

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Sen. Bill Morris at
Chairperson

9:00 a.m./~~p.m.~~ on March 4, 1985 in room 254-E of the Capitol.

All members were present except:

Sen. Francisco was excused.

Committee staff present:

Fred Carman, Revisor
Hank Avila, Research
Louise Cunningham, Secretary

Conferees appearing before the committee:

Sen. Johnston
Pat Barnes, Kansas Motor Car Dealers Association
Steve Wiechman, Kansas Automotive Dismantlers and Recyclers
Don Schnacke, Kansas Independent Oil & Gas Association
Ed Schaub, Southwestern Bell Telephone Company
Marvin Schulteis, Southwestern Bell
Tom Gleason, Independent Telephone Company Group
Wilbur G. Leonard, Executive Vice President, Kansas Telephone Association
Rick Enewold, AT&T
Henry Delgado, Business Manager, Sharetech
Randy Lipman, Sharetech Technician, Washington, D.C.
Judy Anderson, City of Wichita
Bailis Bell Director of Airports for Wichita, Wichita Airport Authority
Phil Woodbury, Emporia
Othal Vrana, Wichita
Fred Reynolds, Topeka
Chris McKenzie, Kansas League of Municipalities

On a motion from Sen. Norvell and a second from Sen. Thiessen the Minutes of February 27, 1985 were approved. Motion carried.

HEARING ON S.B. 221 - Car dealers not to dispose of trade-in vehicles before giving title to purchaser.

Sen. Johnston had introduced this bill by request. One of his constituents had traded in a pickup truck on a new vehicle. He transferred title of the pickup to the dealer and the pickup truck was sold. There was delay in getting his new title to him and he wanted his pickup back. He felt it should not have been sold until he received title to his new car.

OPPONENTS:

Pat Barnes, Motor Car Dealers Association, spoke in opposition to S.B. 221 and said when a customer deals with a car dealer the price of the trade-in is negotiated with the purchase of the new vehicle in mind. This amount is allowed against the purchase of the customer's new car. When he leaves the car with the dealer it is with the understanding it will be sold. A situation like the one stated does not arise often and S.B. 221 would cause problems. A copy of his statement is attached. (Attachment 1).

Steve Wiechman, said many times when cars are traded in there is a lien against it. This may require time. He said the stated case was a remote instance and there was no need for S.B. 221.

The Chairman said he had heard from a county treasurer and she said this was not a bad idea but individuals as well as dealers should be covered.

Harold Turntine, Department of Revenue said S.B. 221 was in conflict with Kansas statutes.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E Statehouse, at 9:00 a.m./~~p.m.~~ on March 4, 1985

HEARING ON S.B. 245 - KCC jurisdiction of intrastate pipelines

Fred Carman said this bill would put all the intrastate pipelines under the jurisdiction of the KCC.

OPPONENTS:

Don Schnacke spoke in opposition to the bill and said the 15 mile exemption is to permit collection of natural gas to the pipelines.

HEARING ON S.B. 226 - Municipal utilities; protection of rate base for basic telephone service.

PROPOSERS:

Ed Schaub, Southwestern Bell, said he had contacted the committee several weeks ago and requested this bill because of a serious problem that is now confronting utilities. It involves the resale of local telephone service. Some non-regulated interests known as shared tenant service providers want to begin providing local exchange service to a select number of customers. He said this concept would hurt residential customers, with rural customers feeling the largest impact. He offered an amendment which would exclude college dormitories. A copy of this amendment is attached. (Attachment 2).

Marvin Schulteis, Southwestern Bell, spoke and explained the shared tenant concept. He said a group gets together and shares a PBX. He said these shared tenant service companies do not want to be regulated. The provision of local service by unregulated entities threatens the continuation of universal service. A copy of Southwestern Bell's position paper is attached. (Attachment 3).

Tom Gleason said he represents a group of 18 independent telephone companies. If services are deregulated, competitive markets will enter only those areas where there is a high demand for relatively low cost services. If this bill passes it will be at the expense of many residential service customers. A copy of his statement is attached. (Attachment 4). He said breaking up the telephone company has been a big mistake. There are benefits to a few and disadvantages to rate payers. The state should not follow the way of the federal regulators. It would shift the cost from business customers to residential customers.

Wilbur G. Leonard, Kansas Telephone Association, spoke in favor of S.B. 226 and said the erosion of the revenue base of the operating companies would increase local rates. A copy of his statement is attached. (Attachment 5).

OPPONENTS:

Rick Enwold, AT&T, said they were opposed to S.B. 226 and introduced two people who would explain their opposition.

Henry Delgado, Business Manager for Sharetech, said he had been involved in shared tenant services virtually from the inception of the new industry. He said the shared services offers the benefits of high technology at affordable costs to small and medium businesses in Kansas. It will not increase the cost to non-participating customers. A copy of his statement is attached. (Attachment 6).

Randy Lipman, Washington, D.C., Sharetech technician, said this would not be competition to large companies. It is a private service. The large companies would supply the trunk lines. This is no different than service to Ford and GM. It would now be available to small businesses. This will lead to greater efficiency through more useage. There will be no adverse impact on Kansas rate payers. Regulation should give way to technology.

Judy Anderson, City of Wichita, said this bill would put severe restriction upon the right of municipalities and others to share or to provide telephone services. A copy of her statement is attached. (Attachment 7)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:00 a.m. ~~pm~~ on March 4, 1985

Bailis F. Bell, Director of Airports, Wichita, said the Wichita Airport Authority has invested \$1.3 million in a tenant shared system at Wichita Mid-Continent Airport and Colonel James Jabara Airport. The Airport Authority has used the concept of shared tenant service since 1954 with equipment and service provided by Southwestern Bell. S.B. 226 would have a harmful effect on the Authority to provide this cost effective service to its tenants. A copy of his statement is attached. (Attachment 8).

Phil Woodbury, Mobilfone, Emporia, said his beeper service is unique and his portable telephone service is also unique. These services are not available from the telephone company. This service has been in place for over 20 years and this bill could restrict or eliminate their service. He opposes S.B. 226 and a copy of his statement is attached. (Attachment 9).

