

2/28/85

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 ~~am~~ p.m. on February 20, 1985 in room 522-S of the Capitol.

All members were present except:

- |                                    |                                 |
|------------------------------------|---------------------------------|
| Representative Dean (excused)      | Representative Love (excused)   |
| Representative Brown (excused)     | Representative Sallee (excused) |
| Representative Helgerson (excused) | Representative Sifers (excused) |

Committee staff present:

- Ray Hauke, Research Department
- James A. Wilson, III, Senior Assistant Revisor
- Jean Mellinger, Secretary to the Committee

Conferees appearing before the committee:

- Benjamin H. Dickens, Jr., Special Consultant, The Kansas Association of Radio Common Carriers
- Ed Schaub, Southwestern Bell Telephone Company
- Ronald N. Gaches, Governmental Affairs Manager, United Telephone Company of Kansas

Chairman Jayne Aylward opened the meeting for further hearings on HB 2257.

Ben Dickens spoke in opposition to the bill (Attachment 1) citing the reasons he felt regulation was necessary.

Representative Friedeman asked Mr. Dickens to elucidate a little on what he referred to by "resale." He said that a wireline service can retail cellular services but also has to offer bulk rates so that someone wishing to resell cellular services can buy at the wholesale bulk rate.

The chairman asked if the FCC would license two carriers in a given area and then there could be any number of resellers in that area. Mr. Dickens said there could be if the price wasn't too high. She asked concerning Section 4 and he thought it was strictly interconnection and not dealing with tariff provisions concerning resale.

Representative Friedeman asked if he had an opinion on how fast this technology might grow and was told that all indications are that this will be fast growing.

Representative Roper asked if he said 27 states were regulating cellular phones now and was told they were in some form. Asked if there was competition present in those states, Mr. Dickens replied there was by RCCs and cellular systems in some states. Asked about the price of equipment, Mr. Dickens said the technology is growing so fast and more and more equipment suppliers are coming into the field so it is expected that the price of cellular equipment will drop.

Chairman Aylward asked about the 27 states regulated, if they have taken action to regulate or simply not taken action to deregulate and was told that it is a mixture, some have taken action to regulate, some have not taken steps to deregulate and some had preexisting statutes on the book.

Ed Schaub spoke in support of HB 2257 and said Southwestern Bell has been in the traditional mobile phone service in the State for approximately 35 years, but the public utility is not in the cellular business. He said part (c) on page 2 of the bill would deregulate mobile phone service and paging service for wireline telephone companies or telephone public utilities. Their reason for supporting the bill is that you must promote the need of this service to a customer and the service is competitive. He distributed a list of mobile phone and paging vendors throughout the state, both RCCs and wireline telephone (Attachment 2). Also, any time you appear before a regulatory agency for any reason, it costs which must be included into the cost of doing business. He said that even if they deregulate, the telephone companies will be pricing their circuits to a RCC under a tariff that is filed with the KCC and these cannot be changed without permission from the KCC (Attachment 3).

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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E-6

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMUNICATION, COMPUTERS AND TECHNOLOGY,room 522-S, Statehouse, at 3:30 ~~am~~ p.m. on February 20, 1985

Representative Roper said there is competition and there is profit so he can't understand why we need to deregulate. Mr. Schaub said they are learning the competition game since divestiture, and they see services that are competitive and wonder why regulation is continued. Representative Roper was assured that SWB would get into the mobile phone business whether it is regulated or not. Representative Roper asked if it didn't look like this would be a necessity in the future and if it wasn't sold as a necessity now. Mr. Schaub said it is sold as a necessity and that it would be almost a necessity but that the KCC will not come to a RCC or a public utility and say they must go out and serve someone in a sparsely populated area but that telephone service is available everywhere in Kansas.

Representative Friedeman asked what, in the interconnection reference on line 0121, "on such reasonable terms" means. Mr. Schaub said that this language really speaks to when RCCs and wireline telephone companies had contracts to provide those services that they now lease under tariff, a fixed price as a public utility. Any negotiation is between SWB and the KCC.

In answer to Representative Erne, Mr. Schaub said that any of the services that a RCC leases from SWB to interconnect will continue to be regulated even if HB 2257 is passed. Representative Erne asked if there could be some kind of a "sweetheart" agreement between SWB and SWB Mobile Systems because they are subsidiaries of the same corporation. Mr. Schaub said no that they are under scrutiny from KCC every minute. In answer to Representative Erne, Mr. Schaub said they would not be in the cellular market but will continue to buy and expand their traditional mobile phone system plus paging. Representative Erne asked why, when they set up the Mobile Systems, they left the wireline and paging with SWB. Mr. Brantley said the FCC set out that the cellular telephone service would have to be provided through a separate system.

Chairman Aylward asked Mr. Low about cross-subsidization and that the Commission found that the accounting procedures were such that cross-subsidization was not a concern. He replied he didn't remember exactly what the Commission found at this point but they felt that there was not sufficient reason to impose any further accounting requirements.

Representative Friedeman asked Mr. Schaub why, when they have less than a thousand customers in mobile service in Kansas, the cellular division is making such a big push now. He stated that one of the things that has hampered development in the mobile phone system has been a difference of opinion between the KCC and the FCC regarding the number of patrons you can have on a channel but that has recently changed.

Ron Gaches appeared and stated that United Telephone Company supported HB 2257 and feels it would promote competition (Attachment 4).

Hearing on HB 2257 was concluded.

Chairman Aylward opened discussion on HB 2044.

