

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIESThe meeting was called to order by Sen. Bill Morris at  
Chairperson9:00 a.m./~~p.m.~~ on March 27, 1985 in room 254-E of the Capitol.All members were present ~~except~~.

## Committee staff present:

Hank Avila, Research Department  
Tom Severn, Research Department  
Fred Carman, Revisor  
Louise Cunningham, Secretary

## Conferees appearing before the committee:

Tom Regan, Kansas Ethanol Association  
Bill Edds, Department of Revenue  
Jerry Brantley, Plano, Texas, Southwestern Bell Mobile Systems  
Wilbur Leonard, Kansas Telephone Association  
Don Low, KCC

CONTINUED HEARING ON H.B. 2022 - Gasohol subsidy.

Tom Regan, Kansas Ethanol Association, said Terry Ruse, President of the High Plains Corporation, who was supposed to appear before the committee today, had been called out to town so he was appearing in his place. He expressed concern about the impact of this bill on the agricultural community. He said the facility in Colwich competes with area elevators for the grain, thus making the market competitive. This has an impact on jobs, the economy and additional taxes.

Mr. Regan said a statement had been made the previous day about using out-of-condition product but High Plains does not use this type of product. He would urge the committee to put a 4¢ incentive on gasohol and that next year it could go to 3¢.

Mr. Regan thanked the committee and said he felt they had had a fair hearing on this subject.

A copy of a statement by Mr. Harry Wullschleger, President-Kansas Corn Growers, was distributed to members of the committee. A copy is attached. (Attachment 1). Mr. Wullschleger said the Kansas consumer is getting a higher quality product and at the same time it is helping the Kansas economy.

Bill Edds, Department of Revenue, said he was neither an opponent nor proponent for this bill but the Department of Revenue had a problem it was confronted with concerning motor fuel. He said the Florida Supreme Court had recently ruled on a case regarding gasohol and the same situation could apply to Kansas. The Department wanted to avoid a similar court decision and asked for an amendment to be put on H.B. 2022. A copy of his statement and the amendment is attached. (Attachment 2).

HEARING ON H.B. 2257 - Radio common carriers, removed from SCC regulatory jurisdiction.

Hank Avila gave a brief summary of H.B. 2257. He said this bill would remove radio common carriers from the jurisdiction, regulation, supervision and control of the SCC. This bill would be in effect for two years and could then be sunset.

PROponents:

Jerry Brantley, Southwestern Bell Mobile Systems, spoke in favor of the deregulation and said this would benefit the customers through better services and lower prices. Seventeen states have deregulated the cellular phones and other states are considering it. He said H.B. 2257 would allow

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,

room 254-E, Statehouse, at 9:00 a.m./~~p.m.~~ on March 27, 1985.

for free market entry and negate the need for rate regulation. A copy of his statement is attached. (Attachment 3).

Mr. Brantley was questioned about financing. He said the funding comes from the shareholders and not from the ratepayers. They are totally regulated by FCC regulations, which would watch for any transfer of funds that was not proper.

Wilbur Leonard, Kansas Telephone Association, said this bill would provide for the deregulation of mobile telephone service for two years. He said a layer of regulation at the state level does little but increase the costs of providing mobile telephone service, which, in turn, is passed on to the consumer. At the end of the two year period, unless deregulation is working in the public interest, they will again feel the impact of full state regulation. A copy of his statement is attached. (Attachment 4).

Don Low, KCC, said they were neither an opponent nor proponent of the bill. He gave the same presentation that he had given to the House Committee on Communications, Computers and Technology. They made some changes last May in the regulation of providers of mobile communication services. They lowered requirements for potential new providers of mobile services. A copy of his statement is attached. (Attachment 5).

It was brought out that ratepayers had helped finance this new technology and now they would not get the benefits. Some of the members also felt that deregulation always hurts the rural areas, as it did in the deregulation of the airline industry.

There was also concern that the big companies could squeeze out their competition; however they were told that this would be in violation of anti-trust laws.

Some members expressed concern about the towers that would be put up. This could be a hindrance to aircraft and damage the quality of life. They were told that placement of towers was usually left up to the cities and the individual city would regulate the placement.

There was no time to hear the opponents and the chairman said they would be scheduled for a hearing sometime in the future but he did not know when as we were rapidly approaching deadlines and the committee schedule is already filled with hearings on other measures.