Othal Vrana, Wichita, has a paging service and said with this bill it could mean a whole new ball game. He was opposed to S.B. 226.

Fred Reynolds, Topeka, said he was concerned that new technology would be restricted with this bill.

Chris McKenzie, League of Municipalities, said this was so complicated that they would like to have a study on the bill. They were opposed to the bill. A copy of his statement is attached. (Attachment 10).

Meeting was adjourned at 10:00 a.m.

SENATE LABOR, INDUSTRY & TOURISM COMMITTEE

Date 3-4-85 Place 254-E Time 9:09

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Charlene Wilson	Topeka	ATA
Baillis F. Bell	2173 AIRCARGO RD. Wichita	wichita airport auth
Judy Anderson	Wichita	City of
John Jordison	Council Bluffs IA	Peoples No Gas
Karen Langland	"	"
Lon Stanton	Topeka	Northern Natural Gas
PAT BARDES	TOPEKA	KANSAS MOTOR OIL DEALERS
Jim SULLINS	"	"
Ed Schaub	"	SWBT
Mariusz (Schuttus)	"	SWBT
Robert C. Casper	Wichita	TBN Tele Co.
DENNY S KOCH	TOPEKA	SWBT
Richard D. Keady	"	KPL / Gas Service Co.
Don Schmitt	"	ICIOM
Marion Fice	"	pl's office - Intern
Russ Gitter	1245 S.O.B.	DESC
Art Griggs	263E, Capitol	D of A
Doug Becker	Topeka	Attorney General - Intern
EZRA REYNOLDS	TOPEKA	MIDLAND BROADCASTING INC.
Phil Woodley	PHONIA	MOBILEPHONE OF KANSAS
OTHEL VRAWA	Wichita	GENERAL COMMUNICATIONS
JEFF RUSSELL	TOPEKA	UNITED TELEPHONE
Willbur Leonard	"	Ks. Telephone

SENATE LABOR, INDUSTRY & TOURISM COMMITTEE

Date 3-4-85 Place 254-E Time 9:00

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Ron Smith	Topeka	Ks Bar Assn
Chip Wheeler	"	Ks Pipeline Co.
Harold B. Furniture	"	Dept of Rev.
Pat Wiechman	"	Ks. Automotive Dismantlers & Recyclers Assn.
Steven R. Wiechman	"	"
Chris McKenzie	"	League of Ks Municipalities
Donna Joth	"	Sen. Johnston
JIM SULLINS	"	Ks. Motor Car Dealers Assn
PAT BARUS	"	" " " " "
JOHN DEAN	"	Student WU
ROSE MARTIN	"	Ks. Petroleum Cl.
ED DE SOIGNIE	TOPEKA	KDOT

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TESTIMONY BEFORE THE SENATE
COMMITTEE ON TRANSPORTATION AND UTILITIES
REGARDING DEALERS' LIMITATION ON TRANSFER OF
TRADE-IN VEHICLES, S.B. 221

Mr. Chairman and members of the Committee, I am Pat Barnes and I serve in the capacity of legislative counsel for the 385 members of the Kansas Motor Car Dealers Association. As many of you know, we are a trade association representing franchised new car and truck dealers in Kansas. I am before you today to express our opposition to Senate Bill No. 221 which would severely limit the sale and transfer of trade-in vehicles.

S.B. 221 would prohibit car or truck dealers from transferring title on a trade-in vehicle until title to the car the customer bought from the dealer was transferred and received by the customer. It is our belief that this bill will raise a trade barrier injurious to the free negotiation of the best deal both a consumer and dealer can make in some, but not all, vehicle purchase transactions.

As we all know, at present a customer wishing to purchase a motor vehicle goes to the dealer of his choice to look over the available models. This customer may go to a number of dealerships. Generally, he will drive his own car in order to get some idea from each dealer of how much money the dealer will give for his car toward the purchase of the vehicle in which he is interested. Without S.B. 221 a dealer, after serious negotiation, can tell the customer exactly what he will allow the

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customer for his car. This amount will be allowed against the purchase of the customer's new car. At that point the customer's car is available for appraisal, the price is set for all parties, the customer knows what amount to finance and he has made his best deal. The customer and dealer have entered a binding contract for the purchase of an automobile.

If the customer leaves his trade-in vehicle with the dealer it is with the understanding it will be sold and the customer, as a matter of common sense, must know this. This is because the car, to both the customer and dealer, has a cash value toward paying for the new car purchase. If the customer or the dealer then backs out of the deal he has breached the contract and damages can be assessed accordingly. The transaction is governed by freedom of contract and, in appropriate cases, the Uniform Commercial Code.

With S.B. 221 the dealer would have to store the customer's car until the car the customer purchased was available for delivery if the dealer was to accept the car and price it as a trade-in on the spot. With special options or other similar orders for new cars this could be several months. Alternatively, the customer would keep and drive the trade-in vehicle. In either case, the effect of S.B. 221 could be to raise the actual cash price paid for the vehicle being purchased either through a

direct price increase on the vehicle or a decrease in the value of the trade-in vehicle. This is because the dealer may have storage costs if he keeps the car until delivery of the customer's new car. Alternatively, the customer's trade-in vehicle may decline in value due to the additional miles it is driven, wear and tear or physical damage incurred in everyday use while the customer retains it. Also, a sale of the intended trade-in vehicle at a favorable price to the dealer could be lost since someone might see the trade-in vehicle or the dealer may know of someone who wants one like it, but not be able to buy it because the dealer could not give good title under S.B. 221.

Likewise, the customer would lose the possibility of receiving more for his car because it is in demand at the time of negotiation and the dealer can sell it fast thus allowing the customer more for the car than usual circumstances would dictate.

Because the trade-in vehicle would have to be revalued at a later date, the customer might not have a firm price on his new purchase, he might miss the opportunity to buy at a low price and he could lose money on his trade-in.