Representative Friedeman, chairman of the subcommittee, distributed a balloon (Attachment 5) and a proposed substitute bill (Attachment 6) and went through the changes. Representative Erne questioned whether you could accidentally attempt to gain in Paragraph 2 (a). Representative Chronister asked for clarification of Paragraph 4 on Page 3. It was suggested that it read "...fraudulently, or willfully and without authorization, gaining..."

Representative Erne made a motion that the designation of the penalties in Section 5 be put in immediately following the definition of that particular crime. Representative Friedeman seconded the motion. The motion carried.

Representative Friedeman made a motion to amend HB 2044 by recommending the substitute bill as presented to the committee and amended by motion and as suggested during discussion thereon and pass the bill out favorably. Representative Chronister seconded the motion. The motion carried.

The meeting adjourned at 5:10 p.m.

The next meeting of the committee will be at 3:30 p.m. on Wednesday, February 27, 1985.

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

Your Committee on Communication, Computers and Technology

Recommends that House Bill No. 2044

"AN ACT relating to crimes and punishments; concerning computer crime and computer theft; classifying certain acts as misdemeanors and felonies."

Be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2044," as follows:

"Substitute for HOUSE BILL NO. 2044

By Committee on Communication, Computers and Technology

"AN ACT relating to crimes and punishments; concerning computer crime and unlawful computer access; classifying certain acts as misdemeanors and felonies."

And the substitute bill be passed.

\_\_\_\_\_  
Chairperson

## Substitute for HOUSE BILL NO. 2044

By Committee on Communication, Computers and Technology

AN ACT relating to crimes and punishments; concerning computer crime and unlawful computer access; classifying certain acts as misdemeanors and felonies.

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

Section 1. (1) As used in this section, the following words and phrases shall have the meanings respectively ascribed thereto:

(a) "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system or computer network.

(b) "Computer" means an electronic device which performs work using programmed instruction and which has one or more of the capabilities of storage, logic, arithmetic or communication and includes all input, output, processing, storage, software or communication facilities which are connected or related to such a device in a system or network.

(c) "Computer network" means the interconnection of communication lines, including microwave or other means of electronic communication, with a computer through remote terminals, or a complex consisting of two or more interconnected computers.

(d) "Computer program" means a series of instructions or statements in a form acceptable to a computer which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.

(e) "Computer software" means computer programs, procedures and associated documentation concerned with the operation of a computer system.

(f) "Computer system" means a set of related computer

equipment or devices and computer software which may be connected or unconnected.

(g) "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, debit card or marketable security.

(h) "Property" includes, but is not limited to, financial instruments, information, electronically produced or stored data, supporting documentation and computer software in either machine or human readable form and any other tangible or intangible item of value.

(i) "Services" includes, but is not limited to, computer time, data processing and storage functions and other uses of a computer, computer system or computer network to perform useful work.

(j) "Supporting documentation" includes, but is not limited to, all documentation used in the construction, classification, implementation, use or modification of computer software, computer programs or data.

(2) Computer crime is:

(a) Willfully and without authorization gaining or attempting to gain access to and damaging, modifying, altering, destroying, copying, disclosing or taking possession of a computer, computer system, computer network or any other property;

(b) using a computer, computer system, computer network or any other property for the purpose of devising or executing a scheme or artifice with the intent to defraud or for the purpose of obtaining money, property, services or any other thing of value by means of false or fraudulent pretense or representation; and

(c) willfully exceeding the limits of authorization and damaging, modifying, altering, destroying, copying, disclosing or taking possession of a computer, computer system, computer network or any other property.

Computer crime which causes a loss of the value of less than

\$150 is a class A misdemeanor.

Computer crime which causes a loss of the value of \$150 or more but less than \$1,000 is a class E felony.

Computer crime which causes a loss of the value of \$1,000 or more is a class D felony.

(3) In any prosecution for computer crime, it is a defense that the property or services were appropriated openly and avowedly under a claim of title made in good faith.

(4) Unlawful computer access is willfully and fraudulently or without authorization gaining or attempting to gain access to any computer, computer system, computer network or to any computer software, program, documentation, data or property contained in any computer, computer system or computer network.

Unlawful computer access is a class A misdemeanor.

(5) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

REMARKS OF BENJAMIN H. DICKENS, JR.

AS SPECIAL CONSULTANT TO:

THE KANSAS ASSOCIATION OF RADIO COMMON CARRIERS

Before the Communications, Computers  
and Technology Committee of the  
House of Representatives of the  
State of Kansas

February 20, 1985

(Attachment 1)  
2/20/85

Good afternoon. I appreciate the opportunity to appear before this Honorable Committee today on behalf of the Kansas Association of Radio Common Carriers. This Association is concerned about certain provisions of House Bill 2257 which would remove radio communications, including cellular radio communications, from the regulatory jurisdiction and control of the State Corporation Commission. This Legislature should allow the State Corporation Commission to continue its regulatory jurisdiction over radio common carriers — including cellular radio carriers. These remarks will focus upon the particular importance of regulating the cellular industry in Kansas.

Twenty-seven states and the District of Columbia have elected to regulate the provision of cellular radio service in some form. Eleven states have decided not to regulate cellular services at all and the remaining twelve states are undecided as to whether regulatory authority should be exercised over these services. Before discussing the reasons why cellular telephone, (also referred to as cellular radio in H.B. No. 2257), should be regulated, a brief discussion of the Federal Communications Commission's ("FCC") policies and rules governing the cellular technology will be discussed.

First, the FCC has decided that two licenses will be awarded in each "market" area in which cellular services will be available. Of these two licenses, one license will automatically be awarded to a wireline telephone company serving that market area. The other license for that market area will be awarded to a qualified applicant who is not a telephone



company. The FCC has further decided that cellular licensees must not prohibit the resale of cellular services in their tariffs, but the FCC has declined to regulate cellular rates on either a wholesale or retail level. The FCC has left that decision to the states. Further, in many areas of the country, the FCC has licensed the wireline telephone company first, thus allowing a "headstart" over the non-wireline cellular licensee which hopes to compete with the telephone company owned cellular licensee.

