

Approved February 3, 1986  
Date

MINUTES OF THE HOUSE COMMITTEE ON COMMUNICATIONS, COMPUTERS AND TECHNOLOGY

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

3:30 ~~xxx~~ a.m./p.m. on January 29, 1986 in room 522-S of the Capitol.

All members were present except:

Representative Love (excused)  
Representative Sallee (excused)  
Representative Sifers (excused)

Committee staff present:

Lynne Holt, Legislative Research Department  
James A. Wilson, III, Senior Assistant Revisor  
Jean Mellinger, Secretary to the Committee

Conferees appearing before the committee:

Donald A. Low, Kansas Corporation Commission  
Eva Powers, Kansas Corporation Commission

Chairman Jayne Aylward opened the meeting.

Lynne Holt reviewed the several requests by the Interim Special Committee on Communications, Computers and Technology of the Kansas Corporation Commission. The Interim Committee recommended that the KCC assess the applicability of the Kansas Statutes in defining its authority to the regulatory requirements of the restructured telephone industry, and submit its recommendations to the standing CCT Committee. Also, the KCC was urged to initiate a general investigation into telephone rate making and costing principals, methods and policies and present a progress report. They urged the Commission to regulate private line, voice and data transmission services offered by cable companies and require that cable companies file with the Commission, informational tariffs for any intrastate communication services except for "cable service" or video programming. The KCC was asked to ascertain which entities other than cable companies offer intrastate communication services and report the findings to the 1986 Legislature.

Don Low said the Commission, since divestiture, has tried to address many of the consequences of the issue that have arisen from the divestiture and from FCC policies and regulations. (Attachment 1) He said the Commission is not prepared at this time to make any recommendations for Legislative action on statutory revisions. Current statutes allow the Commission some flexibility in determining the appropriate manner of regulating various services and firms.

Representative Green asked when the ruling was upheld on the rates and various things, if they are still trying to figure out the intent of the divestiture or if they have a pretty good conception of what the intent was when making these decisions. Mr. Low said he thought they had an idea of the basic intent, promoting competition especially in the long distance market. Representative Green asked about their making a decision and then someone saying that was not the intent. Mr. Low said that unless there is a specific prohibition in the order from Judge Green, they are not bound by it.

Chairman Aylward said that he mentioned that the investigation into whatever other entities are providing services would probably be a part of their general investigation and asked if that was included in the draft order he mentioned. Mr. Low said the draft order really addresses the entire question of what is the telecommunications market and discovering who are now or are contemplating providing services is going to have to be something the staff does as a part of the investigation. Chairman Aylward asked what kind of a time line he thinks they are on. He said this simply opens up that phase and poses a lot of questions. In 45 days when they receive the comments, they will take up what they want to hear first. She requested a copy when they finish the order. Mr. Low said it would probably be several years yet completing the investigation.

Representative Friedeman asked about the Cox Cable decision and asked if it was consistent with the whole idea of deregulation. Mr. Low said it was consistent with the FCC's idea of deregulation. Representative Friedeman said he understood states should be more ready to do regulation that has been given up by the FCC and the federal divestiture orders and asked for comment. Mr. Low said that when the FCC has decided to forebear

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMUNICATION, COMPUTERS AND TECHNOLOGY,  
room 522-S, Statehouse, at 3:30 ~~xxx~~/p.m. on January 29, 1986.

from regulation, they at the same time have preempted states from regulation and states cannot step into the vacuum. His personal opinion is that the FCC hasn't fully considered the consequences of their actions.

Eva Powers spoke concerning resale, Senate Bill 226. (Attachment 2) In listing the applications for exemption, she mentioned they had also received one from the Nazarene College in Olathe. She said the Commission has received a letter from Southwestern Bell opposing the granting of the Wesley Medical Center application and a letter from the Center in answer and is hoping to schedule a meeting for oral arguments from the two groups within the next month and reach a decision on this.

Representative Friedeman asked, in light of the dates for the FCC, March 21 and April 21 of 1986, what she would expect the Kansas Commission dates could be. Eva Powers said the Kansas Commission established certain dates for data gathering. If the FCC in the meantime makes a decision, it could result in possibly making the investigation moot. Otherwise, she thinks the KCC would stick to the deadline they have established. Representative Friedeman asked if there was a very good sample in Kansas. She said there was a fair variety in the applications they have now. Representative Friedeman asked, assuming that there was a lot of shared tenant services and that increases the amount of telephone service rather than redistributing the revenue, if they would make projections like that. She replied that based on the data that they receive, certainly some projections will have to be made from the viewpoint of the impact.