As a practical matter, transactions today occur where the customer's vehicle is valued on trade-in, a price agreed upon, new vehicle ordered and the customer is allowed to drive the trade-in until the new car comes in for delivery. It is

usually simply agreed that the trade-in will be reappraised for a significant change in condition when the new car is delivered, but this rarely happens. The price is almost always firm. S.B. 221 would not affect these transactions.

We believe this bill would severely limit the trade-in sale for all but purchases taking place on the car lot where the customer drives his new vehicle away at the time of purchase. This is because dealers would not want to store trade-ins nor would they be willing to accept the risk of damage for a vehicle they don't own.

We also think the situation this bill is intended to protect against does not arise very often. The situation in question would be where the dealer could not deliver the customer's car, there is a delay in delivery of the new car or the customer simply wants to back out on the sale. We think in each case where appropriate the dealer would make the customer's loss, if any, up to him and if he did not and the dealer was at fault the customer would have specific legal rights he could invoke under his contract with the dealer or through current Kansas enactments such as the Consumer Protection Act. As a practical matter, sales orders usually cover these problems.

As a final point, K.S.A. 8-135 provides for agreements to transfer ownership of vehicles between a customer and a dealer

or a dealer and another party. This bill would have an adverse effect upon that statutory provision which will be addressed by another conferree today.

We feel this is an area best left to resolution under the present system we have in effect. We do not feel passage of this bill would be beneficial to the consumer or dealer.

Thank you for this opportunity to appear before you and I would be happy to address any questions you may have.

0157 ~~construed to mean~~ means every corporation, company, individ-
 0158 ual, association of persons, their trustees, lessees or receivers,
 0159 that now or hereafter may own, control, operate or manage,
 0160 except for private use, any equipment, plant or generating ma-
 0161 chinery, or any part thereof, for the transmission of telephone
 0162 messages or for the transmission of telegraph messages in or
 0163 through any part of the state, or the conveyance of oil and gas
 0164 through pipelines in or through any part of the state, except
 0165 pipelines less than ~~fifteen~~ (15) 15 miles in length and not
 0166 operated in connection with or for the general commercial sup-
 0167 ply of gas or oil, or for the operation of any trolley lines, street,
 0168 electrical or motor railway doing business in any county in the
 0169 state; ~~also~~ and all dining car companies doing business within
 0170 the state, and all companies for the production, transmission,
 0171 delivery or furnishing of heat, light, water or power. "Private
 0172 use," as that term is applied to telephone or telecommunications
 0173 services, means utilization by and for the provider of the service
 0174 ~~or the provider's employees. "Private use" shall not include~~
 0175 *provision of telephone or telecommunications services (a) by a*
 0176 *landlord to the landlord's tenants; (b) by a condominium devel-*
 0177 *oper or association of apartment owners to apartment owners or*
 0178 *to dwellers of condominium units in property subject to the*
 0179 *Kansas apartment ownership act; or (c) by one individual or*
 0180 *legal entity to other individuals or legal entities. No cooperative,*
 0181 *cooperative society, nonprofit or mutual corporation or associa-*
 0182 *tion which is engaged solely in furnishing telephone service to*
 0183 *subscribers from one telephone line without owning or operat-*
 0184 *ing its own separate central office facilities, shall be subject to*
 0185 *the jurisdiction and control of the commission as provided*
 0186 *herein, except that it shall not construct or extend its facilities*
 0187 *across or beyond the territorial boundaries of any telephone*
 0188 *company or cooperative without first obtaining approval of the*
 0189 *commission. As used herein, the term "transmission of tele-*
 0190 *phone messages" shall include the transmission by wire or other*
 0191 *means of any voice, data, signals or facsimile communications,*
 0192 *including all such communications now in existence or as may*
 0193 *be developed in the future.*

or the provider's employees or utilization by State government
 and its affiliated organizations, including students in dormitories
 on State property. "Affiliated organization" means a not-for-
 profit corporation or not-for-profit association serving a State
 government-related purpose." "Private use" shall not include

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A Backgrounder:

Southwestern Bell Telephone's Position
on the Preservation of Universal Service

Prepared for Senate Committee
on Transportation and Utilities
March 4, 1985

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Overview

Many complexities surround the preservation of universal telephone service in the state of Kansas. But the central issue really boils down to one simple question:

"Should some individual, municipality, corporation, or entity other than a regulated telephone company provide local telephone service to the people of Kansas?"

Today Southwestern Bell and other regulated companies in Kansas are the companies franchised by the state to provide local telephone service to all customers within specific geographic areas.

This backgrounder discusses the history of the telephone franchise and how it has furthered universal service, what's happening in the marketplace that may change the status quo, and the consequences of resale of local telephone service.

The evolution from competition to regulation

Why did the public wisdom decide long ago that there should be only one local phone company in town?

History provides the answers. In fact, a brief observation by one Midwesterner sums up how it was in the early years when there was duplication of local service:

"Two bells. Two books. Too bad."

The frustrated businessman was referring to a period of telephone history remembered by few: the late 1800s and the early part of this century.

In those days, two or more competing telephone companies often served the same city; in some cases, the same street. For example, as late as 1924 two telephone companies served Hays, Kansas.

The result of this free-for-all arrangement was a series of problems for both the customers and the companies. Problems like:

-- Some cities or areas of town couldn't get telephone service at all. For economical reasons, no one wanted to serve them. Other areas, though, had at least two companies clamoring for business.

-- Customers of competing companies couldn't talk to each other (thus two bells, two books).

-- The companies waged brutal price wars. The result often was that one company would go bankrupt. The survivor would then try to regain financial health by raising rates. A public outcry usually ensued.

It soon became clear that duplication in the local exchange telephone business was damaging the public welfare. Governmental officials agreed one company should serve a certain territory; that company would be granted a franchise to be the sole provider of services.

But along with that right to be the sole provider came great responsibilities. Paramount among them: the company had to serve everyone in its franchise area. Telephone service had to be offered on a timely and affordable basis for any customer who

wanted it. This of course is the essence of universal telephone service, a goal that has driven the telephone industry. In simplest form, universal service means telephone service will be widely available to those who want it at affordable rates.

The company's prices and customer service standards were regulated to assure the public was well served. That's how it's been for dozens of years.