Meeting was adjourned at 10:00 a.m.

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Date 2-27-85

Place 254-E

Time 900

GUEST LIST

NAME

ADDRESS

ORGANIZATION

NAME	ADDRESS	ORGANIZATION
Tom Regan	Topeka	KEA
Ken Fahn	"	
Bill Edds	"	REVENUE DEPT.
Tom Whitaker	Topeka	Ks Motor Carriers Assn.
Chip Wheeler	Topeka	SWBell Mobile Systems
JERRY BRANTLEY	PLANO, TEXAS	SWBELL MOBILE SYSTEMS
BEN NEILL	TOPEKA	" " " "
JEFF RUSSELL	TOPEKA	DIRTOR TDD of Kansas
Wilbur Leonard	Topeka	Kansas Tel. Assn
Ed Schaub	Topeka	SWBT
Bebecca Crenshaw	Topeka	Comm. of Ks. Farm Orgs.
[Signature]	"	KK
Edward R. De Soiznie	Topeka	Kansas Dept. of Transportation

At the present, Kansas agriculture and the nation are in a financial crisis. With grain prices at or below cost of production and very little help in sight.

However, there is one thing that is helping at the present and can continue to help in the future. This help is ethanol production that is consuming grain (as of last December) at the rate of 200 million bushels per year. This is equal to the LTA with the USSR. Using USDA figures, every 100 million bushels of usage, the price to the farmer goes up 7¢ per bushel. Therefore, ethanol production, in this country, has raised the price of feed grain 14¢ per bushel. We have four major in-state producers of ethanol consuming approximately 18 million bushels of Kansas grain annually. This is equal to our exports to Korea.

There are storm clouds on the horizon. At the present, in the Kansas Senate, HB 2022 is being heard. In this bill, they are wanting to reduce the tax excused for gasahol that is being enjoyed by the motoring public in Kansas. At the present, the Kansas consumer is getting a higher quality product at the same price as unleaded fuel. Using ethanol in gasoline makes for a cleaner burning engine, thereby causing less polutions to our Kansas air.

Not only does the Kansas farmer need this incentive at the present, so do the small Kansas oil refineries; of which one already has closed and possibly more will follow.

The problem with the oil refineries is that EPA has just announced a large cutback in the amount of lead that can be used in motor fuel. At present time, 1.1 grams/gal by July 1, 1985, .5 gram/gal. and by Jan. 1, 1986, .1 gram/gal. This is a 91% reduction in the next 9 months. There are only two economical things the refineries can do to maintain the current octane rating in our fuels. One is a more costly refining process, which will make our small Kansas refineries unable to compete with the industry giants, or they can use ethanol as an octane booster and stay in business.

H.B. 2022 started out reducing the tax incentive from 5¢ to 4¢ per gallon. This has been amended to go from 5¢ to 3¢ per gallon. It is the feeling of the Kansas Corn Growers that this tax go to 4¢ per gallon on July 1 and 3¢ on January 1, 1986 and then be left alone so that the farmers, oil refineries, and the consumers of this fine state can enjoy a more favorable economical environment in which to live.

If you are in agreement with this, write your state senator today.

Harry Wullschleger  
President-Kansas Corn Growers

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M E M O R A N D U M

To: Members of the House  
Transportation Committee

Date: February 7, 1985

From: Kansas Department of Revenue

Re: Request for Legislation

During the 1984 Legislative Session the Legislature enacted House Bill 3070 amending K.S.A. 1983 Supp. 79-3401 to add a definition of "agricultural ethyl alcohol" as follows:

"A motor-vehicle fuel component with a purity of at least 99%, exclusive of any added denaturants, denatured in conformity with one of the methods approved by the United States Department of the treasury, bureau of alcohol, tobacco and firearms, and distilled in the United States of America from grain produced in the United States of America."

In addition a new section was added providing that in order to be eligible for the lower motor-fuels tax manufacturers, importers or distributors of agricultural ethynol to be blended in this state with motor-vehicle fuel must annually submit a certification under oath that their agricultural ethyl alcohol used, sold or delivered in Kansas conforms to the foregoing definition.