With this brief background, I would like to point out three important reasons why this Legislature should continue to allow the Kansas Corporation Commission to regulate the provision of cellular telephone services within the State of Kansas. These reasons are: the prevention of predatory pricing, the prevention of cross-subsidy and the prevention of telephone company "by-pass". I will discuss each of these topics in greater detail.

### I Predatory Pricing

Cellular telephone service will be a natural competitor of the services which two-way radio common carriers have historically provided. Cellular telephone companies will therefore have every incentive to gain as large a market share of that currently served by the RCCs as is possible. Regulation by the State Corporation Commission is needed to assure that the cellular telephone companies compete fairly in the marketplace. An unfair form of competition which could easily occur in the absence of

regulation involves the use of "predatory pricing." Predatory pricing occurs when firms charge below-cost rates for a sustained period of time in order to drive competitors out of the market. The results of predatory pricing can be seen by the recent deregulation of the airline industry where fare "wars" develop between carriers and the result is not always lower fares to the public, but bankrupt airlines and discontinued service. In the cellular telephone industry, it is especially important to guard against predatory pricing through its regulation for at least two reasons.

First, telephone services do not fall into the same category as air-travel as a public resource. Unlike airlines which may enter and exit their markets with relative ease, telephone services are an important public resource which should be carefully managed instead of allowed to become experiments in the laboratory of competition. As an example, the FCC must allocate the limited number of frequencies available to operate a mobile telephone system, including a cellular telephone system. These licenses are not freely available to anyone, but are only awarded after a thorough examination of the applicant is made. Thus, the management of these frequencies and assuring their availability to the public deserves the protection which regulation can offer from predatory pricing and cutthroat competition. As cellular telephone service is expected to expand rapidly, it is doubly important to assure that the public benefits of this new technology do not become overshadowed by the economic havoc which predatory pricing could bring about.

A second reason that regulation is necessary to guard against

predatory pricing by cellular licensees involves the ease with which cellular licensees could engage in such predatory pricing. Only well capitalized firms can afford to price cellular rates below costs for long periods of time in order to squeeze out competition. Unfortunately, many of the participants in the mobile radio industry do not have this financial ability. For instance, the parent company of Southwestern Bell Mobile Systems, Inc. has a capitalization of several billion dollars. Independent radio common carriers would thus be no match for this company in a pricing-below-costs contest for any period of time. Moreover, the presence of a non-wireline licensee would not necessarily provide any assurance that competition would exist in the mobile services market once the RCCs had been squeezed out of the market. Unlike the airline industry where potential market entrants are unlimited, there will only be two cellular licensees per each market.<sup>1/</sup> Once other competition is displaced, absent regulation, these two licensees could engage in a form of pricing known as "conscious parallelism" whereby each would-be competitor matches the other's price increases knowing that competition is limited in the market. This market structure is known as an oligopoly and, as one can see, could easily result in the same pricing abuses as could an unregulated monopoly.

Thus, the importance of the public resource at stake, the

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<sup>1/</sup> As previously referenced, the FCC has declared that cellular licensees must allow for cellular resale to enhance competition in the cellular market. The FCC has declared its lack of interest in ensuring that this resale market flourishes, however, and has rejected several arguments that cellular wholesale rates were too high to allow resellers a profit upon grounds that such issues should be decided by the states.

economic power of the cellular participants and the market structure itself, all point to the necessity of cellular regulation to prevent predatory pricing.

## II. The Prevention of Cross-Subsidy

As previously mentioned, another very important reason to allow the Kansas Corporation Commission to continue to regulate cellular services involves the need for preventing cross-subsidy. Cross-subsidy in the telecommunications industry involves the shifting of costs between the telephone company's monopoly services which are regulated and its unregulated, competitive services. Specifically, where competition exists, the telephone company can underprice its competitive offerings, (such as in cellular telephone services), and make-up its otherwise unrecoverable costs by charging ratepayers more for its regulated services. Cross-subsidy thus has two very detrimental effects upon the public. First, it damages competition in the markets which are subsidized — in this case the market for mobile radio services would be rendered less competitive. Second, it causes local telephone ratepayers to bear costs, through increased local rates, which have nothing to do with the provision of regulated "plain old telephone service" (POTS).

It is important to note that telephone company cross-subsidy is not just a theoretical concept — it is real. Regulatory commissions all over the United States have examined cross-subsidy between telephone company

monopoly and competitive services and have disallowed the recovery of improperly allocated costs to prevent such cross-subsidy. Indeed, AT&T allocated the costs of developing and testing cellular technology to Southwestern Bell Telephone Company and others which many state commissions found to be an improper form of cross-subsidy under the Bell System "License Contracts." The Kansas Corporation Commission has been one of the more vigilant commissions in policing this "license contract" agreement to prevent cross-subsidy. And although the Bell System divestiture has abrogated the old "license contract", new agreements have sprung up to take its place between the new Bell companies and their subsidiaries; strict regulation is needed to ferret out the cross-subsidy which these agreements seem to foster.