Single supplier concept's success

The arrangement has worked well. It has allowed each regulated telephone company to design its network, expend capital dollars, and place equipment to provide service to virtually all. Just as important, the service is provided in an affordable, timely manner.

Here's an example of how Kansas customers have benefited from the arrangement. The Consumer Price Index jumped more than 226 percent between 1964 and 1984. But during that same time, the price of local telephone service in Kansas increased only about 97%--nearly 130 percent less than the Consumer Price Index.

Today, 95 percent of the households in Kansas areas served by Southwestern Bell Telephone have a phone. That's the highest percent in Southwestern Bell's territory and one of the highest penetrations in the country--clear evidence that the universal service concept has been furthered by the sole provider status of local telephone companies.

And, service has been good. Customers tell us--and internal measurements back them up--that we're meeting all standards. Today Kansas telephone customers receive the best service ever, from one of the most up to date networks in the country. In fact, two thirds of Southwestern Bell's access lines are now served by Electronic Switching Systems.

The sole provider franchise regulatory concept achieved universal service--telephone service that's available and affordable to virtually anyone who wants it; service that's also reliable, efficient and available on demand.

Local service resale: threat to status quo

But the system, its benefits to customers, and its operating efficiency are being threatened--not by the customers or telephone companies--but by certain outside operators.

Some non-regulated interests, known as shared tenant service providers, want to begin providing local exchange service to a select number of customers. Their motivation is simple. They believe they can make a little more profit for themselves. To provide a fair picture, it should be pointed out that not all shared tenant service providers are wanting to provide (resell) local service. Some merely want to provide the enhanced features of their advanced PBX systems to selected customers and the normal customer-telephone company relationship remains--i.e. the customers continue to receive basic local telephone service direct from the telephone company as always. We applaud this arrangement where our

customers can receive the benefits of advancing technology in PBX switching. However, we strongly oppose an arrangement where the shared tenant service provider also provides local exchange service, as a local telephone company. If that is allowed, history may repeat itself to the detriment of many.

Resale's impact on rates, service availability

What's at stake for the consumers of Kansas? Universal service.

Also:

1) Higher local rates: If the shared tenant service providers are allowed to serve select low cost, high volume population pockets, there will be less revenue available to cover the costs of providing local service and maintain the telephone network. Southwestern Bell Telephone estimates the loss could be almost \$20 million a year in Kansas. If that happens, customers who remain on Southwestern Bell's network will face significant rate increases for local service. What's worse, shared tenant service companies will serve only those customers they make money on. The rest--most of the residential and rural customers--will be left to make up the difference. In short, it would benefit a few at the expense of many.

And in Kansas, those who would be hurt most are residential customers, with the largest impact felt by rural customers. It's easy to see that shared tenant services providers wouldn't choose to serve high cost customers--residence and rural people.

Regulated companies would be left to serve the areas with the higher costs. And customers in those areas would have higher rates because there would be fewer customers sharing the costs.

And we're not talking about only the loss of local service revenues. Local telephone company revenues from carrier access services and long distance within the area code can be disrupted by local service resale, also. For historical reference, federal regulatory decisions and divestiture of the Bell System stripped Southwestern Bell Telephone of many traditional sources of revenue. These included the lease of telecommunications equipment (from home phones to sophisticated PBXs) and long distance between area codes and states. Today, Southwestern Bell has three primary sources of revenue left: local service, carrier access service, and long distance within area codes. Resale of local service clearly threatens to drain and undermine revenues from all three sources.

It's easy to recognize that the local service revenues would diminish. Resale of local service would also lead to--and make clearly attractive to a few select customers--opportunities to avoid paying access charges, and allow undetected, unauthorized provision of long distance services within the area code.

These two sources of revenues are in jeopardy because of the reseller's ability to aggregate large numbers of customers' lines behind a single PBX. The reseller may be in a position then to determine how the tenant would be served by long distance companies and establish direct links to the carriers. When that happens,

the carrier avoids paying access charges to the telephone company that normally would be applicable. Those access charges were established by the FCC to help subsidize local service rates. And, there's the opportunity for carriers who aren't authorized to carry short-haul long distance calls to do so because the local telephone company is no longer involved in the link to the customer.

Local rates also would increase because some of our equipment-- which we've already invested in--would be idled and not used. In Kansas, almost \$100 million in plant investment could become idle if the resale of local service is allowed. Customers remaining with Southwestern Bell Telephone would be required to support this investment, made idle by a few select customers being served by resellers.

2) Lack of Consumer Protection: Shared tenant service companies don't want to be regulated. Southwestern Bell Telephone is regulated by the state and the federal government. Customers get assurances that they will be billed accurately, that their rates will be reasonable and the company will be responsive to their needs. Usually about eight months of study and debate pass before we can raise general rates by one cent. But the shared tenant service providers could establish their own rates anytime they want, as much as they want.

Without regulation, they also could escape service standards. The Kansas Corporation Commission closely monitors Southwestern Bell Telephone's service quality to assure customers are protected. If customers don't find satisfaction by dealing with us, they can appeal to the KCC. Not so with the shared tenant service

providers. Additionally, one has to wonder if these operators could respond if a fire destroyed their telephone system. Would they have the manpower, money and expertise to repair it? How long would it take?

What happens, too, if the tenant has paid his bill to the landlord but the shared tenant services provider hasn't paid the telephone company? Normally, disconnection of service is the action of final resort for nonpayment of the telephone bill. In this case, we're supplying service only to the provider--but his tenants also would be cut off if we had to disconnect his service. We ask, too, what happens to the customer when the shared tenant service operator decides to close shop and move elsewhere?

3) Confusion: Kansas telephone customers just went through the most trying year in telecommunications history. The breakup of the Bell System triggered literally thousands of questions: What company does what now? Who do I call? The questions went on and on. If others are allowed to provide local service, those confusing times will continue indefinitely. In short, our customers don't want to wade through any more confusion; they want things to settle down, not heat up.