In Miller v. Publiker Industries, Inc., and Publiker Chemical Corporation, Case #65,839, the Florida Supreme Court ruled on October 11, 1984 that a similar Florida law violated the federal constitution. Chapter 84-353 limited the 4¢ a gallon tax exemption granted gasahol by section 212.63, Florida Statutes (1983), to gasahol containing "ethyl alcohol which is distilled from U.S. agricultural products or byproducts" only. In summary the court concluded that this provision constituted discriminatory taxation based upon the foreign origin of a product in violation of the import-export clause and likewise discriminates against foreign commerce in violation of the United States Constitution's commerce clause.

The Department of Revenue would request the Committee to reexamine the policy laid down in House Bill 3070 to avoid a similar court decision in this state.

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TESTIMONY TO SENATE  
TRANSPORTATION AND UTILITIES COMMITTEE  
House Bill 2257, as Amended  
March 27, 1985

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Mister Chairman and Members of the Committee:

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

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

- o We are fully separated from the telephone company by FCC order.
- o Our business relationship with SOUTHWESTERN BELL TELEPHONE COMPANY is such that we interconnect to phone company facilities just like any other radio common carrier. We obtain these services under the same tariff arrangements as any other customer.

Cellular mobile telephone service is the marriage of two-way mobile radio with the computer. Attached is an example of how the system works.

The market area to be served is divided into a grid of cells, each with its own low power transmitter. Each cell serves only customers located within its coverage area. When a customer moves from one cell to another within the grid, a central computer "hands off" the call to an adjacent cell. Best of all, the customer won't even notice.

3/27/85 ATT. (3)

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

Before I go any further, I would like to address the changes as proposed in HB 2257 and the amendments added by the House CCT Committee.

Section 1 is the general jurisdiction statute which gives the KCC the power to regulate public utilities and radio common carriers. Radio common carriers are stricken from this portion. Parts (b) and (c) are removed since they actually expired on December 31, 1981. Section 2 amends K.S.A. 66-104 to exclude radio communications operated by telephone companies from the jurisdiction of the State Corporation Commission. Section 3 excludes all other radio common carriers, including cellular, from the jurisdiction of the State Corporation Commission. Section 4 maintains the right of radio common carriers to interconnect their facilities with the local telephone company. Section 5 repeals K.S.A. 66-1144, the current statute which requires radio common carriers to apply to the commission for a certificate to operate. The amendments to HB 2257 (1) set the effective date as January 1, 1986 (2) provide for a two-year sunset and (3) allow the State

Corporation Commission to inspect our books and records at anytime.

The KCC began regulation of all radio services in 1969. A general investigation was made in 1971 to establish uniform procedures and guidelines, and the KCC recognized that these guidelines were subject to change. Another investigation was made in 1983 and in May 1984, the KCC ordered less stringent policies for entry into the radio common carrier market. The commission and I quote, "held that 'need' for radio common carrier service, unlike traditional utility service, remains a thing to be promoted and sold. We find that such a regulatory policy (entry barriers) not only fails to recognize the basic differences between this industry and traditional utility service, but is also unnecessarily protective of an industry in which healthy competition has already been shown to be in the public interest." The KCC does not oppose enactment of this bill. I believe this is significant because they have thoroughly investigated the industry.

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

First, competition does and will exist in the cellular industry. In FCC decisions regarding cellular, 20 MHz was allocated to wireline carriers (telephone companies or their affiliates) and 20 MHz is allocated to non-wirelines (traditional RCC's). Another 20 MHz is held in reserve.



The FCC goal is to foster competition in cellular markets. Besides competition, their other main goal is to get the service to the marketplace as fast as possible. The non-wireline carriers mentioned previously are typically major companies such as CyberTel-Cox, Metromedia, McCaw Communications or MCI. They are formidable, well-financed competitors. Frequently, local RCC's with an established radio service presence will have an interest in the non-wireline partnership. Competition is also increasing in all other types of radio services. Competition in this industry will ultimately benefit the customers through better services and lower prices.

My second point involves the current regulatory environment. HB 2257 will allow free market entry and negate the need for rate regulation. These provisions would save the carriers and the KCC a considerable amount of money. As stated earlier, the Kansas Corporation Commission order in May 1984 recognized that Radio Common Carriers operate in a competitive marketplace and that FCC policies were beginning to erode state authority. Further, they stated that RCC service is not a necessity like telephone, gas and electricity. To some customers, it may be a "necessity" but not to a great majority of the public.

