

Approved: 4-5-96
Date

MINUTES OF THE HOUSE SELECT COMMITTEE ON TELECOMMUNICATIONS.

The meeting was called to order by Chairperson Doug Lawrence at 1:30 p.m. on February 15, 1996 in Room 313-S of the Capitol.

All members were present except:

Committee staff present: Lynne Holt, Legislative Research Department
Bob Nugent, Revisor of Statutes
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Melissa Hungerford, Senior Vice President - Kansas Hospital Association
Carl Krehbiel, President - Moundridge Telephone Company
Kendall Mikesell, Manager - Southern Kansas Telephone Company
Richard D. Lawson, Vice President, KS - Sprint/United Telephone of Kansas
Brian Lippold, General Manager - Multimedia Hyperion Telecommunications

Others attending: See attached list

Chairman Doug Lawrence called the meeting to order at 1:30 p.m. A copy of the Telecommunications Issues - Policy Framework was distributed to committee members for their review. (See Attachment 1)

Glenda Cafer of the Kansas Corporation Commission supplied an analysis of methods used by other states in determining the initial prices for price caps. (See Attachment 2) Also a memorandum from Tom Behner, Kansas Corporation Commission, concerning LINK-UP Eligibility, was distributed to committee members. (See Attachment 3)

The Chairman announced a hearing next Wednesday, February 21, 1996 on HB 3030, concerning Internet Access. Anyone that would like to submit comments on the Internet questions are welcome to and should turn those in to Lynne Holt, Legislative Research, so we can have those when we take up that issue.

Also handed out to the committee members was a 1996 Directory which includes listing for all Kansas Telephone Companies.

The Chairman briefly reviewed the agenda for next week, Monday will be a continuation of hearing on HB 2994, Tuesday HB 2960, the Sprint bill, Wednesday there are two bills, HB 2963, the Slamming bill and HB 3030, the Internet Access bill, Thursday HB 2763, franchise authority from the state corporation commission, also discussion and possible action on HCR 5036.

The Chairman opened public hearing on HB 2994.

HB 2994: An Act concerning telecommunications services: relating to competition in rural areas: amending K.S.A. 66-1,187 and repealing the existing section.

Chairman Lawrence welcomed Melissa Hungerford, Senior Vice President of the Kansas Hospital

CONTINUATION SHEET

MINUTES OF THE HOUSE SELECT COMMITTEE ON TELECOMMUNICATIONS, Room 313 -S
Statehouse, at 1:30 p.m. on February 15, 1996.

Association. She spoke in favor of HB 2994, in behalf of the Hospital Association, which they feel addresses the special needs in rural parts of the state, assists companies in providing infrastructure where low volumes make it difficult and requires that companies provide these services for reduced costs on an ongoing basis. (See Attachment 4)

The Chair recognized Carl Krehbiel, President of Moundridge Telephone Company. Mr. Krehbiel was in favor of HB 2994. He feels telecommunications has the potential to open many doors for rural Kansas, and that the provisions in HB 2994 gives the tools to make the rural areas full participants in the information society. (See Attachment 5)

The Chair recognized Kendall Mikesell, Manager, Southern Kansas Telephone Company. Mr. Mikesell was in support of HB2994. He believes this bill correctly balances the issues surrounding equitable competition, the provision of Universal Service and the deployment of an advanced infrastructure. (See Attachment 6)

The Chairman welcomed Richard Lawson, Vice President, Ks., Sprint/United Telephone of Kansas. Mr. Lawson spoke in opposition of HB 2994. He feels this bill is built around the TSPC report and contains the same strong points but also falls short in several key areas, which he outlined for the committee. (See Attachment 7)

The Chairman welcomed Brian Lippold, General Manager, Multimedia Hyperion. Mr. Lippold spoke in opposition to HB 2994, he outlined for the committee the sections of this bill that he feels should be removed and or revised. (See Attachment 8)

The Chairman announced that Lynne Holt will summarize the comments of questions raised about the federal legislation's impact on HB 2994 into a mini matrix.

The meeting adjourned at 3:10 p.m.

The next meeting is scheduled for February 19, 1996.

SELECT COMM. ON TELECOMMUNICATIONS
COMMITTEE GUEST LIST

DATE: 2/15/96

NAME	REPRESENTING
John D. Pincus	SITA
Randy DeLundham	KCC
Pat Hubbell	SWB
DENNY KOCH	SWB
Roger Vonfeldt	Rural Telephone Service Co.
George Barber	R T M C
Tom Gleason	Independent Telecom. Group
Randy Miller	KCC
BH1 Drexel	SWBT
Nelamier Ferguson	SWBT
Bill Burt	SWBT
Gordon Mikebell	Southern KS telco
Steve Sackrider	Wamego TELEPHONE Co. Inc
JUNIOR L. CLARK	" " " "
KENDALL MIKESELL	SOUTHERN KANSAS TELEPHONE
Rob Hodges	KTA
Guy McDonald	KCC - staff.
Anne Humphrey	Ks. Hospital Assn.
Melissa Humberford	Ks Hospital Assn

SELECT COMM. ON TELECOMMUNICATIONS
COMMITTEE GUEST LIST

DATE: 2-15-96

NAME	REPRESENTING
M. Chammareau	Classic Communications
L.W. Dawson	Sprint/United
Stenda Cop	KCC
Ron Heru	Classic Communications
Debra Peterson	Sprint
Leva Powers	MCI
Patrick Hurley	ATT
Jay Scott Emley	KINI 2.C.
STEVE KEARNEY	KINI L.C.
John Reinhart	KPA
Linou Peterson	Councilmember, Beloit
JASON PITSEMBERGER	BRAD SMOOT
Kathy Peterson	ATT
Rebecca P	KCTA
BRIAN LIPPOUD	MULTIMEDIA HIERON
Cyndi Gallagher	SWBT
Nick Reuel	ATT
Scott Richardson	SWBT
Preston Crumbaker	Intern for Rep. Morrison

TELECOMMUNICATIONS ISSUES – POLICY FRAMEWORK

Issue	AT&T (Multimedia Hyperion and MCI concur)	Sprint/United	Kansas Cable Television Association	Kansas Corporation Commission	Classic Communications	Kansas Telecommunications Coalition
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UNIVERSAL SERVICE

I. What is the problem?

A. With the advent of competition and without some form of intervening regulatory action, many Kansans, particularly those located in remote rural areas, are less likely to have access at affordable rates to the same level and array of services as their counterparts in metropolitan areas. (Regulatory is defined here as action directed by the KCC, legislation, or both.)

