

MINUTES OF THE HOUSE SUB COMMITTEE ON COMMUNICATION, COMPUTERS AND TECHNOLOGY - SB 226The meeting was called to order by Representative Jeff Freeman at  
Chairperson4:40 ~~xxxx~~ a.m./p.m. on February 19, 1986 in room 522-S of the Capitol.

All members were present except:

## Committee staff present:

Lynne Holt, Legislative Research Department  
James A. Wilson, Revisor of Statutes  
Jean Mellinger, Secretary to the Committee

## Conferees appearing before the committee:

Eva Powers, Kansas Corporation  
Ralph Skoog, Kansas CATV Association  
Ron Gaches, The Boeing Military Airplane Company, Wichita  
Kurt Furst, GTE Sprint  
Jeff Russell, The United Telephone Company of Kansas  
Ed schaub, Southwestern Bell Telephone Company  
Pam Bailey, Wesley Medical Center  
Bob MacDevitt, St. Francis Hospital and Medical Center, Topeka  
Rick H. Enewold, American Telephone and Telegraph Company

Representative Friedeman called the meeting to order in the absence of Representative Freeman to consider SB 226 and distributed a balloon prepared by Lynne Holt that includes everything suggested up to the present in the way of amendments to the bill.

Representative Friedeman asked Eva Powers if there is a late document that has just been brought out within the last month that has something to do with this. She said there was nothing concerning this specifically. He asked what the last docket that addresses this issue was. She replied it was Document No. 141975 U. There have been some orders subsequent to that that follow up on that order but those orders don't change anything.

Ralph Skoog said he received an order indicating that they are opening for investigation in the general sense and it seemed to him that it might be an appropriate place for the issue of some definitional things to be evaluated for possible suggestions to the legislature. Eva Powers said that Don Low mentioned this order at their previous visit to the Committee and they are planning on opening an investigation of things appropriate for legislation in response to the legislators' request to the Commission. She said this is an extensive undertaking. The general intent is for the staff to analyze the responses they get and make recommendations to the KCC based on these. This bill would not be exempt but it was not the primary thrust. Representative Friedeman asked if it would be helpful to the subcommittee to get that, and she replied that she would make it available to the subcommittee.

Representative Friedeman said they requested certain data informally as the subcommittee was formed and they asked for states that address this issue. Lynne Holt said there was some discussion on that in a memorandum furnished to the interim committee and furnished him a copy. Representative Friedeman said they were going to take comments from everyone present starting with Representative Helgerson.

Representative Helgerson said one of the key things in his mind is to assess and make some decisions of whether or not it is the decision of the KCC or the decision of the legislature to determine whether or not there is resale in this state. The Committee had the opportunity to pass or not pass this bill last year. Before the Interim Committee had an opportunity to meet and discuss the issue, the KCC in their power decided to implement a testing period. He thinks it is best that they leave it at that. The KCC has not even decided as to what issues will be addressed in some of the things they are going to study. He views the roll of the Committee to support what KCC is doing but also to go ahead and specifically ask KCC for questions they want answered in that time frame and to have KCC specifically spell out what they hope to obtain. In discussions, it was found that resale is not going to impact any telephone company, any rate structure, or any individual for the next two years. It seems the wisest course is to study it

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CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMUNICATION, COMPUTERS AND TECHNOLOGY

room 522-S, Statehouse, at 3:30 ~~xxx~~ p.m. on February 19, 1986

but at the same time to decide what type of information we want and to make some decision on whether we want the KCC to implement this decision or whether or not we want the legislature to do it. Examples of decisions the Committee should make are whether or not a company can come on board and continue with an exemption to resell telephone equipment after the deadline of February 23. In questioning, they found that if resale is permitted in a limited scale for an extended period of time, it is within the power of the KCC to transfer the proportionate share of dollars from homeowners to those individuals that are able to take advantage of the smart systems and this has not been addressed. It is well and good for the Committee to deal with this bill but they should also be focusing on what kind of additional information they should have from the KCC.

Representative Dean said if we are going to develop some criteria for our policy, we need appropriate data to put in to the blanks. We should be defining what data we want and see how that matches up with what KCC is getting and asked Representative Helgerson if that was what he was referring to.

Representative Helgerson said he thought they should work with KCC in developing the criteria and the information that they want out of this study to generate the policy but then reaffirm whether or not they are going to turn it over to the KCC or whether the legislature accepts that responsibility and formulates that policy. He said he is very much in favor of working out and probably protecting the universal service concept, but at the same time the committee must get the information. He said the three subcommittee members have an opportunity to amend this bill in such a way or leave it up to the Committee to amend but also propose that what should be done is address some specific comments to the KCC as to what our roll should be. He believes the KCC acted correctly in what they did because the Committee did not give them enough direction. Now they should work with the KCC in developing an information packet so whatever group of legislators make that decision can make it based on the information obtained over that period.