Deregulation of radio services is a growing trend across the country. Seventeen states will not regulate cellular, and several others are considering it. The cost of regulation is high for both the state commission and the carriers. The Texas and Missouri Legislatures have already passed legislation to deregulate radio services.

Missouri is particularly significant to my company since we operate the wireline Kansas City Cellular System which covers both sides of the state line. Consistent views on deregulation between Kansas and Missouri would eliminate constant regulatory difficulties.

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

My third point is that cellular is not a significant replacement for other existing radio services. Actual experience with cellular indicates that other services, such as paging, SMR (Specialized Mobile Radio), and conventional mobile service, have actually benefited from cellular advertising and promotion. Conventional mobile offers a wider coverage range and less investment than cellular. Paging is becoming a popular complimentary service to cellular, i.e., people who need to be alerted at all times may have a mobile unit for their car and a pager when out of their car. Cellular technology is here, and there's room in the marketplace for all of us.

Our opponents would have you believe that there is some hidden motive behind this bill. They have used all kinds of horror stories to build up a smokescreen. Why? Because they have profited for years by being the only game in town. They don't want competition because they might have to lower their prices a little and expand or improve their service. I believe this will help the consumer, but it won't drive the carrier out of business unless they let it happen.

The reason the telephone companies support this bill is because many of them provide paging and conventional mobile services. It would be inconsistent to regulate those services and not regulate a competitive service such as cellular. My company is a competitor of our affiliate, Southwestern Bell Telephone (SWBT), as well as with other RCC's. There is no collusion or cross-subsidy with SWBT. The bill itself addresses this issue in Sec. 3 (b).

Interconnection problems and bypass are two other issues in the smokescreen. Interconnection facilities are not affected by this bill (refer to attachment). They will continue to be regulated by the KCC. Regarding bypass, it is unlikely that cellular service will ever replace local telephone service. Cellular airtime (doesn't include the mobile phone, which is already unregulated ) runs approximately \$150/month compared to about \$10/month for local telephone service . Prices for mobile phones have been coming down rapidly because that part of our industry is intensely competitive (and not regulated). I don't see airtime charges reaching the \$10-20 level in any of our lifetimes.

In summary, competition in the radio services industry will benefit the consumer. It is regulated by the FCC and they have the right to grant or deny operating licenses. Regulation at the state level is an unnecessary expense for a competitive industry. HB 2257 as amended provides every element of protection to anyone who may oppose it, plus it has the two-year sunset provision.

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

Thank you very much.

## CELLULAR BACKGROUND

The Bell System developed mobile radio telephone service and introduced it in St. Louis in 1946. In its early years, users manually selected a channel and placed calls through a mobile operator.

Today, most users dial their own calls over channels automatically selected. Despite improvements, mobile service is not readily available, does not offer the quality of conventional land-line telephone service and can handle at most only a dozen simultaneous calls in a metropolitan area.

Cellular radio will change this.

The cellular radio concept was proposed by a Bell Labs scientist in 1947 and the advent of electronic switching systems in the late 1960s made it technologically feasible. However, a number of sensitive political and regulatory issues delayed service introduction.

Television broadcast companies opposed cellular radio because of the Federal Communications Commission decision to reassign 14 UHF channels to cellular radio. Companies offering existing radio communications services also resisted the new technology because they feared losing business.

To resolve these conflicting interests, the FCC issued a series of rulings under which service could be provided.

In 1974, the FCC allocated 40 MHz of spectrum for cellular systems, and this order was upheld on court appeal. In 1975, AT&T filed an application for an experimental cellular trial in Chicago. Six months later, another company (Advanced Radio Telephone Service), filed for its own system trial in the Baltimore-Washington, D.C., area.

Following the successful demonstration of the trial systems, the FCC adopted rules for providing cellular service. On Jan. 18, 1980, the FCC

released its Notice of Inquiry and Proposed Rulemaking in Docket CC-79-318, "Cellular Communications Systems."

After considering 48 formal filings and thousands of informal comments, the FCC issued its Report and Order on May 4, 1981. The order sparked a flurry of petitions for reconsideration and change in the rules. The FCC reconsidered and, on March 3, 1982, issued a follow-up memorandum opinion and order. This memorandum, which later withstood court challenge, is the FCC's final rulemaking in the matter under normal procedure. The FCC cellular rules are based on the two experimental systems and on technical standards developed by AT&T and the Electronic Industries Association.

