stricken from this portion. Parts (b) and (c) are removed since they actually expired on December 31, 1981. Section 2 amends K.S.A. 66-104 to exclude radio communications operated by telephone companies from the jurisdiction of the State Corporation Commission. Section 3 excludes all other radio common carriers, including cellular, from the jurisdiction of the State Corporation Commission. Section 4 maintains the right of

radio common carriers to interconnect their facilities with the local telephone company. Section 5 repeals in its entirety K.S.A. 66-1144, the current statute which requires radio common carriers to apply to the commission for a certificate to operate.

The KCC began regulation of all radio services in 1969. A general investigation was made in 1971 to establish uniform procedures and guidelines, and the KCC recognized that these guidelines were subject to modification. Another investigation was made in 1983 and in May 1984, the KCC ordered less stringent policies for entry into the radio common carrier market. The commission "held that 'need' for radio common carrier service, unlike traditional utility service, remains a thing to be promoted and sold. We find that such a regulatory policy (entry barriers) not only fails to recognize the basic differences between this industry and traditional utility service, but is also unnecessarily protective of an industry in which healthy competition has already been shown to be in the public interest." This position, along with advancing technology and more FCC involvement, led to a departure in policy in the 1984 order.

Today, I would like to make four main points regarding the need for deregulation of cellular and other radio services.

First, competition does and will exist in the cellular industry. In FCC decisions regarding cellular, 40 MHz of radio spectrum were allocated for each market. Twenty MHz was allocated to wireline carriers (telephone companies or their affiliates) and 20 MHz is allocated to non-wirelines (traditional RCC's). The FCC goal is to foster competition in the cellular markets. Besides competition, their other main goal is to get the service to the marketplace as fast as possible. The non-wireline carriers mentioned previously are typically major companies such as Cybertel-Cox, Metromedia, McCaw

Communications or MCI. They are formidable, well-financed competitors. Frequently, local RCC's with an established radio service presence will have an interest in the non-wireline partnership. Competition is also increasing in practically all other types of radio services. Competition in this industry will ultimately benefit the customers through better services and lower prices.

My second point involves the current regulatory environment. As stated earlier, the Kansas Corporation Commission order in May 1984 recognized that Radio Common Carriers operate in a competitive marketplace and that FCC policies were beginning to erode state authority. Further, they stated that RCC service is not a necessity like telephone, gas and electricity; it must be promoted and sold.

Deregulation of radio services is a growing trend across the country. The cost of regulation is high for both the state commission and the carriers. The Texas and Missouri Legislatures have already passed legislation to deregulate radio services. The latter is particularly significant to my company since we operate the Kansas City Cellular System which covers both sides of the state line. Consistent views on deregulation between Kansas and Missouri would eliminate constant regulatory difficulties.

Also, it is important to remember that the FCC still regulates market entry and has the authority to grant or deny a radio license.

My third point is that cellular is not a significant replacement technology for other existing radio services. Actual experience with cellular indicates that other services, such as paging, SMR (Specialized Mobile Radio), and conventional mobile service, have actual benefited from cellular advertising and promotion. SMR has increased in value as a "dispatch" service. Conventional mobile offers a wider coverage

range and less investment than cellular. Paging is becoming a popular complimentary service to cellular, i.e., people who need to be alerted at all times may have a mobile unit for their car and a pager when out of their car. Paging service will penetrate buildings better than the low power cellular service. All of these radio services are unique and each serves "best" for a different set of consumer needs. Cellular technology is here, customers want it, and there's room in the marketplace for all of us.

My fourth and final point is that the very introduction of cellular technology has created a significant, positive awareness of radio services in general. It's an example of our free enterprise system at work. Last July, there were over 5,000 cellular applications made at the FCC for 30 U. S. markets, an average of 167 per market.

In summary, competition in the radio services industry will benefit the consumer and allow the marketplace to set the price. Unlike the traditional utility, radio service is a discretionary service. Cellular service by itself will not drive other radio services out of business. Lastly, the FCC is the ultimate regulator of radio licenses. Regulation at the state level is an unnecessary expense for a competitive industry.

I sincerely hope that you support these views and will give us your prompt consideration on HB 2257.