4) Service Delays: Because Southwestern Bell Telephone operates as the sole provider of local service in its franchised area, we generally can accurately predict what new equipment will be needed to serve customers--now and in the future. But if shared tenant

service providers are allowed to pick and choose a select population to serve, our planning will be far less effective. That will further increase local exchange rates, or create delays in serving customers.

Service delays would result because customers served by shared tenant services firms may later request service from Southwestern Bell Telephone. But we may not have adequate time to add switching equipment and cable necessary to serve the customer. Unfortunately, the customer would simply have to wait until service could be provided.

That raises the fundamental question of who would be the provider of last resort. Ultimately, will the regulated company continue to be responsible for providing service to all comers? And if so, will unregulated companies have any similar obligation?

The mandate to protect universal service

Southwestern Bell Telephone's position is simple: We strongly support the idea of universal service. And we believe the provision of local service by unregulated entities threatens the continuation of universal service. As can be seen from its consequences, resale undermines the basic elements of universal service: affordability and widespread availability of local service. Clearly, duplication in the local service arena is not in the benefit of the general public.

Why Southwestern Bell supports S.B. 226

Southwestern Bell endorses S.B. 226 because it clarifies in the statutes that local telephone utilities are to be the sole providers of local service within a franchised area.

Many legislators have expressed dissatisfaction with the provisions of the divestiture of AT&T and Southwestern Bell Telephone.

Universal telephone service in Kansas is an issue upon which today's legislators can have an impact.

Passage of S.B. 226 will continue the goal of universal service as we've known it for years: a unifying objective of local telephone companies to make service available and affordable to virtually all who want it.

We believe that the resale of local telephone service threatens the continuation of universal telephone service. This is because of its unfavorable impact on the rates that would be charged to customers who remain on the Southwestern Bell Telephone network, and because of the difficulty the company would have in planning its network to meet the needs of customers in a timely manner.

This is critical to Kansas constituents because of the large number of rural customers--the ones most likely hurt by resale.

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BEFORE THE SENATE COMMITTEE ON
TRANSPORTATION AND UTILITIES

STATEMENT OF TOM GLEASON
ON BEHALF OF INDEPENDENT TELEPHONE COMPANY
GROUP IN SUPPORT OF SENATE BILL 226

Mr. Chairman and Members of the Committee:

My name is Tom Gleason. I reside in Lawrence, Kansas. I am an attorney and practice both in Lawrence and Ottawa, Kansas. My father, Thomas E. Gleason, and I represent as legal counsel and as registered lobbyists a group of 18 independent telephone companies known as "Independent Telephone Company Group". The names and headquarters of the companies we represent are as follows:

Assaria Telephone Exchange, Inc., Assaria, Kansas
Columbus Telephone Co., Inc., Columbus, Kansas
Cunningham Telephone Co., Inc., Glen Elder, Kansas
Elkhart Telephone Company, Inc., Elkhart, Kansas
H & B Communications, Inc., Holyrood, Kansas
Haviland Telephone Co., Inc., Haviland, Kansas
Home Telephone Co., Inc., Galva, Kansas
Moundridge Telephone Company, Moundridge, Kansas
S & T Telephone Cooperative Assn., Brewster, Kansas
Southern Kansas Telephone Co., Inc., Clearwater, Kansas
Sunflower Telephone Company, Inc., Dodge City, Kansas
Totah Telephone Co., Inc., Ochelata, Oklahoma
Twin Valley Telephone, Inc., Miltonvale, Kansas
United Telephone Association, Inc., Dodge City, Kansas
Wamego Telephone Co., Inc., Wamego, Kansas
Wilson Telephone Co., Inc., Wilson, Kansas
Zenda Telephone Co., Inc., Zenda, Kansas

Our primary purpose in legislative representation of the independent telephone company group is to make the Legislature aware of the particular problems and needs of telephone utilities in the rural areas of Kansas. The 18 companies which make up our

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group serve essentially rural areas. They provide the facilities necessary to meet the telecommunication needs throughout some 60 separate exchange areas in the State of Kansas, and they provide service to a total of approximately 35,000 customers utilizing some 43,000 exchange access lines. There is no municipality of more than 2,500 population served by any one of the member companies in the group. Nearly all of the companies in our group have financed their rural telephone facilities necessary to provide high quality universal telephone service through Rural Electrification Administration loans from the United States Government.

We are pleased to advise you that we believe that the interests of the individual telephone companies we represent and the interests of the rural telephone customers of Kansas are closely aligned in recommending approval of Senate Bill 226. The language of Senate Bill 226 will, in our opinion, serve the consumer interests of the rural telephone subscribers of the State of Kansas and will permit the established telephone public utilities to continue to carry out this Legislature's intent that universal telecommunication services be made available throughout the State of Kansas at reasonable and affordable rates.

The most significant portion of Senate Bill 226, as it relates to rural telephone service throughout the State of Kansas, is found in Section 2, wherein the bill would amend K.S.A. 66-104 to define the term "private use". We believe it is important that

the Legislature speak out now as to its intent in its inclusion of the term "private use" as an exception to the term "public utility" in K.S.A. 66-104. We would note and support that portion of Section 2 of Senate Bill 226 which specifically states that private use does not include provision of telecommunication services by a landlord to its tenants or by condominium developers or association of apartment owners to apartment dwellers or dwellers of condominium units, or by one individual or legal entity to other individuals or legal entities.

We would want to note, of course, that we are not aware of major condominium developments or apartment complex developments in rural Kansas generally, and we therefore recognize that deregulation of such services would not have a substantial immediate and direct effect on our rural telecommunication services. We would, however, want you to understand that such deregulation could very well have a significant effect upon the future of regulated telecommunication services generally in the State of Kansas. The further indirect effect of such deregulation might well be the death knell of universal telecommunication services which we have come to know and appreciate.