Basically, the FCC prescribed the following market structure:

--Two carriers in every market area, wireline or its affiliate and non-wireline carriers.

--Cellular carriers will obtain interconnection for the local portion of the network under equal rates, terms and conditions.

--No restrictions on resale.

The FCC docket also prescribed filing requirements. Carriers were allowed to propose service areas that are no larger than Standard Metropolitan Statistical Areas or combinations of SMSAs. This step in gaining approval to build and operate a cellular system is based on a filing schedule with specific dates for specific market areas.

Markets 1 through 30 were filed in June 1982. These markets included Dallas, Houston, Kansas City and St. Louis. Markets 31 through 60 were filed in November 1982. These markets included Oklahoma City, Tulsa and San Antonio. Markets 61 through 90 were filed March 8, 1983. These markets included Wichita and Austin.

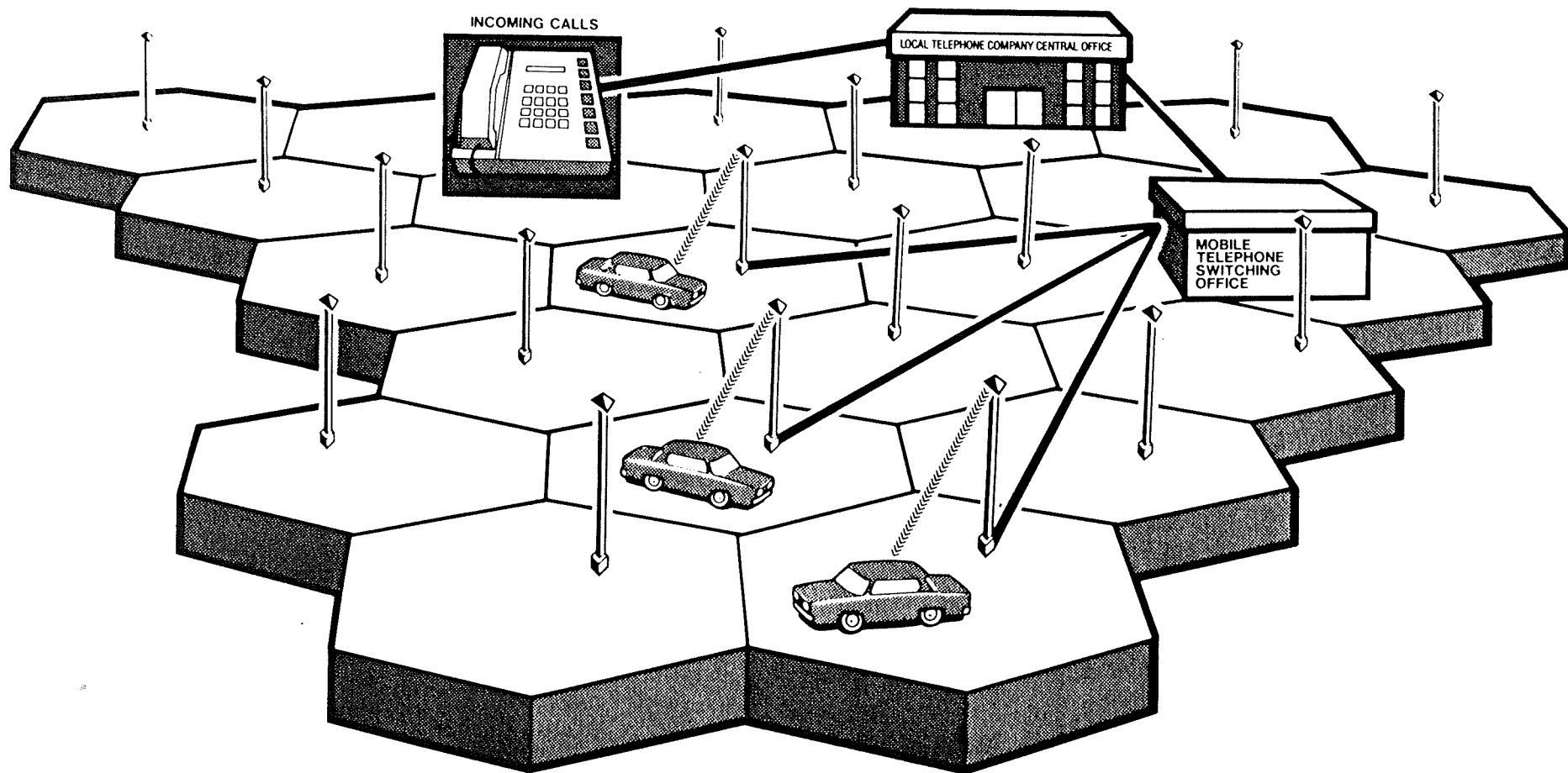
Filings for all other markets are set for July 1984 and later.