II. Do you agree with the statement of the problem? If you disagree, please provide alternative language.

Yes, universal service has long been a goal of AT&T. The statement of the problem reflects the goal of Universal Service. However, most of the problems surrounding this issue concern who pays into the fund and who receives money from the fund. Obviously, competition will occur first in those areas with high density. Competition should eventually occur in rural areas if

Sprint/United does not wholly agree with the statement of the problem. The advent of competition, alone, will not cause rural area customers to be less likely to have access at affordable rates at the same level and array of services as their counterparts in metropolitan areas. Sprint/United does agree that regulatory action may be required to preserve universal service.

The cable television industry agrees that universal service to the poor and those in high cost areas is important and, furthermore, there is need for continued regulation in universal service. We do not agree that competition will cause an increase in those subscribers not receiving an acceptable level service at affordable rates. We think that a vigorously competitive telecom-

Alternative Language:

With the advent of local competition and without some form of intervening regulatory action, there is a concern that many Kansans, particularly those located in remote rural areas, are less likely to have access to a comparable array of services at affordable rates and of the same quality of service level

Classic disagrees with the statement of the problem.

Alternative Language should read:

In many sparsely populated areas of the state there may not be sufficient demand for advanced telecommunications services, making their deployment economically impossible at subscriber

The statement of the problem is a reasonable representation of why legislation is necessary to provide policy guidance to insure continuation of universal service with competition.

House Sel/Comm. Telecomm
 2-15-1996
 ATTACHMENT 1

<u>Issue</u>	<u>AT&T (Multimedia Hyperion and MCI concur)</u>	<u>Sprint/United</u>	<u>Kansas Cable Television Association</u>	<u>Kansas Corporation Commission</u>	<u>Classic Communications</u>	<u>Kansas Telecommunications Coalition</u>
	<p>there is an orderly transition which encourages new entrants.</p>	<p>Sprint/United recommends that the reference to the "advent of competition" be stricken. Therefore it would read:</p> <p>Without some form of intervening regulatory action, many Kansans, particularly those located in remote rural areas, are less likely to have access at affordable rates to the same level and array of services as their counterparts in metropolitan areas.</p>	<p>munications market enhances universal service. Competition will stimulate the development of new products and services and will likely stimulate demand and will ultimately produce higher revenues and earnings for providers. The result will be more services at affordable rates to a broader segment of the consuming public.</p>	<p>as their counterparts in metropolitan areas. (Regulatory is defined here as action directed by the KCC, legislation, or both.)</p>	<p>rates equal to those paid by urban area subscribers.</p>	
<p>III. What is the policy objective?</p> <p>A. Kansas telecommunications policies should preserve and enhance universal service at an affordable price for every Kansan, including the poor and those who live in remote areas. (Taken from the vision statement of the Telecommunications Strategic Planning Committee.)</p>						
<p>IV. Do you agree with the stated policy objective? If you disagree, please provide alternative language.</p>	<p>Yes.</p>	<p>Sprint/United agrees with the stated policy objective.</p>	<p>The cable television industry agrees with the stated policy objective.</p>	<p>Kansas telecommunications policies <u>must</u> preserve and enhance <u>high quality</u> universal service at an affordable price for every Kansan, including the poor and those who live in remote areas.</p>	<p>Alternative Language should read:</p> <p>Kansas should develop a Kansas Universal Service Fund to <u>supplement</u> the Federal Universal Service Fund</p>	<p>Yes.</p>

<u>Issue</u>	<u>AT&T (Multimedia Hyperion and MCI concur)</u>	<u>Sprint/United</u>	<u>Kansas Cable Television Association</u>	<u>Kansas Corporation Commission</u>	<u>Classic Communications</u>	<u>Kansas Telecommunications Coalition</u>
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V. What are the strategies?

A. The method of defining universal service and, if applicable, services to be included in the initial definition.

The Kansas Corporation Commission should define universal service and implement a plan which is consistent with the needs of Kansas consumers.

The Kansas Corporation Commission should continue policies that enhance the goal of universal service in Kansas. The definition of universal service should consist of those services which are essential for basic telephone services. Basic residential telephone service can be defined as: (1) single party local service; (2) access to touch tone dialing; (3) access to carriers of choice; (4) access to operator services; and (5) access to emergency 911 services.

The Kansas Corporation Commission should have the task of defining universal service and its components after receiving input from existing and potential service providers. The KCC should also draw on the work in universal service to be done by the Federal-State Joint Board established by the Telecommunications Act of 1996.

The cable industry's position is that only basic residential telephone service should be subsidized and that service should be limited to: (1) single party, local service; (2) access to touch-tone dialing; (3) access to carriers of choice; (4) access to operator services; and (5) access to emergency 911 services.

(Taken from the vision statement of the Telecommunications Strategic Planning Committee.)

Universal Service issues such as rate rebalancing, providing support payments, and quality of service are better handled by the Kansas Corporation Commission (KCC). These matters are in transition and will need close monitoring to insure that actions are achieving their intended result. With the following characteristics in mind, the KCC will determine a plan which: is competitively neutral, prepares for competition, moves rates closer to cost, avoids rate shock and enhances telephone subscribership. The following is a synopsis of matters put forward by the KCC Staff and other parties in the KCC's current review of the universal service issue.

Basic service and universally available services should be

in order to ensure the availability of advanced telecommunications services in all areas of Kansas at rates equal to those paid by urban area subscribers in the state.

The Legislature should define universal service as single party, two-way voice grade calling, stored program controlled switching with vertical service capability, E911 capability, tone dialing, access to operator services, access to directory assistance, and equal access to long distance service. The state also should consider, as part of universal service, the enhanced capabilities permitted by the infrastructure commitments identified in HB 2762, as long as the regulatory reform measures in HB 2762 are implemented along with the universal service plan.