A final observation on the cross-subsidy issue is necessary in light of the provisions of 3(b) of HB 2257 which would essentially "re-regulate" cellular, (and other radio common carriers), where the Corporation Commission determines that such regulation is necessary to protect against cross-subsidy. This provision is insufficient to prevent cross-subsidy for at least two reasons. First, unless the Commission has jurisdiction over the cellular industry from the beginning, the chances are remote that it could come in at a later date and prevent cross-subsidy from occurring. The detection of cross-subsidy is a complicated task which requires the use of sophisticated accounting systems and analysis over time. Cross-subsidy in the Bell System did not become an issue on a widespread basis until the mid-to-late 1970's, and the Bell System had been pervasively regulated for

quite some time. It would therefore be almost impossible for the Kansas Corporation Commission to know that cross-subsidy was occurring without the continuing regulatory oversight necessary to track the telephone company's cost allocations between its regulated monopoly operations and unregulated cellular operations. The second reason that the "re-regulation" provision of the bill will not cure the cross-subsidy issue involves the complexity of cost allocations. Even if the State Corporation Commission could know that cross-subsidy was occurring and eventually ferret out the company's cost mis-allocations, by the time such action could be accomplished it is likely that its actions would be too late to prevent anticompetitive damage in the mobile radio and cellular markets. Telephone company ratepayers would have also likely paid inflated telephone bills for some time. I was recently involved in a proceeding in which this type of information was sought to prove cross-subsidy existed between a Bell telephone company's cellular and monopoly operations. The company refused to turn over the information although it was necessary to establish the reasonableness of the telephone company's rates. Thus, in my opinion, the bill should make clear the Corporation Commission's authority to regulate cellular services from the beginning in the State of Kansas instead of seeking to remedy the damage which cross-subsidy may have already caused.

### **III.** **The Prevention of Telephone Company By-Pass**

The third important reason in favor of regulating cellular telephone services involves the necessity of preventing the problem of

telephone company "by-pass." By-pass is a phenomenon where alternative telephone technologies, (e.g., cellular radio, microwave links, satellite services), are used to route calls around the local network instead of through it. The result is a loss of revenues for the regulated side of the telephone company's operations and hence higher telephone bills for its subscribers. As cellular is frequently mentioned by the telephone companies as a by-pass threat, its involvement by the telephone company invites special scrutiny since the telephone company will be in a position to "cream-skim" its own operations. The projected growth of cellular technology and use makes it especially important that if such cream-skimming is allowed to occur at all, it should occur under the auspices and special regulatory oversight of the State Corporation Commission which alone has the expertise to deal with this problem. There are other areas where the telephone company may have conflicting competitive/regulated interests, (e.g., in its unregulated PBX operations and the offering of regulated CENTREX services which compete with PBX services), and the Corporation Commission should not be shackled in assuring that the public interest is not disserved by such arrangements.

In conclusion, there are three distinct reasons why cellular telephone services should not be deregulated in the State of Kansas; the prevention of predatory pricing, the prevention of cross-subsidy and the prevention of telephone company by-pass are all important goals which should be served by allowing the Kansas Corporation Commission to continue to regulate the provision of cellular services. The rapid changes

which are now taking place within the telecommunications industry coupled with the enormous upward pressures which recent federal actions have placed upon local telephone rates all indicate the need for increased regulatory oversight to protect fair competition and the public interest.

THANK YOU



# AT&T plays the deregulation game

**BOB KUTTNER**

Welcome to the wonderful world of deregulated telephone service. When the phone breaks, do you call AT&T? Or New England Tel? Do you buy your present telephone? Or keep renting it? Or perhaps buy some other phone from, say, Radio Shack? Which long-distance company to use? AT&T? MCI? Sprint? And where to protest your exorbitant, newly deregulated bill? You are, as Milton Friedman puts it, "free to choose." Good luck.

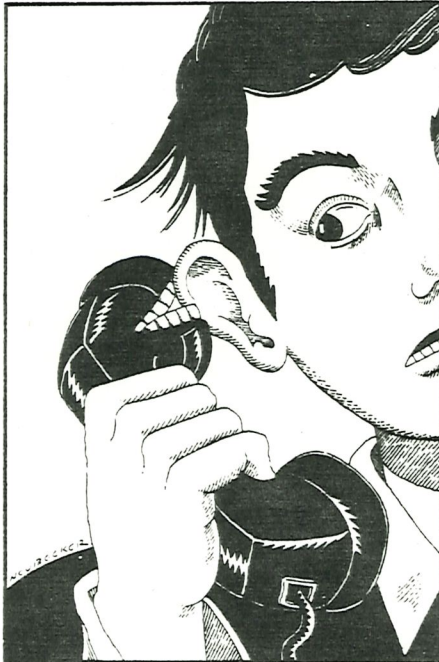
Things didn't have to be that way. When the Justice Department sued AT&T in 1974, the idea was not to fragment the nation's phone system, but to break Bell's monopoly on equipment manufacture and long-distance service.

Until the late 1960s, Bell enjoyed a natural monopoly. Nobody else made much telephone equipment, and nobody else was about to rewire the country. The Federal Communications Commission helpfully allowed AT&T to keep prospective competitors out of its system.

Then came the microelectronics revolution. Nimble competitors began selling better, cheaper phones and answering machines and switchboards and computer interconnects. Inventive microwave carriers began offering long-distance service. Computers and telecommunications began blurring. For about a decade, AT&T did everything possible, legal and illegal, to bully the competition off Bell's grid.

The Justice Department antitrust suit was supposed to end all that. But in the 1982 consent decree that finally settled the suit, AT&T had shrewdly turned the tables. Instead of just letting competitors in, AT&T itself quit the local phone business to become instead a leaner, meaner high-tech company. The new AT&T has just unveiled its first line of computers.