The meeting adjourned at 4:15 p.m.

The next meeting of the Committee will be at 3:30 p.m. on Thursday, January 30, 1986.





KANSAS CORPORATION COMMISSION  
STATEMENTS CONCERNING  
INTERIM COMMITTEE PROPOSALS 16 AND 18  
TO THE HOUSE COMMITTEE ON  
COMMUNICATIONS, COMPUTERS AND TECHNOLOGY  
JANUARY 29, 1986

AS YOU KNOW, THE SPECIAL COMMITTEE ON COMMUNICATIONS, COMPUTERS AND TECHNOLOGY ISSUED REPORTS ON THREE PROPOSALS CONCERNING THE AT&T DIVESTITURE, RESALE OF LOCAL TELEPHONE SERVICE AND CABLE TELEVISION. I AM GOING TO DISCUSS THE FIRST AND LAST PROPOSALS.

REGARDING PROPOSAL NO. 16, ON THE AT&T DIVESTITURE, THE COMMITTEE REPORT RECOMMENDED THAT (1) THE LEGISLATURE CONTINUE TO MONITOR "ALL EFFORTS TO DEREGULATE TELECOMMUNICATIONS SERVICES," (2) THAT AN INTERIM STUDY BE CONDUCTED IN 1986 ON THE IMPACT OF THE AT&T DIVESTITURE ON KANSAS RATEPAYERS; AND (3) THAT THIS COMMITTEE REVIEW EXISTING LEGISLATION FOR DESIRABLE MODIFICATIONS. THE REPORT ALSO ENCOURAGED THE KCC TO (1) ASSESS KANSAS STATUTES AND SUBMIT RECOMMENDATIONS CONCERNING THE APPLICABILITY OF KANSAS STATUTES TO THE REGULATORY REQUIREMENTS OF THE RESTRUCTURED TELEPHONE INDUSTRY AND (2) TO INITIATE A GENERAL INVESTIGATION INTO ISSUES OF TELEPHONE RATEMAKING AND COSTING PRINCIPLES, METHODS AND POLICIES.

THE COMMISSION HAS IN THE LAST TWO YEARS ADDRESSED MANY OF THE CONSEQUENCES AND ISSUES ARISING FROM THE AT&T DIVESTITURE AND FCC POLICIES ON DEREGULATION. WE PRESENTED A BRIEF SUMMARY OF COMMISSION ACTIVITIES FOR THE INTERIM COMMITTEE AND WILL BE HAPPY

*Attachment 1  
1/29/86 Hs.CCT*

TO PREPARE A MORE EXTENSIVE AND UPDATED REPORT FOR THE 1986 INTERIM SESSION IF THAT IS DESIRED. AS WE HAVE NOTED IN THE PAST, OF COURSE, MANY OF THE EVENTS THAT HAVE TRANSPIRED CANNOT BE ATTRIBUTED TO THE AT&T DIVESTITURE BUT ARE DUE TO CHANGES IN TECHNOLOGY AND FEDERAL POLICIES. I SHOULD NOTE THAT THE U.S. DEPARTMENT OF JUSTICE IS PREPARING A REPORT TO THE COURT ON THE CONSEQUENCES OF DIVESTITURE AND STATUS OF COMPETITION IN THE TELECOMMUNICATIONS INDUSTRY WHICH DIVESTITURE WAS INTENDED TO PROMOTE. THAT REPORT IS NOT DUE TO BE FILED WITH THE COURT UNTIL JANUARY OF 1987.