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<p>B. The need for establishing a state universal service fund and, if needed, the structure and characteristics of such fund, including, but not limited to: size, eligible recipients, eligible contributors; form of payment and method of assessment; criteria governing provision of support; criteria for initiating and terminating funding to providers of last resort; criteria and filing procedures for supplemental funding (assuming supplemental funding is recommended); and the method of administration of the fund.</p>	<p>Congress just passed federal legislation which deals extensively with universal service. Although the legislation primarily gives direction on interstate universal service, states are encouraged, if not required, to follow the same principles in their plans. The KCC should implement a Universal Service Plan which draws support from all telecommunications providers and allows all eligible local service providers to receive money from the fund. The fund should be under the direction of the KCC and administered by a competitively neutral party.</p>	<p>The Kansas Corporation Commission, as part of its policies to enhance the goal of universal service while preparing the state for competition, should embark on a plan to rebalance rates in the state to eliminate uneconomic/non-competitive subsidies embedded in telecommunications pricing structures over a reasonable transition period. (e.g., reduce access charges that are priced substantially above costs and raise those rates that are substantially below costs.) Subsidies to preserve universal service should be explicitly identified and targeted based on need – either on a showing of low income by consumers or based on service to high cost areas. All telecommunications providers should contribute to such subsidies in a competitively neutral man-</p>	<p>The cable television industry agrees with the Kansas Corporation Commission that a state universal service fund is needed. Since federal legislation has finally been enacted and deals extensively with universal service, we should draw on the work to be done in this area by the Federal-State Joint Universal Service Board. The primary considerations in any universal service funding mechanism should be as follows:</p> <p>(i) If subsidies are required, they should be explicitly identified rather than embedded in various prices.</p> <p>(ii) Subsidies should be needs-based either on a showing of low income by subscribers or based on service to high-cost areas. The key objective of any subsidy</p>	<p>dynamic. Changing technology and consumers' expectations may alter this definition. Consequently, the definition should be reviewed every 3 years to keep it in step with changes. See Attachment 1 for a list of recommended basic and universally available services. (See Attachment I.)</p> <p>The following are recommended characteristics by KCC staff for the Kansas Basic Service Fund (KBSF) administration:</p> <p>-KBSF should be responsible to the KCC</p> <p>-KBSF administrator should be a neutral third party, reliable, competent, efficient and bonded</p> <p>-KCC should lead an industry group to draw up the Request for Proposal</p> <p>-The criteria for judging the applicants should be included in the RFP. These could include independence, experience, long-term obligation to serve, cost and economic viability</p> <p>-The funding mechanism should be defined so that</p>	<p>The Kansas Universal Service Fund (KUSF) should be designed as a supplement to the Federal USF. Its purpose should be to insure the availability of advanced telecommunications not provided for by the Federal USF in sparsely populated areas of the state at prices equal to those paid in the urban areas of the state.</p> <p>The KUSF should be funded by levies on all telecommunications services in the state.</p> <p>KUSF support should be available to all providers, including telecommunication service affiliates of cable TV companies, of advanced telecommunications services who wish to participate in the funding of KUSF.</p>	<p>A universal service fund should be created to provide existing telephone companies, acting as carriers of last resort, the support to provide universal service they historically received from toll, access and billing and collection charges and to cover the access portion of the costs to provide the universal service capabilities identified in V. A. above. Funding should be assessed on all toll providers in a competitively neutral manner and collected by a surcharge on all toll minutes of use. The fund would be administered by a neutral third party. Telephone companies should be relieved of their carrier of last resort obligation, if the Commission determines: (1) that revenue neutral rebalancing of toll, access and local has occurred, bringing interstate</p>

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		<p>ner based on their telecommunications revenues net of payment to intermediaries with the collection and distribution done by a neutral administrator. Only basic residential telephone service should be subsidized. If subsidies are required, then all facilities-based competitive local telephone service providers should have the opportunity to receive such subsidies when selected by an eligible customer. In order to do this, it may require the establishment of a state universal service fund.</p>	<p>should be to protect consumers, not to replace revenues LECs lose to competition.</p> <p>(iii) All telecommunications service providers should contribute to such subsidies in a competitively neutral manner based on revenues net of payments to intermediaries.</p> <p>(iv) Collection and distribution of subsidies should be done by a neutral administrator.</p> <p>(v) All competitive local telephone service providers should have the opportunity to receive subsidies when selected by an eligible customer.</p>	<p>KBSF is funded from the revenues it administers</p> <p>-Responsibilities include:</p> <p>-Collecting data from telecommunications providers</p> <p>-Calculating and collecting the amount that all funding parties pay</p> <p>-Distributing funds to qualifying LECs</p> <p>-Auditing and verifying the flow of funds</p> <p>-Periodic financial and compliance audits by outside auditing firm</p> <p>Initial Level of Support</p> <p>Support should be given to companies with high cost rural exchanges. ("Rural Exchange" is defined as one with less than 10,000 customers).</p>	<p>The KCC should be directed to establish the rules governing the KUSF within 12 months of enactment of a statute creating the KUSF.</p>	<p>rates into parity with intrastate rates; (2) one or more telecommunications companies within the operating area of the affected telephone company offer universal service to all inhabitants of that operating area that is equal and comparable to the service of the affected telephone company, and; (3) all telecommunications providers, including the affected telephone company, are subject to the same quality of service standards and have the same flexibility to establish and change prices and other terms and conditions of service. With respect to rural areas, there is a need to find an appropriate approach to allowing competition in areas served by rural telephone companies. Specifically, with regard to rural areas where the very small size of the markets allows for the existence of even one telephone company providing universal service only with the assistance of several support mechanisms, the Legislature should establish policies to ensure that introduction of competition in such areas is in the public interest; will have no adverse effect on maintaining</p>
				<p>Determine high cost based upon cost information to be submitted by the Local Exchange Companies to the KCC in April, 1996. Monthly payments should be made to providers of the facilities. A proxy payout system should be developed for Southwestern Bell,</p>		

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United, and ILECs who apply to use it. This will avoid confusing costs associated with competition with costs of serving high cost areas.

Who Provides Funding

In an estimate used by the Universal Service Work Group, the rate rebalance scenario would shift \$48.5M away from the long distance providers and be recovered by a \$2.60 monthly End User Common Line (EUCL) charge and miscellaneous service rate adjustments. The EUCL revenue would be reported to the fund. The remaining support (\$39.5M) would still be paid by the Interexchange Carriers (IXCs) and SWBT for redistribution to high cost service providers. The payment amounts for the IXC's would be determined each year.