Since several wireline companies have applied for the same markets,

the FCC has encouraged joint ventures to resolve these competing applications and avoid comparative hearings.

Specifically, in the five-state Southwest region, Southwestern Bell Mobile Systems, Inc. has formed limited partnerships in Dallas, Kansas City, Oklahoma City, San Antonio, and Wichita.

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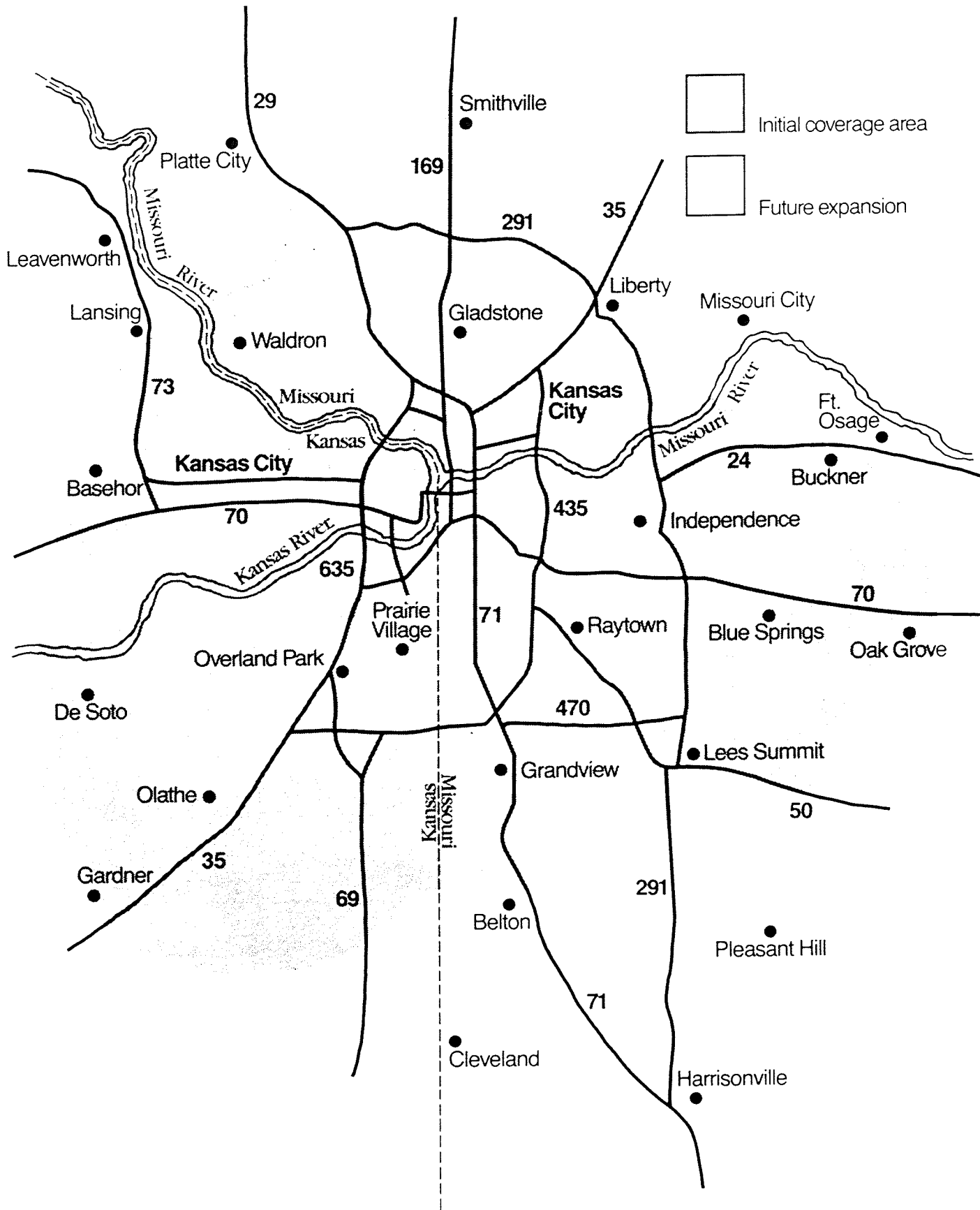