In order to grasp the proper perspective on this issue, we think it is important that the Legislature acknowledge that it has played a very prominent part in the establishment of our modern regulated telecommunication system. This Legislature determined many years ago that the public interest would be best

served by having a single telecommunication system available to serve all the general public rather than having competitive market forces seek to meet the public's need. It was early recognized that competing telecommunication providers would be unable to meet the public's substantial need for telecommunication services in the sparsely settled rural areas, and that the costly duplication of facilities inherent in competitive enterprise would ill serve the public's need for assured vital services generally. This Legislature therefore created a system of public utility enterprises, regulated both as to services and charges, supervised by the Kansas Corporation Commission as an agency of the Legislature. It has been within this regulated monopoly system created by this Legislature and supervised by the Kansas Corporation Commission that the telephone utilities of the State of Kansas have been able to make long range plans to meet the general public's need for services and to make investments necessary to assure the availability of quality service at reasonable rates. The Legislature should be proud therefore to have played this significant role in the creation of our telecommunication system which is recognized as the envy of the world.

That you may better understand our position, we should explain briefly the Corporation Commission's rate making processes which have contributed to the establishment and maintenance of universal telecommunication services in Kansas. Under this Legislature's direction, the Commission was given a very

broad grant of regulatory authority. The Corporation Commission has exercised its jurisdiction to regulate all intrastate "transmission of telephone messages" as that term is broadly defined in K.S.A. 66-104 and has used "value of service" rate making principles in equitably apportioning the total cost of all telecommunication services among all the customers. "Value of service" rate making concepts have permitted the Corporation Commission to price some specific services at more than the specific costs of those services in order to maintain the lowest reasonable residential service rates possible.

It is the general availability of residential services at the lowest possible rates which has supported the establishment and maintenance of universal service throughout the State. We in the industry are proud that the use of these rate making concepts under the broad regulatory powers of the Commission has provided the basis for modern high quality telephone service to be available and used in 95% of business and residence locations throughout the State.

To the extent that services are to be deregulated and left to be served by the competitive market, we see the pricing for particular services moving toward the identifiable costs thereof. We see the competitive markets entering only those areas where there is a high demand for relatively low cost services. To the extent that we move towards competitive markets, we are reducing the Corporation Commission's ability to spread all the costs of

telecommunication services equitably among all the customers and we are therefore reducing the Commission's ability to utilize "value of service" rate making concepts to maintain the lowest possible reasonable local service rates. The sparsely populated areas of the State are recognized to be high cost service areas and, therefore, the rural areas of our State can expect to experience the greatest increases in local services rates as a result of shifts toward competitively priced services.

We are all too well aware of the actions of our federal government through anti-trust litigation, legislative efforts, and Federal Communications Commission regulations to move toward competitive markets in the provision of interstate telecommunication services. We think there is a growing recognition that the anti-trust action which resulted in the divestiture of the AT&T subsidiaries and the federal efforts toward competitive markets in interstate telecommunications have been monumental errors. It is my understanding that when President Reagan was briefed on the settlement of the anti-trust action, his comment was: "If it's not broken, why fix it?".

It is our position that the federal actions to date have been for the benefit of a relatively few business customers who are high volume users of telecommunication services essentially in metropolitan areas or between metropolitan areas; and that the benefits to these relatively few are being extended at the ultimate great disadvantage to the great body of residential telecom-

munication users and rate payers. Surely, this Legislature is in no way obligated to follow the errors of the federal government as they relate to telecommunication services.

It is in this context, therefore, that we suggest to you that Senate Bill 226 is pro-consumer legislation. By the adoption of Senate Bill 226, you would be stemming the tide of movement towards competitive telecommunication services to the advantage of the relatively few large business customers and at the expense of the many residential service customers throughout the State of Kansas. We are concerned that if the move towards competitive service is continued the ultimate effect would be a great shift in the burden of the costs of telecommunication services from the business customers to the residential customers. The adoption of Senate Bill 226 would be a great step in the direction of protecting the availability of reasonably priced residential telephone service throughout the State of Kansas. If we fail to take this step and extend this protection to the residential rate payers, we foresee that the future cost burdens on the residential rate payers may become so great as to render telecommunication services unaffordable to many throughout the State of Kansas and most especially in the sparsely settled rural areas. We foresee the end of universal telecommunication service which we have come to know and appreciate. We urge the adoption of Senate Bill 226 on behalf of our customers and the residential rate payers of the State of Kansas generally.

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BEFORE THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE
STATEMENT OF THE KANSAS TELEPHONE ASSOCIATION
IN SUPPORT OF SENATE BILL 226

The board of directors of the Kansas Telephone Association, for and on behalf of its 30 member companies which hold certificates to provide local telephone service within the state of Kansas, has, by official resolution, endorsed the provisions of Senate Bill 226.

Since you have heard from conferees representing a substantial number of these companies I will not impose on the time of the Committee in reiterating our position.

However, I would emphasize the point that the erosion of the revenue base of any operating company gives rise to pressures to increase local rates. Small companies, especially, are not able to effect reductions in the costs of their operations as revenues are reduced, so rate increases follow.

At some point these escalating rates will become a major factor in threatening the continuation of universal service. Also, in extreme cases, the impact could be so severe that the viability of some of the companies would be affected.

We believe that Senate Bill 226 provides some flexibility through the Commission but, at the same time, does not open the flood gates. We respectfully request the Committee to recommend the bill favorably for passage.

Respectfully submitted,

Wilbur G. Leonard
Executive Vice President
Kansas Telephone Association

ATT. 5
3/4/85

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TESTIMONY OF HENRY DELGADO
BUSINESS MANAGER OF SHARETECH
BEFORE THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE
CONCERNING SENATE BILL 226
MARCH 4, 1985

My name is Henry Delgado. I am employed as a Business Line Manager for ShareTech which is a partnership affiliated with American Telephone and Telegraph Company and United Technologies. As Business Line Manager, I am responsible for the development of ShareTech's service offerings, specifying how a service will be offered, implemented and priced.

I have been closely involved in shared tenant services virtually from the inception of this new industry. First, I would like to describe how these services are actually provided. ShareTech and other shared tenant services providers negotiate individual contracts with the owners/developers and managers of multi-tenant commercial buildings, often prior to their construction, to provide telecommunications, information management and office automation services to current and prospective tenants in these buildings through the use of common switching, processing equipment and terminals which the shared tenant servicer provides, owns and installs. Tenants are billed, usually monthly, for these services which include use of the equipment and software for their internal and external communications and information processing needs. ShareTech provides an on-site staff to assist its customers and provides training and immediate repairs when required.