Further shifting of the estimated \$88M support could be done by subsequent increases in local service rates offset by reductions in long distance/access rates. In rural areas below cost rates should transition to target rates set for residence and business services on a year by year basis (i.e. \$1.50).

and advancing universal service at reasonable and affordable rates and with high quality standards, or on the existence of a carrier of last resort; and will promote, not hinder, investment in advanced telecommunications capabilities in order to extend state-of-the-art telecommunications facilities and services to every Kansas community.

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<p>C. The need for establishing a lifeline service fund and the characteristics of such fund (see above).</p>	<p>The KCC should determine the need for and administration of a lifeline service for Kansans.</p>	<p>The Kansas Corporation Commission should also establish a low income subscriber program, such as lifeline service fund, also funded by all telecommunications providers on a competitively neutral manner.</p>	<p>The above-stated view of the cable industry on the components of universal service essentially make up what we would consider a life line-like service. Again we feel that the Kansas Corporation Commission should extensively study the need for a local lifeline service and what funding mechanisms are needed to support it.</p>	<p>This transition addresses these two questions: "Is it equitable for other customers to be providing support through their EUCL charge or long distance rates to rural customers whose costs are high but pay \$5 to \$15 less than metro customers?" and "Is it appropriate for the IXCs to be paying support when the recipient local company has rates well below the average?"</p>	<p>Yes, Lifeline service is an essential shield from the rate rebalancing and can be implemented without legislative action. Lifeline will bring new customers on the network which will produce additional revenue for the LECs and IXCs. Consequently, the companies as well as the public benefit from a Lifeline program.</p>	<p>In order to promote the provision of the universal service by telephone companies to persons with low income or special needs a Lifeline Fund should be established in Kansas. The fund should be targeted for low income customers, based on a means test, to maintain affordable rates for basic local exchange service. The fund should provide funds to offset any basic local exchange price increases that eligible customers would otherwise incur due to rate rebalancing. The fund also should fund the dual-party relay services currently provided by Kansas Relay Services, Inc. to Kansans who are speech or hearing impaired. The form of payment, method of as-</p>

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D. The need for continued geographical averaging of intraLATA toll rates.	<p>The Federal bill provides that the FCC shall adopt rules that require a provider's interexchange rates to subscribers in rural areas be no greater than those in urban areas.</p> <p>Multimedia Hyperion concurs with the following addition:</p> <p>In order to further the goals of universal service, local exchange and special access services should be averaged in areas of like density (<i>i.e., Kansas City, Wichita, Topeka, Lawrence, Salina, Manhattan, Hutchinson, Dodge City, Eldorado, etc. should have identical rates for local exchange and special access services, while smaller density locations could have lower rates for local exchange service to account for the increased necessity of toll calling.</i>) Permitting the deaveraging of local exchange and spe-</p>	<p>The Kansas Corporation Commission should also review its policy requiring statewide average toll rates. If long distance costs vary by areas, then the price of long distance services should be allowed to reflect those cost differences.</p>	<p>The cable television industry generally supports geographical averaging of intraLATA toll rates.</p>	<p>them a rate increase in the following year.</p> <p>The need for Lifeline Service is two fold: first, increase telephone subscribership, and second, maintain subscribers despite rate shifts.</p> <p>The KCC has historically supported statewide averaging of intrastate (intraLATA and interLATA) long distance rates. With the reduction in access charges and the leveling of the access rates between companies, the pressure to deaverage rates should be relieved.</p> <p>When access rates are reduced, this reduction must flow through to consumers in the form of reductions in the long distance rate schedule so that consumers receive the benefit of the reduction.</p> <p>Quality of service should also be included as an issue for universal service.</p>	<p>assessment and administration of the Lifeline Fund should be the same as identified in V. B. above.</p>	<p>Geographic averaging of intraLATA toll rates should be maintained to ensure that all Kansans have access to affordable toll services.</p>

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cial access rates will only set the stage for predatory pricing and other anti-competitive efforts.

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COMPETITION

I. What is the problem?

A. Without regulatory intervention to determine the timing and procedure for resale, interconnection, and unbundling, an orderly transition to a fully competitive infrastructure is unlikely to occur throughout the state. (Regulatory is defined here as action directed by the KCC, legislation, or both.)

II. Do you agree with the statement of the problem? If you disagree, please provide alternative language.

AT&T agrees with the statement of the problem as far as it goes; however, the statement omits several important elements.

Initially, the statement recognizes only 3 specific purposes for intervention when in fact many other purposes may exist. For example, in the absence of regulatory intervention and unless effective competition exists, the monopoly Local Exchange Carriers (LECs) would have the unfettered power to set prices. Their captive customers would have no choice but to pay whatever prices the LECs

Sprint/United believes it would be more proper to change "infrastructure" to "environment", in order to avoid confusion with the issues inherent in telecommunications infrastructure discussed later. Therefore, the new paragraph would read:

Without regulatory intervention to determine the timing and procedure for resale, interconnection, and unbundling, an orderly transition to a fully competitive environment is unlikely to occur throughout the state. (Regulatory is defined here

The problem is that there is presently no effective competition in the provision of local exchange services in the State of Kansas. Total deregulation would have the effect of further entrenching monopoly provision of services. Aggressive and progressive regulatory intervention is needed to encourage and provide incentives for competition. In addition, rather than using the term "fully competitive infrastructure," the cable television industry thinks that a broader term such as "fully competitive local switched network" is more appropriate.

Yes. The KCC, at the direction of the Legislature in Senate Concurrent Resolution No. 1627, has opened several dockets, held hearings, established work groups and task forces involving all interested parties "to investigate the level of competition" At the conclusion of these proceedings and incorporating the direction given by the Telecommunications Act of 1996, the Commission will issue an order later this year providing direction for competition in the local exchange.

Disagree.

Alternative Language should read:

The Telecommunications Act of 1996 sets out the guidelines for the deregulation of the telecommunications industry. This legislation sets out specific duties and responsibilities for the KCC. Broad legislative policy statements are needed to help guide the KCC in its execution of the duties and responsibilities assigned it by the act.