## HOW THE CELLULAR SYSTEM WORKS

Cellular represents a revolutionary advancement in communications technology that provides mobile telephone service of far greater capacity and better transmission quality than conventional mobile phone service.

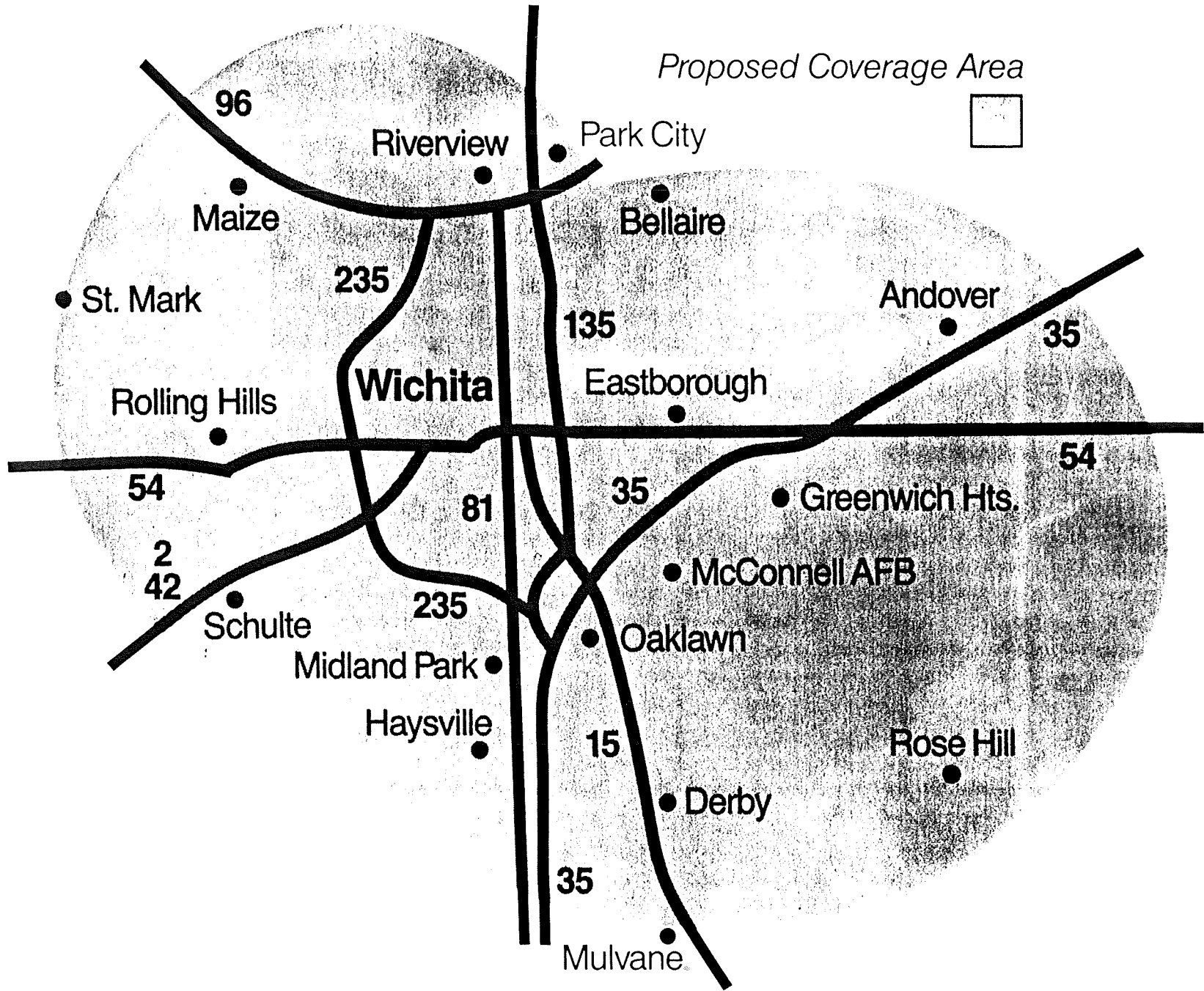
Cellular technology operates by dividing a city into smaller geographic areas called cells, each served by its own low-power radio transmitter. Cell sites are connected by wireline facilities to the Mobile Telephone Switching Office (MTSO), which is linked to the regular landline network through the local telephone company central office.