Representative Dean asked if he had certain data that he thinks is more pertinent than other data. Representative Helgerson mentioned what happens when additional companies come on board, is there a petition or is there an exemption policy, and to explore exemptions and what information is going to be provided during that test period. He said he didn't bring any notes that there are a number of things that he would request.

Representative Friedeman asked what he would think of a bill that stops new applications for some period of time, a year or 18 months, for a review or sunset. Representative Helgerson said in one way they don't have to pass the bill but look at it in a year and a half and make some decision at that time or pass the legislation and exempt the seven or eight or ten companies that have petitioned and state that nothing else can be done and set it for a year and a half. Both ways seem to accomplish the same thing. He said he was asked if they would be passing any kind of a message to the FCC by passing this kind of a bill and he can't answer that. The committee can freeze it up by stipulating to the KCC in the form of a letter or resolution to restrict the exemptions.

Representative Dean asked Eva Powers what some of the information points are that are going to be gathered during this trial period, when it starts, and when it ends. Eva Powers said the accepting of applications ends February 23, 1986, and the end of the data gathering is February 28, 1987 and they will have a report of that data as of May 1. There are two main areas of information they are seeking: (1) On the amount of revenue that the local telephone companies will get on a shared tenant service arrangement as compared to the amount they would have gotten if the subscribers had subscribed directly, and (2) Stranded investment, historically this refers to buildings that already have services and includes the investments that have already been made that are no longer going to be useful but remain on the books of the telephone company and need to be amortised and depreciated. Once they have this information, there are different ways it can be used. In addition, the telephone companies have expressed concern about their ability to plan. They also want to get information from the users as to what benefits they see and what savings they realize. She said there may be other information that they realize they will need as they go along but that is the primary type of information they are looking at.

Representative Dean asked if they will get any idea of the tendency of growth of this type of systems. Eva Powers said they were going to look at the size of the systems at the time of their application and when the trial ends.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMUNICATION, COMPUTERS AND TECHNOLOGY

room 522-S, Statehouse, at 3:30 ~~xxx~~/p.m. on February 19, 1986.

Representative Dean asked if they were going to look at the ramifications if the market dries up and they no longer make non-partitioned switches. She said that was not a part of their original plan but if the legislators would like for them to look at this, they could. Representative Dean said he thinks that projections in this area need to be done.

Chairman Freeman said they would go around the room and go over the various balloons that have been offered and started with Ron Gaches.

Ron Gaches said that in looking at the grandfather clause, new section 5, changing the dates would not be sufficient to settle their problem. What he meant was the system was going to continue to expand because during the past year the number of employees expanded considerably; the physical facilities will be expanding during the current year for computer services, etc.; and they expect this to continue. From the wording, they assumed this meant geographical area and the new facilities are in new locations and the Intrastate Management that handles their cafeterias and is on the telephone system will be expanding to the new locations also. He has been working on a proposal for a substitute grandfather clause and is concerned that with such a broad grandfather clause, it would no longer serve the purpose of the proponents of the legislation. He had a couple of other concerns. Telecommunication services is used several times in the bill but never defined, and he would recommend that it be defined or stricken out. A further suggestion is in regard to the language appearing at the top of page 8, the new section which he feels should refer back to the "private use" definition on page 5 rather than the exception used on page 8.

Chairman Freeman said there is a definition of transmission of telephone messages on page 6 which, as he understands it, is existing law.

Representative Friedeman asked the representative of Southwestern Bell if he agreed with that as far as the intent of the bill and was told he did.

Representative Dean questioned the fact that definitions weren't in Section 1. Jim Wilson said the problem arises because they are amending current law and the bills are put together generally on the basis of earlier K.S.A. numbers.

Representative Friedeman asked Mr. Gaches if he felt that was an adequate definition and was told he did. Representative Friedeman asked how they can protect universal service and yet allow expansion for economic development at the same time. Mr. Gaches said he doesn't think they have determined that the resale of telecommunication services is injurious to universal service. He thought the subsidies flow from long distance service. Mr. Schaub said that, as a result of divestiture, long distance revenue has been taken away from local telephone companies which includes essentially all of the subsidies. Mr. Schaub said that when the amendment was put in, in the Senate, geographical areas referred to the Wichita Airport Authority.