Yes.

1-11

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choose. The Statement of Problem should recognize that regulatory intervention is necessary, among other reasons, to maintain prices which are fair to monopoly consumers and which do not place the LECs at a competitive advantage.

as action directed by the KCC, legislation, or both.)

Also, given the fact that no history exists with respect to local exchange competition, it may not be feasible for the state to foster the development of fully competitive infrastructure in some areas. In those areas, regulatory intervention can ensure that a technologically advanced infrastructure exists and that customers are afforded the benefits of the competitive provisioning of services via that network.

The Statement of Problem should be restated as follows:

Without regulatory intervention to determine the timing and procedure for competitive conditions such as resale, interconnection, and unbundling, and to implement mechanisms that ensure non-discriminatory, cost based prices of non-competitive services and

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functions, an orderly transition to competitive provisioning of service, to the extent feasible, and the construction of an advanced telecommunications infrastructure are unlikely to occur throughout the state.

III. What is the policy objective?

A. Kansas telecommunications policies should ensure an orderly transition to a fully-competitive telecommunications infrastructure.

IV. Do you agree with the stated policy objective? If you disagree, please provide alternative language.

The policy objective should be restated to reflect the changes in the statement of problem described above:

Kansas telecommunications policies should ensure an orderly transition to competitive provisioning of services, to the extent feasible, and an advanced telecommunications infrastructure.

Sprint/United again believes "infrastructure" should be changed to "environment". The new policy objective would then read:

Kansas telecommunications policies should ensure an orderly transition to a fully-competitive telecommunications environment.

The cable television industry thinks the policy objective should be stated as follows: Kansas telecommunications policies should insure an orderly transition to a fully competitive local switched network as quickly as possible.

Kansas telecommunications policies should facilitate an orderly transition to a fully-competitive telecommunications environment in compliance with the Telecommunications Act of 1996.

Disagree.

Alternative Language should read:

Kansas telecommunications policy should ensure that, to the greatest extent possible, the benefits of telecommunications industry deregulation, integration, and competition are readily available to all residents of the state.

A more appropriate policy objective for competition would reflect the Statement of Purpose in the TSPC Proposed Policy Framework. "Telecommunications policy should: encourage competition in all markets, with a transition from monopoly as rapidly as possible consistent with consumer benefit and industry stability and stimulate with incentives the construction of an advanced telecommunications infrastructure, so as to meet all current and future needs in a prudent and economical manner, while protecting universal service, so as to ensure that telecommunica-

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<p>V. What are the strategies?</p>	<p>The overwhelming head start of the LECs and the capital intensive nature of constructing local exchange facilities requires that the new entrants be given the opportunity to enter the market via unrestricted resale, if competition is to be encouraged. Consistent with the terms of the federal Telecommunications Act of 1996, restrictions on the resale of telecommunications services provided by local exchange carriers are lifted immediately.</p>	<p>The Kansas Corporation Commission should set forth requirements for resale, interconnection and unbundling that will enhance competition.</p> <p>Telecommunications services and functions should be provided without any restrictions on resale and sharing, provided that resale is of the same class of service (e.g., should not be able to repackage and resell local residential services as business services).</p>	<p>Resale restrictions should be lifted immediately. The Telecommunications Act of 1996 provides for immediate resale. In addition, resale agreements or standards must be in place and approved by state utility commissions at such time as BOCs seek entry into certain long distance markets. It is the position of the cable television industry that the Kansas Corporation Commission should move immediately to provide standards and procedures for resale.</p>	<p>These and other strategies have or are being determined by the federal Telecommunications Act of 1996 or KCC in their established competition docket.</p>	<p>Competition should be encouraged to the greatest extent possible.</p> <p>Competition should be based on policies designed to promote investment in telecommunications facilities in all areas of the state.</p> <p>The <u>total</u> reliance by telecommunications service providers on the resale of facilities and services should be discouraged.</p> <p>In some sparsely populated areas of the state, a "natural monopoly" will exist.</p> <p>The KCC should continue to regulate the provisioning of telecommunications services in "natural monopoly" areas.</p> <p>Regulations, rules, etc., <u>should not have the effect either directly or indirectly of creating an "unnatural monopoly."</u></p>	<p>tions service is available at affordable rates throughout Kansas."</p> <p>To promote universal service and meaningful competition in Kansas, Kansas should not require resale and unbundling of services any sooner or to any greater extent than required by the federal Telecommunications Act of 1996. However, all telephone companies should be permitted to provide resale at any time they desire. In any event, competition, resale and unbundling will happen as a result of federal legislation. The State Legislature should be concerned about whether adequate certification standards are established to insure that consumers benefit from the new entry.</p> <p>A small telephone company shall not be required to unbundle its local loop, switch and trunk facilities or provide interconnection, resale at wholesale rates, number portability, dialing parity, access to rights-of-way, collocation or reciprocal compensation, unless:</p>
<p>A. The conditions under which, and the timing for, LECs to be required to lift restrictions on resale.</p>	<p>The overwhelming head start of the LECs and the capital intensive nature of constructing local exchange facilities requires that the new entrants be given the opportunity to enter the market via unrestricted resale, if competition is to be encouraged. Consistent with the terms of the federal Telecommunications Act of 1996, restrictions on the resale of telecommunications services provided by local exchange carriers are lifted immediately.</p>	<p>The Kansas Corporation Commission should set forth requirements for resale, interconnection and unbundling that will enhance competition.</p> <p>Telecommunications services and functions should be provided without any restrictions on resale and sharing, provided that resale is of the same class of service (e.g., should not be able to repackage and resell local residential services as business services).</p>	<p>Resale restrictions should be lifted immediately. The Telecommunications Act of 1996 provides for immediate resale. In addition, resale agreements or standards must be in place and approved by state utility commissions at such time as BOCs seek entry into certain long distance markets. It is the position of the cable television industry that the Kansas Corporation Commission should move immediately to provide standards and procedures for resale.</p>	<p>These and other strategies have or are being determined by the federal Telecommunications Act of 1996 or KCC in their established competition docket.</p>	<p>Competition should be encouraged to the greatest extent possible.</p> <p>Competition should be based on policies designed to promote investment in telecommunications facilities in all areas of the state.</p> <p>The <u>total</u> reliance by telecommunications service providers on the resale of facilities and services should be discouraged.</p> <p>In some sparsely populated areas of the state, a "natural monopoly" will exist.</p> <p>The KCC should continue to regulate the provisioning of telecommunications services in "natural monopoly" areas.</p> <p>Regulations, rules, etc., <u>should not have the effect either directly or indirectly of creating an "unnatural monopoly."</u></p>	<p>tions service is available at affordable rates throughout Kansas."</p> <p>To promote universal service and meaningful competition in Kansas, Kansas should not require resale and unbundling of services any sooner or to any greater extent than required by the federal Telecommunications Act of 1996. However, all telephone companies should be permitted to provide resale at any time they desire. In any event, competition, resale and unbundling will happen as a result of federal legislation. The State Legislature should be concerned about whether adequate certification standards are established to insure that consumers benefit from the new entry.</p> <p>A small telephone company shall not be required to unbundle its local loop, switch and trunk facilities or provide interconnection, resale at wholesale rates, number portability, dialing parity, access to rights-of-way, collocation or reciprocal compensation, unless:</p>