Meanwhile, back at your local phone company, deregulation is not quite the "level playing field" that the lawyers would have us believe. In the profitable long-distance market, for instance, the legacy of AT&T dominance



ROBERT NEUBECKER

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*Corporate leviathans such as AT&T love the free-market system — as long as it is safely tucked away in economic textbooks.*

continues. Such competitors as MCI and Sprint now have about eight percent of the long-distance business. But often the caller sounds as if he is speaking from the bottom of a well.

AT&T loves to point that out. You have undoubtedly heard the ad campaign touting AT&T's high-quality signal. "The more you hear, the better we sound." The implication is that AT&T long-distance is technologically superior, while second-rate competitors such as Sprint and MCI are operating tin cans and string.

But the fact is that all the long-distance companies use similar technol-

ogy. AT&T's sounds better only because before the breakup, AT&T used its muscle to make sure that its own long-distance lines got four-wire connections to local switching centers, while the competition had to settle for inferior two-wire hookups.

That, in fact, was one of the complaints in the antitrust litigation. The consent decree finally orders local Bell phone companies to give MCI and Sprint the same interconnections that AT&T gets — but the process gets dragged out for three years. In the meantime, only AT&T gets to offer a nice clear line and convenient direct dialing. MCI and Sprint subscribers, before they can dial their number, still have to go through a 10-digit ritual.

Or take collect calls. The operator now thanks you "for choosing AT&T." Come on, operator, nobody else offers collect calls. The Internal Revenue Service might as well thank you for choosing IRS. Again, the reason is that during the years of its monopoly tie with local phone companies, AT&T made darned sure that local Bell operators did not service the competition.

AT&T also still has a leg up when it comes to credit card calls. In most cities, MCI and Sprint subscribers must pay a dime or a quarter to get their dialtone, while AT&T callers dial free. Some of those new coinless pay phones will reach long-distance competitors, but many of them connect only to AT&T. Coin-free phones for all long-distance services are slowly being phased in, but that, too, will take several years.

Corporate leviathans such as AT&T love the free-market system — as long as it is safely tucked away in economic textbooks. For AT&T, entrepreneurship has not meant better products or price competition, but smarter lawyering, superior regulatory strategy, and cloying ads. The real entrepreneurial heroes are such upstarts as MCI, who have miraculously survived to compete.

Someday, deregulation may work out. But somebody needs to police it. Hello, Central? Get me a regulator.

Bob Kuttner is a contributing editor of the New Republic.

## news *continued*

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### **SW Bell charged in cross-subsidy case**

Reporting that they suspect that Southwestern Bell is using funds from its regulated telephone operations to fi-

nance its unregulated customer premises equipment, mobile radio, and "Yellow Pages" subsidiaries, the Texas

Attorney General and several consumer organizations have called on the

*continued on page 56*

## news *continued*

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state Public Utility Commission to obtain information.

They said that if they are correct, SW Bell should reduce local phone rates 20-40%. Southwestern Bell replied that the PUC is the place for the inquiry, but that the same questions have been raised before. It added that start up funds for the subsidiaries came from the company's shareowners, not the ratepayers.

WICHITA  
C-2000M

NOV 14, 1984

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 THE APPLICATION OF  
WICHITA SMSA LIMITED PARTNERSHIP FOR A  
CERTIFICATE OF CONVENIENCE AS A RADIO  
COMMON CARRIER FOR AUTHORITY TO PROVIDE A  
NEW DOMESTIC PUBLIC CELLULAR RADIO  
TELECOMMUNICATIONS SERVICE TO THE PUBLIC IN  
THE STANDARD METROPOLITAN STATISTICAL AREA  
OF WICHITA, KANSAS.

)  
) DOCKET No.  
) 143,185-U  
) 84-WSLC-366 C  
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ORDER

NOW, ON THIS 14th DAY OF NOVEMBER, 1984, THERE COMES ON  
FOR CONSIDERATION AND DETERMINATION BY THE STATE CORPORATION  
COMMISSION THE APPLICATION OF WICHITA SMSA LIMITED PARTNERSHIP  
FOR A CERTIFICATE OF CONVENIENCE AND AUTHORITY TO TRANSACT THE  
BUSINESS OF A RADIO COMMON CARRIER IN THE WICHITA CELLULAR  
GEOGRAPHIC SERVICE AREA (CGSA). THE WICHITA CGSA INCLUDES, IN  
GENERAL, SEDGWICK COUNTY, KANSAS AND BUTLER COUNTY, KANSAS.

THE COMMISSION, AFTER GIVING DUE CONSIDERATION TO THE  
APPLICATION AND BEING FULLY ADVISED IN THE PREMISES, FIND THAT:

1. THE APPLICATION IN THE INSTANT DOCKET WAS FILED WITH THE  
COMMISSION ON AUGUST 31, 1984. APPLICANT IS REQUESTING  
PERMISSION TO TRANSACT THE BUSINESS

7. IT SHOULD BE NOTED THAT THE COMMISSION IS AWARE OF THE  
RELATIONSHIP BETWEEN SOUTHWESTERN BELL AND SOUTHWESTERN BELL  
MOBILE SYSTEMS, INC., AND WILL CAREFULLY SCRUTINIZE ANY CROSS  
SUBSIDIES, TRANSACTIONS, OR OTHER ACTIVITIES BETWEEN THE ENTITIES  
FOR THEIR EFFECT ON THE RATES PAID BY THEIR RESPECTIVE CUSTOMERS.