Kurt Furst said they are opposed to the legislation and that there is a tremendous amount of change in the industry today and to pass this legislation prior to getting information back from the KCC, they feel, would be a mistake. But they have submitted an amendment on page 7 clarifying that this legislation is dealing with local resell not providers of long distance. Representative Freeman asked if the amendment were adopted if they would be supportive of the bill. Mr. Furst said they would still oppose the bill because they would still think that it would be mor wise to wait until the data comes in to the KCC and is studied.

Representative Freeman asked if it was the intent of GTE Sprint to provide service for all of Kansas. Mr. Furst said their intent is to serve the entire state of Kansas and the entire United States as they grow as a company. Representative Freeman said his phone in Burlington is a rural phone and asks if he sees that resale will harm that. Mr. Furst said he saw that as an argument that does not have a basis of fact.

Ed. Schaub said this legislation never intended to impact long distance service.

Ralph Skogog said that on page 2, (3) is opposite of what is said on page 8 about exclusive privilege and he thinks that is grounded in the constitution of the State of Kansas. The next thing was the issue of the definition of telephone messages which is all-inclusive. Other states have used such definitions as two-way switch, inter-exchange, two-way communications. Representative Freeman asked if they adopted the proposed amendment on

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMUNICATION, COMPUTERS AND TECHNOLOGY

room 522-S, Statehouse, at 3:30 ~~XXXX~~ a.m./p.m. on February 19, 19 86

page 8, if there would be any other objections to the bill as currently drafted with the proposed changes on page 2. They feel comfortable with that language in there.

Jeff Russell said they didn't sponsor any of the amendments and they support the approach of Representative Helgeson to get the information from the KCC study.

Ed Schaub said the amendments start on page 5. The new language reflects the change in direction and some compromise regarding the non-partitioned switch and partitioned switch. They support the Commission Order study and have accepted that putting in a partitioned switch is fine from their standpoint and they think it protects the integrity of universal service. They have attempted to clear up the concerns of those who have their own private systems. They added community junior colleges to be exempt. Representative Freeman asked about dorms located off campus, if the amendment addressed that. Mr. Schaub said the amendment talks about on state property so rented dorms would not be covered. Lynne Holt mentioned that Hutchinson Junior College was municipal property. It was suggested that it should be university property. In using the partitioned switch, they were not suggesting the landlord get as many lines as there are tenants and then resell the service, and they have an amendment addressing that. They have in there that there is nothing to impact cable television and have exempted franchise agreements, and they would like to have the definition of cable television service included in this bill as it was in the cable act that was passed in Washington.

Pam Bailey said there are three hospitals in the state that currently want to provide telephone services. She suggested including hospitals in the definition of private use so they can provide service to someone on their medical staff or affiliated organizations. Lynne Holt said that was included under private exemptions on page 5.

Representative Friedeman said in the discussion, doctors' offices and other related services not totally under their umbrella were mentioned and asked if she thinks they should be included as an exemption. She replied they currently provide service to some doctors' offices and the doctors are on their medical staff and that is the type of resale they are concerned about. Representative Friedeman asked who owned the property that they are on. She said it varies, they own the property one of the offices is on and the other is in a condominium building of which the hospital utilizes three floors. Representative Friedeman said it is pretty hard to justify this if everyone else is cut off. She said they are providing it to improve health care in the state.

Representative Freeman asked approximately how many doctors' offices they were supplying service to and was told two doctors' offices, the Endowment Foundation, and the Great Plains Health Alliance which is a sister corporation of theirs. Representative Dean asked how many doctors were in each office and she was unable to tell him. Representative Dean asked who put the cables in and was told that Wesley Medical Center did.

Bob MacDevitt said St. Francis Hospital purchased their telephone system from Southwestern Bell approximately a year and a half ago and in the purchase agreement indicated they intended to resell to the buildings on their property--they don't own the buildings--and Southwestern Bell installed the cable for them to the two buildings. He said it is not the hospital's intention to sell other than to physicians.

Representative Friedeman asked if St. Francis has an application in to KCC for that. Mr. MacDevitt said one would be submitted the next day.

Representative Dean asked if this data could not be transmitted over a standard telephone line that is owned by Southwestern Bell. Pam Bailey said their concern is quality of transmission, that they are a digital system and Southwestern Bell is not.

Rick Enewold said that AT&T manufacturers both partitioned and non-partitioned switches. He said they don't have any hard evidence to base these decisions on. He thinks the Committee and the legislature has the opportunity to make any changes they want after they have the evidence. He said when traffic is consolidated, less is invested for rate payers to pick up.

Representative Freeman asked if he saw this as a consumer issue and was told he personally does and thinks the consumers themselves should be heard from.

The meeting adjourned. The next meeting will be February 26 at 3:30 p.m., Room 522-S.  
Page 4 of 4