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<p>B. The pricing of resold services and the type of services required to be resold.</p>	<p>Two types of resale must be considered. Unbundled network functions will be used as inputs by new entrants to provide their own services in competition with the LECs. These functions should be priced at the LECs' cost so that all competitors face the same input costs. Because competition for retail services will tend to drive the retail prices as close to cost as economically feasible, the cost of the inputs used to provide these services should be as low as possible. Profit for all competitors, LECs and new entrants alike, should be applied to retail services, not wholesale inputs.</p> <p>The second type of resale is the resale of LEC services.</p>	<p>Interconnection of local telephone networks at reasonable rates is critical to local telephone competition. Competing networks should be interconnected so that customers can seamlessly receive calls that originate on another carrier's network and place calls that terminate on another carrier's network without dialing extra digits, paying extra, or doing anything out of the ordinary. New market entrants should be interconnected with incumbent providers in a manner that gives them seamless integration into and use of local telephone company signaling and interoffice networks in a manner equivalent to that of the incumbent local telephone company.</p>	<p>It will be necessary for regulation to unequivocally provide for the unbundling of certain LEC services and the resale of these services at cost. In addition and as contemplated by the Telecommunications Act of 1996, there must be agreements for the resale of LEC retail services at "wholesale" rates which is the retail rate less therefrom certain expenses such as marketing, billing and other "avoided" costs. Such resale policies are pro-competitive and beneficial to consumers. Resale fosters competition by allowing potential entrants to purchase those network functions or services that would not be efficient to immediately replicate and resell to their own customers. If the</p>		<p>be consistent with the intent of the Telecommunications Act of 1996.</p>	<p>(1) such company has received a bona fide request for telecommunication services or network elements, and; (2) the Kansas Corporation Commission determines that such request is not unduly economically burdensome, is technically feasible, and is consistent with maintaining universal service at affordable rates in the service areas of the small telephone companies.</p> <p>Unless a telephone company otherwise negotiates different prices, resold services should be priced no less than retail less avoided costs.</p>

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These services are not generally priced in relation to costs at this time. Therefore, consistent with the Telecommunications Act of 1996, the wholesale price should be determined on the basis of retail rates charged subscribers for the service, excluding the portion of the retail price attributable to costs avoided by the LEC in providing the service on a wholesale, rather than resale, basis.

price of the incumbent's services is above cost, as we suspect it might be, and resale is not allowed, consumers have no redress other than complaints to the commission or elsewhere. Resale mechanisms serve as a market-based, rather than regulatory, check on discriminatory service pricing and create opportunities for new businesses. The cable television industry believes that eliminating resale restrictions in the local service market will open the market to innovative new service providers, while at the same time providing a market-based check on the prices offered by incumbent LECs.

C. The process and terms for interconnection to occur and the functions and services to be shared.

Consistent with the requirements of unbundling, LECs are required by the Telecommunications Act of 1996 to provide interconnection with unbundled elements on a non-discriminatory basis at all points where technically and logically feasible. For example, new entrants should be allowed to connect at the loop, at the switch or at whatever point is most efficient and cost effective to serve the end user customer.

Mutual compensation for call termination should be set at a level that encourages the development of competition and interconnection while covering associated costs. Compensation should be economically viable; administratively efficient and minimize carrier conflicts; create incentives for competitive infrastructure development; minimize competitive distortions; not be a source of universal service subsidy; promote competitive inno-

Interconnection is the cornerstone of competition in the provision of switched telecommunications services. Unless the customers of new entrants can seamlessly interconnect with the customer base of the incumbents, there can never be effective competition. This has been borne out in the long distance and customer premises equipment market. All competitors should have the right to interconnect with the incum-

Providers should negotiate interconnection and, at any time 135 days after a request for interconnection, either party may ask the Kansas Corporation Commission to arbitrate any unresolved issues.

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<p>D. The need for unbundling of network switched services, and if unbundling is to be required, the components that are to be unbundled and the ba-</p>	<p>Separately, LECs and new entrants are required to establish interconnection for the mutual termination of each other's customers' traffic. This interconnection could occur via physical or virtual collocation at the LECs switching office or via jointly provisioned facilities between the LEC and the new entrant.</p> <p>While LECs maintain monopoly control over the local exchange network, new entrants should be able to provide services by packaging whatever facilities they</p>	<p>vation; and not mirror existing access charges levels.</p> <p>The incumbent local telephone company's services should reflect an unbundling of service components so that a new market entrant is not forced to purchase services that it does not want in</p>	<p>bent LEC at any LEC switch. Competitors should have full access to future incumbent LEC technologies and network architecture elements in an open manner. Incumbent LECs should be required to inform users and providers about points and types of interconnection as they become available. Competitors should be entitled to interconnection in a manner equivalent in all material and technical respects to the interconnection that LECs use for their own facilities. Such an interconnection policy is adopted in the Telecommunications Act of 1996 wherein it is provided that all telecommunications carriers <u>must</u> interconnect directly or indirectly with other telecommunications carriers. The law goes on to say that telecommunications carriers may not install features, functions or capabilities that impede or interfere with network interconnectivity.</p> <p>To promote competition, the incumbent LEC should be required to unbundle all components of basic local exchange service and provide those components at reasonable rates, terms and</p>			<p>Resale and unbundling will not promote investment or meaningful facilities-based competition in Kansas and are not necessary for firms to compete. Unbundling of loop, switching and trans-</p>