As the caller drives across the service area, the call is automatically passed from one transmitter to another, without noticeable interruption. Every cellular customer is assigned a unique seven-digit telephone number and may place as well as receive calls directly without operator assistance.



KANSAS CITY CELLULAR SERVICE COVERAGE AREA





WICHITA CELLULAR SERVICE COVERAGE AREA

BEFORE THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE  
STATEMENT OF KANSAS TELEPHONE ASSOCIATION  
IN SUPPORT OF HOUSE BILL 2257

I am Wilbur Leonard, Executive Vice President of the Kansas Telephone Association, appearing in support of the passage of House Bill 2257.

This bill provides that the business of providing mobile telephone service shall not be subject to state regulation for the calendar years 1986 and 1987. The service involved here can be characterized as an enhanced service, a convenience, or perhaps a luxury. It is not the ordinary telephone service which telephone companies routinely make available to all persons in their respective service areas at rates determined by the Kansas Corporation Commission to be fair and reasonable.

Whether mobile telephone service should be de-regulated becomes timely with the rapid strides made in technology and the pressures of the federal government to force competition, where possible, on the communications industry. The FCC, in assigning frequencies to cellular radio, has gone to considerable lengths to establish a competitive environment in this area. By providing for two operators in each cellular market, only one of which may be a wire line telephone carrier, the FCC has sought to nullify the need for further regulation. A layer of regulation at the state level does little but increase the costs of providing mobile telephone service, which, in turn, are passed on to the customers and are of benefit to no one. Without the expense of regulation all operators would be able to effect rate reductions to their customers and the service could become more affordable to to a larger segment of the public.

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The bill continues the power of the Commission to act where necessary to protect the public against cross subsidization of the mobile telephone service by the monopoly services. The rates and regulations pertaining to the wire line services will, in no way, be affected. Likewise, the competing mobile operators will continue to be interconnected to the telephone wire facilities at established tariffs approved and supervised by the Commission.

Regardless of whether they intend to participate in this market, those companies which I represent believe that it is not logical to establish a system of regulated competition.

Finally, this bill calls for a two year test period and, at the end of that time, unless the operators can show to the legislature that de-regulation is working in the public interest, mobile telephone service, will again feel the impact of full state regulation under the sunset provisions of this bill.

Respectfully submitted,

Wilbur Leonard  
Executive Vice President  
Kansas Telephone Association

MEMBERS OF THE KANSAS TELEPHONE ASSOCIATION

Assaria Telephone Exchange, Inc.  
Blue Valley Telephone Company, Inc.  
Columbus Telephone Company, Inc.  
Continental Telephone Company of Kansas, Inc.  
Cunningham Telephone Company, Inc.  
Elkhart Telephone Company, Inc.  
Gorham Telephone Company  
H & B Communications, Inc.  
Haviland Telephone Company, Inc.  
Home Telephone Company, Inc.  
Jetmore Telephone Company, Inc.  
The KanOkla Telephone Association, Inc.  
LaHarpe Telephone Company, Inc.  
Madison Telephone Company, Inc.  
Moundridge Telephone Company, Inc.  
Mutual Telephone Company  
The Rainbow Telephone Co-op Association, Inc.  
S & T Telephone Co-op Association, Inc.  
South Central Telephone Association, Inc.  
Southern Kansas Telephone Company, Inc.  
Southwestern Bell Telephone Company  
Sunflower Telephone Company, Inc.  
The Totah Telephone Company, Inc.  
The Tri-County Telephone Association, Inc.  
Twin Valley Telephone, Inc.  
United Telephone Association, Inc.  
United Telephone Company of Kansas  
Wamego Telephone Company, Inc.  
Wilson Telephone Company, Inc.  
Zenda Telephone Company, Inc.

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

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

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

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

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

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

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

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