Thank you very much.

Before the
House Committee on Communications, Computers and Technology
Representative Jayne Aylward, Chairperson

3:30 P.M. Tuesday, February 19, 1985

HOUSE BILL No. 2257

Detariffing of Mobile Radio Services
(IMTS, Cellular, Paging)

Comments of Robert Ellis, Vice-President and General Manager
Haviland Telephone Company, Inc., Haviland, Kansas

Chairperson Aylward and Members of the Committee, it is my position that Radio Services in the state of Kansas should be entirely detariffed and I support the passage of H. B. 2257.

At the present time we have a waiting list for mobile numbers. It would take a very expensive central office addition to add any numbers. Since our current rate is too low to make IMTS pay its' own way, there are definately no plans to incur additional expense to provide more service. Mobile service was removed from our rate base on December 31, 1984 and therefore is not included in the separations and settlements.

Another area that will be affected by this legislation is the new technology of Cellular Radio. My company and two other Kansas independent telephone companies have formed a partnership with the cellular arm of the Bell System and have built a cellular system

(Attachment 3)
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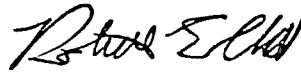
in the Wichita area. The purpose of working so hard and spending so much money to get into the cellular market is the profit incentive.

Since there are two operators authorized by the Federal Communications Commission for each market area (SMSA), the presence of competition negates the necessity for rate regulation in the cellular market.

Licences for IMTS and paging systems are issued by the FCC which regulates the number of operators of each type of service in any given area. This eliminates the need for state regulation of operating territory.

Thank you for the time spent on this matter.

Respectfully submitted,



Robert Ellis
Haviland Telephone Co., Inc.

BEFORE THE HOUSE COMMUNICATIONS, COMPUTERS & TECHNOLOGY COMMITTEE

Chairperson: AYLWARD

Vice-Chairperson: FREIDEMAN

RE: HR 2257

My name is Phil Woodbury. My company is Mobilfone of Kansas. I presently offer telecommunication service at many locations in Kansas. We offer primarily mobile telephone service and radio paging or 'beeper' service in the areas in Kansas for which we are certificated by the Corporation Commission. Specifically, these areas of service for my company include Emporia, Topeka, Manhattan, Pratt, Larned, Great Bend, Hays, and McPherson.

Some locations where other certificated carriers furnish service are Kansas City, Lawrence, Hutchinson, Wichita, Pittsburg, Salina, Garden City, Liberal, Colby and Goodland.

I will attempt to convince you that the new emerging telephone technology should not be deregulated. I understand there are a few reasons that proponents might suggest in support of deregulation of new telephone services - - - but, I believe them to be fallacious. I know there are many reasons to continue regulations of new telephone service.

(Attachment 4)
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It seems easy to state and easy to understand that the new telephone technology should be unregulated because this service can now - - -because of FCC mandate - - - be provided by two entities - - and because of this, the two entities will compete in the marketplace and - - - because of and with competition - - - prices charged the public will be kept low, the public will benefit, and regulation by the State will be unnecessary. In short, competition will rule and it will replace any needed regulation.

I agree wholeheartedly that the new telephone service should be furnished to the public in Kansas by two providers of service and that these two providers of service should compete. I have competed head on with the existing telephone company in Kansas since the early 1960's, and intend to continue if the laws of this State allow me to do so. I suggest to you - - though - - that only real and true competition can exist if the playing field is kept level. If HR 2257 is enacted, the field will be turned on end, and in my view, real and true competition in this new technology will cease to exist.

I'LL TELL YOU WHY --

Back in 1949, the FCC allocated "channels" for a new telephone technology. And then, some 30 years later, they allocated additional "channels" for another "new" technology. The first back in 1949 was for the new technology called mobile telephone. In 1979, the new technology was again for mobile telephones. Only this time, for want of a better name, the new technology is called by the descriptive name "CELLULAR".

As in 1949, the new technology of 1979 is still just another way to make ordinary telephone service work without wires— but this time the numbers are different - - -.

In 1949, the subscribers to this new telephone service could be counted in the dozens or even by a few hundred. Now in the 1980's the new technology will accomodate thousands and tens of thousands of subscribers. The numbers are quite different and the profit potential is - - as some will say - - unbelievable.