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<p>sis upon which components are to be selected for unbundling.</p>	<p>have with whatever LEC facilities they need.</p> <p>The basic components of the LEC network should be unbundled where the component is capable of being provided separately and apart from the remainder of the LEC network.</p>	<p>order to obtain essential telecommunications capabilities. Unbundling should be performed in response to a bona fide request.</p>	<p>conditions. The physical components of the LEC network that should be available on an unbundled basis include local switching, tandem switching, tandem ports, interoffice transport, access to "S S 7" network, signal transfer points and 911/E911 hub and operator services. Arrangements should also be put in place for access to certain databases maintained by the incumbent.</p>			<p>port nevertheless will occur as a result of federal legislation. Telephone companies should be permitted, but not required, to allow resale and unbundling sooner, and to a greater extent than required by federal law, if they so choose. Related to this issue is the need to establish policies to implement in Kansas those provisions in the Federal telecommunications legislation that allow States to make certain determinations regarding rural telephone companies.</p> <p>A. Criteria for removal of rural telephone companies' exemption from requirements regarding interconnection, unbundled access, resale, and collocation; and for suspensions and modification of requirements in Section 251 (b-c) (INTERCONNECTION) of the Federal legislation.</p> <p>B. Requiring a telecommunications carrier that seeks to provide telephone exchange service or exchange access to meet the requirements in 47 USC § 214 (e)(1) for designation as an eligible telecommunications carrier, and public interest criteria for designation as an</p>

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eligible telecommunications carrier.

REGULATORY PLAN

I. What is the problem?

A. If local rates (assumed to be below cost) and intrastate switched access rates (assumed to be above cost) are not brought closer to cost and a method of alternative regulation for LECs is not adopted, the transition to effective competition among all telecommunications providers in Kansas is likely to be impeded.

II. Do you agree with the statement of the problem? If you disagree, please provide alternative language.

No, the basic assumption that local rates are below cost may be flawed. No incremental unit cost study has been produced to substantiate that local rates are below cost. Obviously, costs for local service may be higher than the local rate in rural areas. This is one reason to determine costs prior to setting price caps.

Based on studies developed around the country it is obvious that access is priced much higher than cost. The cost for a Local Exchange

Sprint/United believes that it is more appropriate to state the problem/issue in broader terms. Our recommendation of the problem/issue is:

The transition to effective competition among all telecommunications providers in Kansas is likely to be impeded unless implicit subsidies are eliminated and price regulation is allowed.

It is the position of the cable industry that prior to adopting a method of alternative rate regulation for LECs, it is necessary to determine costs and review the earnings of the incumbent telephone companies in order to insure that prices and rates to be set in an alternative regulation plan are not excessive and are just, fair and reasonable. To set prices in an alternative plan without reviewing current costs and levels of profit will run the great risk that prices will be excessive and that such

Yes.

No. The statement of the problem should be restated as follows:

If local rates (assumed to be below cost) and intrastate switched access rates (assumed to be above cost) are not brought closer to cost and a method of alternative regulation for LECs is not adopted, the transition to competition among all telecommunications providers in Kansas is likely to be impeded.

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	<p>Carrier to provide end-to-end switched access is typically approximately \$.01 per minute. This compares with an average intrastate access rate in Kansas of more than \$.13 per minute. The comparable rate for one Kansas LEC approaches \$.42 per minute.</p> <p>Rates should be brought closer to costs, particularly when a market is transitioning from a monopoly to a competitive market. Alternative regulation is appropriate for a local exchange company once effective competition is in place. The KCC was given the directive to determine the competitiveness of all markets through SCR 1627.</p>		<p>prices for regulated services will be used by the LEC to subsidize competitive or unregulated services that LECs are being permitted to become involved in.</p>			<p>However, in rural high cost areas, increasing local rates to levels at or near cost will adversely affect universal service; in such areas the benefit of competition may presently be inconsistent with universal availability of necessary services at affordable rates.</p>
<p>III. What is the policy objective?</p>						
<p>A. Kansas telecommunications policies should encourage competition in all markets, with a transition from monopoly as rapidly as possible consistent with consumer benefit and industry stability.</p>						
<p>IV. Do you agree with the stated policy objective?</p>	<p>Yes.</p>	<p>Sprint/United agrees with the policy objective.</p>	<p>We generally agree with the policy objectives but are</p>	<p>Yes. <u>The issue is how to best manage the transition</u></p>		<p>The policy objective should be revised to ensure univer-</p>

<u>Issue</u>	<u>AT&T (Multimedia Hyperion and MCI concur)</u>	<u>Sprint/United</u>	<u>Kansas Cable Television Association</u>	<u>Kansas Corporation Commission</u>	<u>Classic Communications</u>	<u>Kansas Telecommunications Coalition</u>
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If you disagree, please provide alternative language.

concerned that use of the word "industry stability" will be taken to mean that the business and customer base of the incumbents should be protected so that there is no loss to the incumbents as we move into competition. This should not be the policy in transitioning to a competitive market.

from traditional regulation to a fully competitive market. Kansas telecommunications policies should encourage competition in all markets, with a transition from monopoly as rapidly as possible consistent with consumer benefit and industry stability.

sal service and provision of incentives to invest in infrastructure in Kansas. "Kansas telecommunications policies should encourage competition in all markets, with a transition from monopoly as rapidly as possible consistent with consumer benefit, industry stability, the promotion of universal service and incentives to invest in infrastructure to all parts of Kansas."