For building developers and managers, ShareTech provides a marketing edge which makes the building more rentable. For tenants, ShareTech is a single-source supplier for the full range of office services and systems providing small and medium business a low-risk way to take advantage of the cost-effective emerging office technologies which otherwise might be economically unavailable to them.

In fact, the only practical way that small tenants may take

ATT. (6)
3/4/85

advantage of advanced telecommunications offerings is through aggregating their requirements and sharing a PBX switch and associated trunks. The shared use of a PBX and other telecommunications systems provides substantial economies of scale which permit tenants to obtain their telecommunications and related systems at a lower cost than if each tenant procured and managed its own telecommunications network. By aggregating demand, tenants may obtain services and equipment at a substantially lower price than they could based on their individual demand.

Shared service arrangements also expand considerably the range of telecommunications equipment and services available to tenants. Through sharing a PBX, for example, tenants may reap the advantages of least cost routing, voice message storage and forwarding, centralized answering and recording, automatic call distribution, conferencing and detailed billing reports which include identifying calls placed by specific departments or employees. Sharing also eliminates the need for each user to develop substantial expertise to effectively manage its telecommunications requirements.

Shared services also provide tenants the convenience of a single provider for all their telecommunications equipment, services and system planning. A single reference point also assists customers in obtaining coordinated telecommunications systems tailored to their individual needs pursuant to individual contracts.

Tenants are not restricted in any way from obtaining services directly from their local telephone company or from any other service provider. For tenants who elect to take advantage of ShareTech's services however, the cost of local service is not marked-up. ShareTech simply passes through these costs to its customers without any profit from this service offering. While not a source of profit, the provision of local service to ShareTech's customers is the mainstay of our business.

Some opponents of shared services here claim that their

provision in high technology building is contrary to the public interest based on the misplaced assertion that sharing arrangements will result in substantially reduced telephone company revenues and will strand their investment. We believe that shared services arrangements will create no burden for the non-participating customer in Kansas. While the provision of tenant services may result in more efficient use of lines, it has been our experience that increased usage by shared services customers, at lower costs, stimulates the demand for local exchange services and has the effect of offsetting any such decrease. Also, the shared use of common trunks in a multi-tenant building allows the local carrier to serve the building with more efficient trunking than if each tenant were individually connected for service. By reducing the investment in the rate base, through a reduction of lines and associated equipment -- with no resulting reduction in service -- the carrier conserves the need for telephone company investment and reduces the cost of telephone service for all users. Further, the shared service provider will have a closer relationship with its customers than would be possible for a local telephone company. This will enable the shared service provider to deal directly with most customer concerns, thereby relieving the carrier of customer relations responsibilities while contributing to increased customer satisfaction.

Shared services offers the benefits of high technology at affordable costs to small and medium businesses in Kansas which advantages might otherwise be unavailable to them. Sharing will not increase costs to non-participating customers, but through greater demand coupled with enhanced network efficiency, may actually increase the local telephone company's return on investment and create downward pressure on customer rates.

If a bill such as Senate Bill 226 passes, it will have an adverse impact in attracting and retaining businesses in Kansas. These businesses will unfortunately locate in other states where shared services are not only permitted but encouraged. This will have a serious, adverse impact on the economy of Kansas.

THE CITY OF

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PUBLIC AFFAIRS OFFICE
CITY HALL — FIRST FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4318

Chairman Bill Morris and Members of the
Senate Transportation and Utilities Committee:

The City of Wichita is strongly opposed to SB 226
which would amend the public utilities act and the
municipal franchise act.

Among the objectionable portions of the bill are:

1. The limits the bill places upon the franchise power of cities.
2. The limitation upon "private use" exemption to the KCC jurisdiction over telephone services.
3. The bill would offer telephone companies additional exclusive rights in a certificated territory.
4. Severe restriction upon the right of municipalities and others to share or to provide telephone services.
5. The bill exempts hotels/motels and hospitals from restrictions placed upon others.

This bill would have a serious impact upon the Airport Authority's current telephone system as well as potential impact on the City and other governmental units.

This bill would be a hindrance to developers and businesses of all types by increasing the cost of telephone service and putting them at a competitive disadvantage.

Again, I would emphasis our city's strong opposition to SB 226.

Respectfully submitted

Judith E. Anderson
Judith E. Anderson

ATT. ⑦
3/4/85

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Testimony of
The Wichita Airport Authority
before the
Committee on Transportation & Utilities
of the Kansas Senate
Opposing S.B. 226

Presented by:

Bailis F. Bell
Director of Airports
The Wichita Airport Authority
March 4, 1985

ATT. (8)
3/4/85

Chairman Morris and Committee Members:

My name is Bailis F. Bell, Director of Airports for The Wichita Airport Authority. I appreciate this opportunity today to appear before you to address S.B. 226.

The effect of this bill on The Wichita Airport Authority is primarily in the area of tenant shared telephone service and proposed restrictions thereto.

Subsequent to the national divestiture of AT&T, The Wichita Airport Authority perceived that an improved on-airport telephone system operated for and shared by only its tenants could be in the best public interest. This concept of shared tenant service has existed since 1954 through the operation of a Private Business Exchange by The Wichita Airport Authority with equipment and service provided by Southwestern Bell.

In response to the perception that an improved tenant shared service would be in the best interests of the public and in response to the inability of Southwestern Bell to operate and maintain an antiquated Private Business Exchange system, The Wichita Airport Authority advertised for bids in July of 1983 for the necessary equipment to operate a tenant shared telephone system. Since that time, The Wichita Airport Authority has invested approximately \$1.3 Million in systems on Wichita Mid-Continent Airport and Colonel James Jabara Airport.

Participation by Wichita Airport Authority tenants is optional. However, those who participate presently are reporting savings of 25% to 35% below previous telephone operating costs while experiencing a state-of-the-art level of service.

It is believed that the undertaking of the installation of tenant shared telephone systems is consistent with FCC regulations since divestiture. It is also consistent with Kansas Law.