There are two more similarities between 1949 and 1979. When the FCC granted the frequencies—on channels—for this new mobile telephone technology in 1949, they granted one group for the exclusive use of wire-line telephone companies—and at the same time they granted a similar group to, and I quote:

THOSE NOT IN THE WIRELINE TELEPHONE BUSINESS

The FCC made this second group of competitive channels available in June 1949, and at that time said:

"We are... providing for the development of competitive communications systems..... and had taken care to provide a family of frequencies within which development of systems by enterprise other than the existing telephone companies may take place... with the purpose of fostering the development of competing systems, techniques, and equipment.

Emphasis added

These have been the channels -- call them radio highways if you wish -- over which we -- the small group of radio common carriers of Kansas have:

- A. Brought competition to the telephone company in this new technology, and
- B. Brought communication service -- now sometimes called TELECOMMUNICATION service to thousands of Kansans.

Now again -- as I previously noted, the FCC has made space for this new telephone technology -- called "CELLULAR". Again, as in 1949, there are two groups of frequencies --or families of frequencies-- one family for the telephone companies (the wire-line side) and a second family for the non wire-line side. This second group of radio frequencies can be used by anyone or anybody that is NOT in the wire-line telephone business. This, of course, means you and me -- if we want to spend the money it costs to file an application with the FCC.

I believe the important thing to note here, is that the FCC is attempting to continue to promote competition in this new technology -- Just like they have for over 30 years.

I've been a competitor to the telephone company for over 30 years. The first ten were toughest. In the 1960s our industry was not regulated in Kansas. Since the connections to offer competition must be obtained from the local telephone plant, we had to deal with our competitor. In the 1960s without regulation, we were not much competition.

In 1969, the legislature considered the regulation of "wireless" communications as furnished Kansans by the Radio Common Carrier industry. We testified before various committees - - - describing to them the "new" technology we were attempting to bring to Kansas - - (after all - - the telephone companies were not --- why shouldn't we?) --- and testified—offering our descriptions of the harrassment we experienced when attempting to deal with our competitor.

In short, the legislature in 1969 enacted statute 66-1143. Since 1969, the Radio Common Industry has brought "new" technology in the form of wireless (or radio) telecommunication service to many Kansans.

Many of the telecommunications service we have brought to Kansas are unique—and are not available from the telephone company.

Our beeper service is one of these new service. Our portable telephone service is another. And in many areas we still have operators on duty around the clock to help complete calls. These operators provide a unique service. They make calls for our busy subscribers. They retain important messages for subscribers and deliver them later. This service is not available elsewhere.

In my view, if it is the intent of the legislature to have continues competition in the new telephone technology, you will continue to allow continued - - and continuous - - regulation.

My industry does not mind competition--in fact, we thrive on competition--and since 1969, we have done just that. I want to compete in the new technology. After all, this cellular is nothing but

TELEPHONE MESSAGES

and I've been in the "one cell" telephone business for years.

But I have found I can't fight the telephone company on the street. With regulation since 1969 we have had a forum to wage our battles --- and an impartial and knowledgeable arbitrator at the State Corporation Commission.

In my view, if the State Corporation Commission of Kansas is to look out for the

MONOPOLY RATE PAYER

they need to continue to have the authority to regulate _____

THE ONLY WAY THE MONOPOLY TELEPHONE RATE PAYER CAN
BE PROTECTED FROM THIS CELLULAR TECHNOLOGY--- WHICH
CAN BE CALLED THE GREATEST BY-PASS SCHEME ANYWHERE
IS TO HAVE CONTINUOUS AND CONTINUING REGULATORY OVER-
SEE.

If it is the intent of the legislature to promote the interest of the telephone stockholder and not the monopoly rate payer, then 2257 should be passed---because with deregulation, the millions of dollars of profits from this new technology will flow directly from the telephone company to its stockholders.

Our Kansas Corporation Commission was created to protect monopoly as cross-subsidization and the effect of "by-pass". You've already appointed and hired the regulations---and they are regulating the telephone company right now!! Please let them continue their work.