THE COMMISSION STAFF HAS, IN THE LAST FEW YEARS, ALSO LOOKED AT THE STATUTES REGARDING THE REGULATION OF TELECOMMUNICATIONS SERVICES. THIS HAS NOT BEEN A COMPREHENSIVE ANALYSIS AND NO PROCEEDINGS HAVE BEEN HELD IN OUR GENERAL INVESTIGATION DOCKET TO CONSIDER POSSIBLE STATUTORY CHANGES. CONSEQUENTLY, THE COMMISSION IS NOT PREPARED AT THIS TIME TO MAKE RECOMMENDATIONS FOR LEGISLATIVE ACTION ON STATUTORY REVISIONS. THE COMMISSION IS CONSIDERING OPENING UP ANOTHER PHASE OF OUR INVESTIGATION DOCKET TO ADDRESS THIS MATTER. IN ANY EVENT, WE WOULD SUGGEST THIS MATTER MAY APPROPRIATELY BE PART OF THE 1986 INTERIM SESSION STUDY. I SHOULD NOTE THAT THE CURRENT STATUTES DO ALLOW FOR SOME FLEXIBILITY IN REGULATION AND THE COMMISSION HAS USED THAT FLEXIBILITY IN DETERMINING THE APPROPRIATE MANNER OF REGULATING VARIOUS SERVICES AND FIRMS. THIS IS NOT TO SAY THAT STATUTORY CHANGES ARE NOT DESIRABLE. THE COMMISSION BELIEVES THAT SOME CHANGES MAY BE BENEFICIAL BUT HAS NOT FELT A PRESSING NEED UP TO THIS POINT TO DO A COMPREHENSIVE ANALYSIS.

WITH REGARD TO THE SPECIAL COMMITTEE'S RECOMMENDATION TO THE COMMISSION TO INITIATE A GENERAL INVESTIGATION INTO TELEPHONE RATEMAKING, THE COMMISSION ANTICIPATES DISCUSSION OF THE DRAFT ORDER NEXT WEEK. THE DRAFT ORDER IS FAIRLY LENGTHLY AND REQUIRED SEVERAL ROUNDS OF EDITING BEFORE IT WAS READY FOR COMMISSION DISCUSSION. IF APPROVED BY THE COMMISSION, THE ORDER WILL BE ISSUED SHORTLY THEREAFTER. WE WILL BE GLAD TO PROVIDE THE COMMITTEE WITH COPIES IF AND WHEN IT IS ISSUED.

AS PART OF THE GENERAL INVESTIGATION, THE COMMISSION IS POSING MANY QUESTIONS DESIGNED TO DETERMINE HOW CABLE TELEVISION FITS INTO THE TELECOMMUNICATIONS PICTURE. THE SPECIAL COMMITTEE REPORT ON PROPOSAL NO. 18 ALSO URGED THE COMMISSION TO CONDUCT AN INVESTIGATION TO ASCERTAIN WHICH ENTITIES OTHER THAN CABLE COMPANIES OFFER COMMUNICATION SERVICES AND REPORT OUR FINDINGS TO THE INTERIM COMMITTEE. THIS WILL ALSO BE PART OF OUR GENERAL INVESTIGATION. AS THE SPECIAL COMMITTEE REPORT NOTED, THERE IS SOME QUESTION IN LIGHT OF THE COX CABLE DECISION BY THE FCC ABOUT STATE COMMISSION AUTHORITY OVER ENTRY BY CABLE SYSTEMS INTO COMMUNICATIONS SERVICES. IF THIS DECISION IS UPHeld BY THE COURTS, IT WOULD APPEAR THAT STATES CANNOT PROHIBIT ENTRY BY CABLE SYSTEMS, AT LEAST INSOFAR AS THE FCC DETERMINES THAT THEY ARE NOT COMMON CARRIERS. THIS WOULD APPEAR TO NULLIFY THE PROVISION IN SB 226 GIVING TELEPHONE UTILITIES EXCLUSIVE CERTIFICATION TO THE EXTENT THAT CABLE SYSTEMS CANNOT BE PREVENTED FROM PROVIDING CONTRACT CARRIAGE.

KANSAS CORPORATION COMMISSION  
STATEMENT CONCERNING  
INTERIM COMMITTEE PROPOSAL 17  
TO THE HOUSE COMMITTEE ON  
COMMUNICATIONS, COMPUTERS AND TECHNOLOGY  
JANUARY 29, 1986

THE COMMISSION ISSUED ITS LATEST ORDER ADDRESSING SHARED TENANT SERVICES (STS) ON AUGUST 23, 1985. THAT ORDER CONFIRMS THAT CONNECTION OF CUSTOMER PREMISES EQUIPMENT (CPE) TO THE NETWORK FOR USE IN STS ARRANGEMENTS IS PERMITTED, BUT THAT RESALE OF LOCAL SERVICE IS NOT. THE COMMISSION FOUND THAT IT DID NOT HAVE SUFFICIENT INFORMATION TO DETERMINE WHAT IMPACT PERMITTING RESALE OF LOCAL SERVICE WOULD HAVE ON THE LOCAL EXCHANGE COMPANIES AND THEIR CUSTOMERS, NOR WHAT IMPACT PROHIBITION OF LOCAL SERVICE RESALE WOULD HAVE ON KANSAS CUSTOMERS DESIRING TO USE AN STS ARRANGEMENT. IT, THEREFORE, PUT IN PLACE A SCHEME DESIGNED TO GATHER THE INFORMATION WHICH WOULD ALLOW IT TO MAKE AN INFORMED DECISION. TO THAT END THE COMMISSION'S ORDER ESTABLISHED THAT:

1. APPLICATIONS FOR EXEMPTION FROM PROHIBITION ON LOCAL SERVICE RESALE WOULD BE ACCEPTED FOR A SIX-MONTH PERIOD FOLLOWING THE ISSUANCE OF THE ORDER - UNTIL FEBRUARY 23, 1986.
2. DATA WOULD BE GATHERED FROM THOSE GRANTED EXEMPTIONS AND FROM THE LOCAL TELEPHONE COMPANIES FOR THE PERIOD ENDING FEBRUARY 28, 1987.
3. INFORMATION WOULD HAVE TO BE SUPPLIED TO THE COMMISSION NO LATER THAN MAY 1, 1987.

*Attachment 2  
1/29/86 Hs.CCT*



TO DATE FOUR APPLICATIONS HAVE BEEN RECEIVED FROM: HUTCHINSON JUNIOR COLLEGE, THE WICHITA AIRPORT AUTHORITY, WESLEY MEDICAL CENTER AND THE LAW COMPANY IN WICHITA. ONE HAS BEEN GRANTED - THE APPLICATION OF HUTCHINSON COMMUNITY COLLEGE. THE OTHERS HAVE ONLY RECENTLY BEEN RECEIVED AND STAFF IS EXAMINING THEM. SOUTHWESTERN BELL HAS OPPOSED THE GRANTING OF THE WESLEY MEDICAL CENTER APPLICATION AS NOT BEING IN CONFORMANCE WITH THE COMMISSION ORDER. ONCE A REPLY IS RECEIVED FROM WESLEY THE COMMISSION WILL NEED TO DECIDE HOW TO PROCEED ON THAT MATTER.

AS SET OUT IN THE ORDER ANY APPLICATION THAT IS GRANTED MUST HAVE ITS SYSTEM IN OPERATION AT THE TIME OF THE APPLICATION, AS IS THE CASE WITH WESLEY, THE AIRPORT AUTHORITY AND THE LAW COMPANY, OR BE ABLE TO BEGIN OPERATIONS IN A SHORT PERIOD OF TIME, IN ORDER TO PROVIDE THE DATA WHICH THE EXPERIMENT IS DESIGNED TO GATHER.

ON JANUARY 14, 1986, THE FEDERAL COMMUNICATIONS COMMISSION (FCC) TOOK ACTION REGARDING SHARED TENANT SERVICES. IBM HAD FILED A REQUEST FOR DECLARATORY RULING REQUESTING THAT THE COMMISSION DECLARE THAT USERS HAVE A RIGHT TO INTERCONNECT CPE USED TO PROVIDE STS TO THE NETWORK AND REQUESTING A RULING PREEMPTING STATE REGULATION RESTRICTING RESALE OF LOCAL SERVICE BY AN STS SYSTEM. THE FCC SUPPORTED THE RIGHT OF INTERCONNECTION, BUT CONCLUDED THAT "RESOLD LOCAL SERVICE IS NOT AN ESSENTIAL LINK IN THE RESALE OF INTERSTATE SERVICE, AND THUS DOES NOT REQUIRE THE PREEMPTION OF RESALE RESTRICTIONS IN JURISDICTIONALLY LOCAL SERVICE". AT THE SAME TIME, THE FCC TOOK ACTION, HOWEVER, TO BEGIN AN INQUIRY INTO THE IMPACT ON ALL AFFECTED GROUPS OF STS

ARRANGEMENTS AND SPECIFICALLY OF THE ROLE OF RESALE OF LOCAL SERVICE.