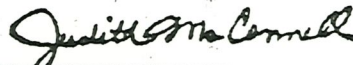
8. THE APPLICANT SHALL FILE WITH THE COMMISSION ITS RULES, REGULATIONS, AND TARIFFS THAT WILL BE APPLICABLE. THE COMMISSION FURTHER REQUIRES THAT ~~WITHIN 120 DAYS AFTER THE FIRST FULL SIX~~ MONTHS OF OPERATION, APPLICANT SHALL SUBMIT TO THE COMMISSION STAFF A COMPREHENSIVE RESULT OF OPERATION REPORT COVERING APPLICANT'S ~~FIRST FULL SIX MONTHS OF OPERATIONS~~, WHICH WILL INCLUDE THE NAME OF THE VARIOUS RESELLERS WITH WHOM APPLICANT HAS CONTRACTED AND THE NUMBER OF ACCESS LINES PROVIDED EACH RESELLER.

IT IS, THEREFORE, BY THE COMMISSION ORDERED: THAT THE APPLICANT, WICHITA SMSA LIMITED PARTNERSHIP, SHOULD BE ISSUED A CERTIFICATE OF CONVENIENCE AND AUTHORITY TO PROVIDE WHOLESALE SERVICE ONLY IN THE VICINITY OF THE WICHITA CGSA, IN SEDGWICK AND BUTLER COUNTIES, KANSAS, IN ACCORDANCE WITH K.S.A. 66-101 ET SEQ., SUBJECT TO THE FOLLOWING CONDITIONS: APPLICANT SHALL SUBMIT TO THE COMMISSION THIRTY (30) DAYS PRIOR TO THE ESTABLISHMENT OF SERVICE, ITS CURRENT FINANCIAL STATEMENT; A SPECIFIC STATEMENT INDICATING THE INITIAL COSTS OF THE SYSTEM; A DESCRIPTION OF THE EQUIPMENT TO BE UTILIZED; THE ESTIMATED COSTS OF MAINTENANCE ONCE IN OPERATION; THE SOURCE OF FUNDS TO ACCOMPLISH COMMENCEMENT OF SERVICE, AND IF SUCH FUNDS ARE NOT RESERVE MONIES, THE PARTICULARS AS TO FINANCING; AND THE RULES, REGULATIONS AND TARIFFS THAT WILL BE APPLICABLE.

THE COMMISSION RETAINS JURISDICTION OF THIS MATTER FOR THE PURPOSE OF ISSUING ANY FURTHER ORDER OR ORDERS THAT IT MAY DEEM APPROPRIATE.

DATED: NOVEMBER 14, 1984

LENNEN, CHMN.; LOUX, COM.; HENLEY, COM.



JUDITH MCCONNELL  
EXECUTIVE SECRETARY

S E A L

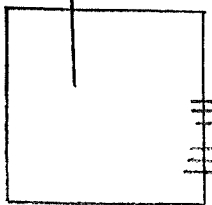
Following are the private mobile or paging systems and the base tower locations.

<u>Carrier</u>	<u>Town</u>	<u>Tower Location</u>
Mobilfone of Kansas	Emporia	102 W. 6th (Broadview Penthouse)
" " "	McPherson	E. Hwy. 56 (Cable Tower-TV)
" " "	Topeka	800 Jackson
" " "	Pratt	Country Club Rd. (Cable TV Tower)
" " "	Manhattan	1640 Fairchild (Cable TV Tower)
" " "	Larned	East 8th St.
Mobilfone of Kansas	Hays	126 W. 11th
" " "	Great Bend	Hwy. 281
Kar Kall	Goodland	Rt. #2
Kar Kall	Colby	Rt. #1
Allied	Topeka	534 Kansas 70th & Rochester Rd.
Lett Electronics	Hutchinson	15 E. 2nd
Airphone	Pittsburg	121 E. 4th
Scat Communication	Liberal	Country Club Estate
Team Electronics	Garden City	201 W. Kansas Ave.
Parson Mobile & Paging	Parsons	1725 Broadway
Lawrence Carphone	Lawrence	RFD #3
General Communication Systems, Inc.	Chanute	502 E. Main
	Coffeyville	North Buckeye St.
	Concordia	Rt. 1
" "	El Dorado	6th & Topeka
	Independence	509 Maple
	Newton	401 S. Spence
" "	Salina	Glen Ave. & Marymount
	Winfield	Rt. #4
" "	Wichita	1400 N. Woodlawn 125 Market 2815 E. 37-North

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(attachment 2)

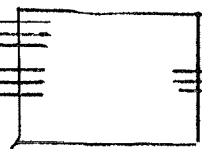
Other wireline companies (Independent Telephone Companies) that offer mobile service:

<u>Company</u>	<u>Tower Location</u>
Burdette Telephone Co.	Burdette
Continental Telephone Co.	Meriden
Craw-Kan Telephone Co.	Girard
Pioneer Telephone Co.	Kendall Ulysses
Rural Telephone Co.	Grainfield Lenora Long Island Natoma
S & T Telephone Co.	Brewster
Sunflower Telephone Co.	Leota Sharon Springs Tribune
Tri-County Telephone Co.	Delevan
United Telephone Co.	Ashland Ellinwood Junction City Russell
Wheat State Telephone Co.	Olpe Potwin Udall

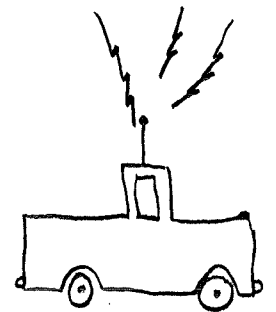
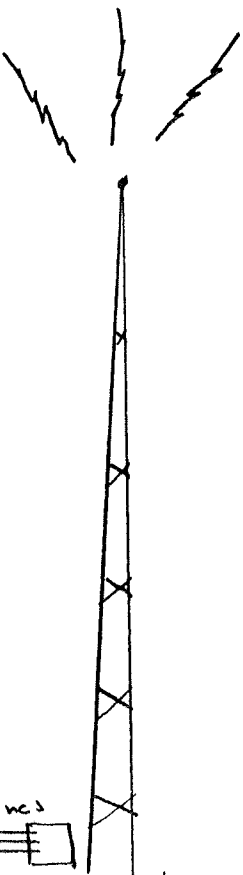