The Wichita Airport Authority has been advised by its counsel that Senate Bill 226 would have a harmful effect on The Wichita Airport Authority's ability to provide state-of-the-art, cost effective telephone service to its tenants.

More specifically, S.B. 226 would require any municipality who wished to provide share tenant service to prove to the Corporation Commission that Southwestern Bell was not providing reasonably efficient and sufficient service. It is the belief of The Wichita Airport Authority that the level of participation in shared tenant service on Wichita's publicly owned airports is sufficient proof, and that further licensing is not necessary.

Therefore, at the regular meeting of The Wichita Airport Authority on February 18, 1985, the Airport Authority adopted a Resolution opposing the passage of S. B. 226. It is hoped that this Committee will concur with the request of The Wichita Airport Authority in this matter.

Thank you.

FOR THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Chairperson: Morris

Vice-Chairperson: Doyen

RE: SB 226

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.

Many of the telecommunications^s service^s we have brought to Kansas are unique — and are not available from the telephone company. Our beeper service is one of these new services. 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.

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3/9/85

The Radio Common Carrier service that I now provide to subscribers in Kansas is made possible by the interconnection of my facilities with those of the telephone company. This connection allows my subscribers to talk to their subscribers ~~to talk to~~ ^{AND} their subscribers ~~and theirs~~ to mine.

In short, the service that I provide to subscribers in Kansas is made possible by arrangements made with the telephone company that have been in place for more than 20 years. Some of the local exchange telephone service I provide are competitive with services offered by the telephone company. Others are not.

Our concern is, that with this Bill, you will limit or eliminate our role as providers of telecommunication services. As was intended by the FCC — way back in 1949 — we, the Radio Common Carriers of Kansas have provided competition to the telephone company in what previously has been called the 'mobile services'. This, of course, has now come to mean telecommunication service and as presently provided by us means mobile telephone and paging ----- or beeper ----- service.

In my opinion, this bill appears to severely restrict and quite possibly would eliminate entirely most of the competitive local exchange telephone or telecommunication services we Radio Common Carriers currently provide subscribers in Kansas. While this might be the intent of the sponsors of this Bill, I believe that it is not what the legislature intends.

The reselling of local exchange services is another matter. If it is the intent of the legislature to either limit

or restrict altogether the reselling of local exchange telephone service, then that issue itself — alone — should be addressed. My industry, at this time, does not take either side and believes that the legislature can and should hear the evidence, consider all sides of the issue and make a decision. This important issue will affect all Kansans that use telecommunication service.

Phil Woodbury

Emporia	Great Bend	Topeka	Manhattan	Hays	McPherson	Pratt
316	316	913	913	913	316	316
342-2002	792-2752	234-2337	776-8817	625-5628	241-1154	672-7384

And here is where Senate Bill 49 enters the picture:

Senate Bill 49, as passed by the Senate on provides a 'new' category for existing telephone company utilities. This new category not suprisingly is identified as telecommunications public utility.

emphasis added

FINALLY
And then comes Senate Bill 226 - - -

It provides at Sec. 3 at 0229,

- - - any certificate granted to a telephone or telecommunications public utility ~~shall~~ shall give the certificated company the exclusive right to serve in the certificated territory - - - emphasis added

And at 0263 - - -

- - - and no individual, association, person, corporation or other entity may provide or resell, local exchange telephone or telecommunications service to anyone - - - within any territory for which any telephone or telecommunications public utility has been granted - - - a certificate by the corporation commission - - -

emphasis added

IN SUMMARY:

This triad of telephone company sponsored bills presently awaiting action in the legislature,

- (A) Deregulate new telephone technology - - -
- (B) Redefine telephone public utilities as Telecommunications Public Utilities - - -
- (C) Reserve for the certificated telecommuni-
cations utility the exclusive right to
provide this new technology telephone
service to local exchange subscribers in
its certificated territory - - -
- (D) Prohibit any other entity that might attempt
to become a competitive provider of the new
telephone service to local exchange subscri-
bers from offering his service within the
telephone companies certificated service area.



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: Senate Committee on Transportation and Utilities
FROM: Chris McKenzie, Attorney/Director of Research *CM*
DATE: March 4, 1985
SUBJECT: SB 226

SB 226 appears to be designed to resolve certain questions that have arisen in proceedings before the Kansas Corporation Commission concerning the resale of local exchange telephone or telecommunication service. By action of its Legislative Committee, the League of Kansas Municipalities wishes to express its opposition to SB 226 for the following reasons:

(1) Section 3 of the bill, which amends K.S.A. 66-131, would prohibit a municipality from providing or reselling local exchange telephone or telecommunication service to anyone except local government employees within any territory which is certificated by the KCC. This provision is obviously designed to impose a system of exclusive telephone service territories even within city limits and limit the telephone utility actions of municipalities in order to protect existing telephone monopolies. The League believes that cities should not be discouraged from developing lower cost telephone or telecommunication services and operating such services as a municipal utility. Please note that the proposed amendments in lines 197-198 would also make such municipal telephone or telecommunication services subject to the requirement of receiving a KCC certificate.

(2) Sections 1 and 4 of the bill amend existing municipal utility franchise statutes in a way that would deprive cities of their authority under current law to regulate "one-city" telephone utilities. Under current law, the utility which is situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people receives authority to operate (i.e., its certificate of convenience) from a city by the granting of a franchise. SB 226 would divest cities of the authority to grant such rights to operate to "one-city" telephone utilities in an era of free competition and technological developments in the telecommunications industry that could make the operation of such "one-city" telephone utilities a reality.

At this time, the City of Wichita is the only city the League is aware of that is currently interested in operation of a municipal telephone utility. This is occurring presently at the Wichita Airport Authority. In this era of telecommunications divestiture and technological development in the field of telecommunications, the League believes other cities should be given the opportunity to explore engaging in such a municipal utility activity. Furthermore, the League strongly supports preservation of existing municipal authority to regulate one-city utilities without KCC oversight. This bill represents a significant usurpation of municipal authority, and we strongly urge you to report it adversely.

3/4/86 ATT. (10)

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