IN A NEWS RELEASE (THE ORDER IS NOT YET AVAILABLE) THE FCC STATES AS A TENTATIVE CONCLUSION "THAT AS LONG AS STATE REGULATION OF THESE AREAS DOES NOT UNDULY IMPAIR THE ABILITY OF STS PROVIDERS TO OPERATE, THE STATES WOULD CONTINUE TO REGULATE THESE AREAS". THE FCC REQUESTED COMMENTS ON THIS CONCLUSION AND FURTHER STATED THAT IT "HAS INITIATED AN INQUIRY TO EXAMINE THE ISSUES RAISED BY THE INTRODUCTION OF SHARED TELECOMMUNICATIONS SERVICES (STS) SYSTEMS, INCLUDING THE IMPACT OF STS ON LOCAL TELEPHONE COMPANIES, ITS EFFECTS ON TELEPHONE SUBSCRIBERS, BOTH DIRECTLY AND THROUGH ITS IMPACT ON LOCAL EXCHANGE RATES, AND THE EFFECTS OF STATE REGULATION ON STS IMPLEMENTATION". THE NEWS RELEASE WENT ON TO OBSERVE THAT NOT ENOUGH INFORMATION WAS AVAILABLE "TO ASSESS THE COST SAVINGS STS SYSTEMS WOULD PROVIDE TO CUSTOMERS AND SOCIETY AS A WHOLE, ESPECIALLY THOSE THAT DERIVE FROM THE RESALE OF LOCAL SERVICE. IT ALSO INDICATED THAT MORE INFORMATION WAS NEEDED TO DETERMINE THE LONG TERM EFFECT OF STS ON LOCAL EXCHANGE CARRIERS AND UNIVERSAL SERVICE." IT IS PRECISELY THIS SAME CONCERN REGARDING LACK OF INFORMATION ON WHICH TO BASE A DECISION WHICH CAUSED THE KANSAS COMMISSION TO ADOPT THE SCHEME THAT IT DID. THE FCC EXPECTS TO PROCEED MORE RAPIDLY THAN THE KANSAS COMMISSION AND IT HAS SET MARCH 21, 1986, AS THE DATE TO FILE COMMENTS AND APRIL 21, 1986 AS THE DATE FOR REPLY COMMENTS. CLEARLY THE FCC CAN MOVE MORE RAPIDLY SINCE IT CAN MAKE ITS DETERMINATION ON THE BASIS OF NATIONWIDE INFORMATION, AND STS ARRANGEMENTS HAVE BEEN IN PLACE FOR LONGER PERIODS OF TIME IN SEVERAL OTHER STATES.

WITH RESPECT TO THE PROPOSED AMENDMENTS TO K.S.A. 66-104, I WOULD ONLY OBSERVE THAT AS IS MENTIONED IN THE SPECIAL COMMITTEE REPORT, THE LANGUAGE IN THE PRESENT BILL WOULD NOT ALLOW HUTCHINSON COMMUNITY COLLEGE TO PROVIDE SERVICE TO ITS STUDENTS. FOR YOUR INFORMATION, THE COMMISSION STAFF HAS ALSO BEEN CONTACTED BY ONE OF THE PRIVATE COLLEGES IN THE STATE WITH QUESTIONS AS TO ITS ABILITY TO PROVIDE SERVICE TO ITS STUDENTS. CLEARLY, THE LANGUAGE OF THE PRESENT DRAFT WOULD PRECLUDE SUCH A COLLEGE FROM PROVIDING SERVICES TO ITS STUDENTS.

THE TELECOMMUNICATIONS INDUSTRY IS CHANGING VERY FAST AND NUMEROUS DECISIONS ARE MADE WHICH SUBSEQUENTLY MUST BE CHANGED BECAUSE OF THE DIFFICULTY OF FORESEEING ALL RAMIFICATIONS AND CONSEQUENCES. THE COMMISSION BELIEVES THAT IT IS UNCLEAR GIVEN THE PRESENT DRAFT WHETHER LOCAL EXCHANGE PRIVATE LINES ARE INTENDED TO BE INCLUDED OR NOT IN THE RESALE PROHIBITION AND THAT IT IS NOT CLEAR WHAT TYPES OF SERVICE ARRANGEMENTS COULD BE EXCLUDED UNDER THE EXCEPTION FOR COOPERATIVES. WITH RESPECT TO STS, THE COMMISSION HAS ADOPTED A SCHEME IN ORDER TO GATHER DATA TO MAKE AN INFORMED DECISION AND THE FCC HAS ALSO EMBARKED ON AN INVESTIGATION OF THIS AREA. THE COMMISSION BELIEVES THAT IT IS DESIRABLE TO AWAIT THE CONCLUSION OF THESE INVESTIGATIONS AND AN ANALYSIS OF THE RESULTS.