Direct In-Dial Trunks

Direct Out-Dial Trunks



Private Lines



Southwestern Bell Telephone Co. Central Office (Wire Center)

Radio Common Carrier Mobile Switching Equipment

Attch. 3  
2/20/85

(Attachment 3)

HOUSE COMMITTEE ON  
COMMUNICATION, COMPUTERS AND TECHNOLOGY

HB 2257

FEBRUARY 20, 1985

THANK YOU MADAM CHAIRMAN FOR THIS OPPORTUNITY TO SHARE WITH YOUR COMMITTEE THE POSITION OF UNITED TELEPHONE COMPANY REGARDING HB 2257, A BILL DEREGULATING CERTAIN TELECOMMUNICATIONS SERVICES.

UNITED TELEPHONE SUPPORTS THE ENACTMENT OF HB 2257 AND THE DEREGULATION OF RADIO COMMUNICATIONS SERVICES THAT WOULD RESULT.

DEREGULATION OF THESE SERVICES WOULD PROMOTE COMPETITION WHICH WOULD BE ADVANTAGEOUS FOR THE CONSUMERS OF THESE SERVICES. LOWER RATES AND MORE SERVICE OPTIONS WOULD BE THE LIKELY RESULT.

CONSUMERS OF OTHER TELECOMMUNICATIONS' SERVICES WOULD NOT BE ADVERSELY IMPACTED IN ANY WAY. EXPENSES AND REVENUES ASSOCIATED WITH THESE SERVICES DO NOT AFFECT LOCAL SERVICE RATES. THE PRICES CHARGED FOR THE PROVISION OF ESSENTIAL LOCAL TELEPHONE EXCHANGE SERVICES WOULD NOT BE CHANGED.

WE URGE YOUR FAVORABLE CONSIDERATION OF HB 2257.

THAT CONCLUDES MY TESTIMONY, MADAM CHAIRMAN, AND I'LL BE HAPPY TO TRY TO ANSWER ANY QUESTIONS YOU OR THE COMMITTEE MAY HAVE.

RESPECTFULLY SUBMITTED,

RONALD N. GACHES  
GOVERNMENTAL AFFAIRS MANAGER  
UNITED TELEPHONE COMPANY OF KANSAS

*(Attachment 4)*  
*2/20/85*



# HOUSE BILL No. 2044

By Committee on Communication, Computers and Technology

1-17

SUBCOMMITTEE REPORT  
OF PROPOSED AMENDMENTS  
2-18-85

For Consideration by House Committee  
on Communication, Computers and Technology

0017 AN ACT relating to crimes and punishments; concerning com-  
0018 puter crime and computer theft; classifying certain acts as  
0019 misdemeanors and felonies.

unlawful

access

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. (1) As used in this section, the following words  
0022 and phrases shall have the meanings respectively ascribed  
0023 thereto:

0024 (a) ~~Use~~ means to instruct, communicate with, store data in,  
0025 retrieve data from, or otherwise make use of any resources of a  
0026 computer, computer system or computer network.

"Access"

approach,

0027 (b) "Computer" means an electronic device which performs  
0028 ~~logical, arithmetic or memory functions by the manipulations of~~  
0029 ~~electronic or magnetic impulses~~ and includes all input, output,  
0030 processing, storage, software or communication facilities which  
0031 are connected or related to such a device in a system or network.

work using programmed instruction and which has one or more of the capabilities of storage, logic, arithmetic or communication

0032 (c) "Computer network" means the interconnection of com-  
0033 munication lines, including microwave or other means of elec-  
0034 tronic communication, with a computer through remote termi-  
0035 nals, or a complex consisting of two or more interconnected  
0036 computers.

0037 (d) "Computer program" means a series of instructions or  
0038 statements in a form acceptable to a computer which permits the  
0039 functioning of a computer system in a manner designed to  
0040 provide appropriate products from such computer system.

0041 (e) "Computer software" means computer programs, proce-  
0042 dures and associated documentation concerned with the opera-  
0043 tion of a computer system.

0044 (f) "Computer system" means a set of related computer  
0045 equipment or devices and computer software which may be

(Attachment 5)

Atch. 5  
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0046 connected or unconnected.

0047 (g) "Financial instrument" means any check, draft, money  
0048 order, certificate of deposit, letter of credit, bill of exchange,  
0049 credit card, debit card or marketable security.

0050 (h) "Property" includes, but is not limited to, financial in-  
0051 struments, information, ~~including~~ electronically produced data,  
0052 and computer software ~~and computer programs~~ in either ma-  
0053 chine or human readable form and any other tangible or intangi-  
0054 ble item of value.

0055 (i) "Services" ~~means~~ computer time, data processing and  
0056 storage functions.

**crime** 0057 (2) Computer ~~theft~~ is:

0058 (a) ~~Wrongfully obtaining or exerting unauthorized control~~  
0059 ~~over the property or services of another person, or the value~~  
0060 ~~thereof, with intent to deprive such person of such property or~~  
0061 ~~services;~~

0062 (b) ~~by color or aid of deception, obtaining control over the~~  
0063 ~~property or services of another person, or the value thereof, with~~  
0064 ~~intent to deprive such person of such property or services; or~~

0065 (c) ~~appropriating lost or misdelivered property or services of~~  
0066 ~~another person, or the value thereof, with intent to deprive such~~  
0067 ~~person of such property or services.]~~

**crime** 0068 (3) In any prosecution for computer ~~theft~~, it is a defense that  
0069 the property or services ~~was~~ appropriated openly and avowedly  
0070 under a claim of title made in good faith.

0071 (4) ~~Computer crime~~ is ~~knowingly and fraudulently or know-~~  
0072 ~~ingly and without authorization obtaining the use of, using,~~  
0073 ~~altering, damaging or destroying~~ any computer, computer system  
0074 ~~or~~ computer network, ~~or~~ any computer software, program, docu-  
0075 mentation, data or property contained in ~~such~~ computer, com-  
0076 puter system or computer network.

0077 (5) ~~Computer theft or computer crime which causes a loss of~~  
0078 ~~less than \$100 is a class A misdemeanor. Computer theft or~~  
0079 ~~computer crime which causes a loss of \$100 or more is a class D~~  
0080 ~~felony.]~~

0081 (6) This section shall be part of and supplemental to the  
0082 Kansas criminal code.

or stored

, supporting documentation

includes, but is not limited to,

and other uses of a computer, computer system or  
computer network to perform useful work

(j) "Supporting documentation" includes, but is not limited to, all  
documentation used in the construction, classification, implementation,  
use or modification of computer software, computer programs or data.

(a) Willfully and without authorization gaining or attempting to gain  
access to and damaging, modifying, altering, destroying, copying, dis-  
closing or taking possession of a computer, computer system, computer net-  
work or any other property;

(b) using a computer, computer system, computer network or any other  
property for the purpose of devising or executing a scheme or artifice  
with the intent to defraud or for the purpose of obtaining money, prop-  
erty, services or any other thing of value by means of false or fraud-  
ulent pretense or representation; and

(c) willfully exceeding the limits of authorization and damaging, modify-  
ing, altering, destroying, copying, disclosing or taking possession of a  
computer, computer system, computer network or any other property.

willfully and fraudulently or without authorization gaining or attempting  
to gain access to

or to

(a) Unlawful computer access is a class A misdemeanor.  
(b) Computer crime which causes a loss of the value of less than \$150  
is a class A misdemeanor.  
(c) Computer crime which causes a loss of the value of \$150 or more but  
less than \$1,000 is a class E felony.  
(d) Computer crime which causes a loss of the value of \$1,000 or more  
is a class D felony.

were

Unlawful

access

any

0083 Sec. 2. This act shall take effect and be in force from and  
0084 after its publication in the statute book.

FOR THE INFORMATION OF THE COMMITTEE

CLASS A MISDEMEANOR

A definite term of confinement in the county jail of up to one year or a fine of up to \$2,500, or both.

CLASS E FELONY

An indeterminate term of imprisonment of from one year (minimum) to a maximum of two to five years or a fine of up to \$10,000, or both.

CLASS D FELONY

An indeterminate term of imprisonment of from a minimum of one to three years to a maximum of five to ten years or a fine of up to \$10,000, or both.

## PROPOSED SUBSTITUTE FOR HOUSE BILL NO. 2044

AN ACT relating to crimes and punishments; concerning computer crime and unlawful computer access; classifying certain acts as misdemeanors and felonies.

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

Section 1. (1) As used in this section, the following words and phrases shall have the meanings respectively ascribed thereto:

(a) "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system or computer network.

(b) "Computer" means an electronic device which performs work using programmed instruction and which has one or more of the capabilities of storage, logic, arithmetic or communication and includes all input, output, processing, storage, software or communication facilities which are connected or related to such a device in a system or network.

(c) "Computer network" means the interconnection of communication lines, including microwave or other means of electronic communication, with a computer through remote terminals, or a complex consisting of two or more interconnected computers.

(d) "Computer program" means a series of instructions or statements in a form acceptable to a computer which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.

(e) "Computer software" means computer programs, procedures and associated documentation concerned with the operation of a computer system.

(f) "Computer system" means a set of related computer

(Attachment 6)  
2/20/85

equipment or devices and computer software which may be connected or unconnected.

(g) "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, debit card or marketable security.

(h) "Property" includes, but is not limited to, financial instruments, information, electronically produced or stored data, supporting documentation and computer software in either machine or human readable form and any other tangible or intangible item of value.

(i) "Services" includes, but is not limited to, computer time, data processing and storage functions and other uses of a computer, computer system or computer network to perform useful work.

(j) "Supporting documentation" includes, but is not limited to, all documentation used in the construction, classification, implementation, use or modification of computer software, computer programs or data.

(2) Computer crime is:

(a) Willfully and without authorization gaining or attempting to gain access to and damaging, modifying, altering, destroying, copying, disclosing or taking possession of a computer, computer system, computer network or any other property;

(b) using a computer, computer system, computer network or any other property for the purpose of devising or executing a scheme or artifice with the intent to defraud or for the purpose of obtaining money, property, services or any other thing of value by means of false or fraudulent pretense or representation; and

(c) willfully exceeding the limits of authorization and damaging, modifying, altering, destroying, copying, disclosing or taking possession of a computer, computer system, computer network or any other property.

(3) In any prosecution for computer crime, it is a defense

that the property or services were appropriated openly and avowedly under a claim of title made in good faith.

(4) Unlawful computer access is willfully and fraudulently or without authorization gaining or attempting to gain access to any computer software, program, documentation, data or property contained in any computer, computer system or computer network.

(5) (a) Unlawful computer access is a class A misdemeanor.

(b) Computer crime which causes a loss of the value of less than \$150 is a class A misdemeanor.

(c) Computer crime which causes a loss of the value of \$150 or more but less than \$1,000 is a class E felony.

(d) Computer crime which causes a loss of the value of \$1,000 or more is a class D felony.

(6) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.