V. What are the strategies?

A. With respect to *the features of price cap regulation* (assuming there is consensus on this form of regulation as an option for LECs), the criteria to determine which services should be subject to price caps; the method of determining initial prices of services subject to price caps; the conditions under which price capped services should be deregulated and, if necessary, deregulated services should be price regulated; the means by which price floors should be determined and the services to

The criteria to determine which services should be subject to price caps should be developed by the KCC but should include, at a minimum, such considerations as barriers to entry, alternative supply, market control, market share and the number of competitors in the market. Initial prices should be related to costs and should be approved by the KCC. Services should only be deregulated once effective competition is present in the market. Price floors should be determined on the basis of long run incremental costs. Price authority should remain with the KCC until such time as effec-

The Commission should allow LECs, who so choose, to abandon traditional rate-base regulation and replace it with appropriately designed price and service regulation to provide the appropriate incentives as competition emerges. Traditional rate-base, rate of return regulation creates a regulatory predisposition to avoid actions that could affect the incumbent's revenues/earnings and seek out mechanisms to ensure revenue neutrality for the incumbent. Traditional rate-base regulation also contributes to uneconomic infrastructure investment incentives and discourages efficient

Literally volumes have been written about the issues mentioned in this section. As a general proposition, the cable television industry is not opposed to price cap regulation. Because the local exchange market is still a monopoly, we strongly believe that price caps should be set only after a review of costs and earnings and that all such caps should be set in relation thereto. In addition and until effective competition for the various services making up the local exchange market become competitive, the Kansas Corporation Commission should retain jurisdiction and monitor and review

KCC's competition docket has or will address these issues.

Only services for which there is no alternate provider and which are essential should be capped. At the present time, that is local residence, single line business, touch tone and switched access service. Existing prices should be used to establish price caps. For Southwestern Bell, the prices for local service, which have been in effect since 1984, would become subject to the price cap formula for any future adjustments. Switched access services would move to interstate rates over a three-year period as long as corresponding changes are made to local rates. Regarding the

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<p>which they should apply; and the conditions under which the Kansas Corporation Commission may reduce prices within a given basket.</p>	<p>tive competition exists in all markets.</p> <p>Multimedia Hyperion concurs with the following addition:</p> <p>Price floors for competitive services should be established at a sufficient level above Long Run Incremental Cost until such time as the KCC determines that the service in question is subject to effective competition. If the LEC is allowed to price service at incremental cost prior to the presence of effective competition, without earning a reasonable profit, then competition will be deterred and consumers will be denied the benefits of provider choice.</p> <p>Pricing for non-competitive monopoly services, such as, interconnection, unbundled network elements and resale has been addressed by the federal Telecommunications Act of 1996.</p>	<p>pricing and cost reductions. Instead, appropriately styled price and service regulation, with pricing rules to transition rates to more efficient levels, enables local telephone companies to respond to emerging competition, and prevents cross-subsidization and abuse of market power.</p> <p>In determining the price floor for their competitive services, incumbent local telephone companies should impute in the aggregate the same charges for essential network services and functionality as are paid by their competitors to them for the same services and functionality plus the costs of other services and functionalities actually used by the incumbent telephone company.</p>	<p>costs and earnings under the price cap plan. Only when a market or segment thereof is deemed to be subject to effective competition should full deregulation occur.</p>			<p>conditions under which price capped services should be deregulated, the Kansas Corporation Commission should have the discretion to price deregulate residential, single line business and access services when the Commission determines that an alternate provider exists for the customer or in the relevant market area. If the price for such services rises faster than the price cap for services in areas where there are not alternatives, the Commission can reregulate prices upon finding that the service is essential and an alternate provider does not exist.</p> <p>For services which are price deregulated, the Kansas Corporation Commission may reregulate prices for the service, if upon a customer complaint, the Commission investigates and determines that: (1) the price of the service has risen faster than the price cap for residence and single line business service; (2) the service is essential to that customer, and; (3) there is no alternate provider of a comparable service to that customer. Long run incremental costs should serve as a price floor for all services</p>

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provided by all providers, although a firm should be able to meet a competitor's lower price without having to justify that price with a cost study. Prices should be reduced within a given basket only if the price cap formula in any given year would require that result.

The foregoing assumptions are not easily applied to rural and high cost independent telephone companies which, like large telephone companies, have committed substantial resources under governmental assurance of their opportunity for recovery and return on investment. In such cases, absent an election by the small telephone company to operate under an alternative regulatory method, such a method should not be imposed - at least absent a clear finding of an overriding benefit to its customers from competition and adoption of a reasonable means for recovery and return on investment made in good faith reliance by the small telephone company.

9. With respect to *price cap adjustments* (once again assuming there is consensus on price cap

The KCC should determine the method to adjust price caps. The KCC should consider the cost structure of the

The position of the cable television industry is that any alternative rate regulatory plan, be it price caps or

Price caps should be adjusted based on the Consumer Price Index less a specified productivity factor

<u>Issue</u>	<u>AT&T (Multimedia Hyperion and MCI concur)</u>	<u>Sprint/United</u>	<u>Kansas Cable Television Association</u>	<u>Kansas Corporation Commission</u>	<u>Classic Communications</u>	<u>Kansas Telecommunications Coalition</u>
<p>regulation as an option for LECs), the need for such adjustments; the mechanism (formula or index) by which such adjustments should be made and the reason for the selection of such mechanism; any limitations on monthly per line adjustments; and the type of review process for price cap adjustments.</p>	<p>industry before adjusting prices upward.</p>		<p>otherwise, needs to have flexibility so that the Kansas Corporation Commission can continue to monitor and adjust rates on an on-going basis based upon a number of criteria such as the number, kinds and quality of entrants seeking to enter a particular market, the existence and staying power of competitors in any given market and any number of other factors which effectively measure competition. From the perspective of the cable television industry the overriding aspect of all of this is that simply installing a price cap plan and assuming that all will be well and competition will come to the market simply will not work. It will be necessary for there to be regulatory oversight, control and adjustment of rates for a good number of years until effective competition is in the market place.</p>			<p>(Y) plus an adjustment to gradually rebalance toll, access and local prices to bring intrastate long distance access prices down to the same level as the functionally equivalent interstate access price which already has been set by the FCC based on actual costs. Price caps should be adjusted in the above manner because that formula (Price Cap Adjustment Formula $CPI-X+Y$) reflects the general change in the economy (CPI), the changes in the industry (X) and brings state access rates closer to the rates for the identical interstate service (Y). In so doing, it avoids the abrupt rate shock that competition would cause, thereby maintaining universal service goals, and provides incentives for firms to become more productive and invest in Kansas. A limit of \$1.50 per line per year would gradually phase in the rate restructuring that is necessary due to the new competitive environment, while rebalancing prices in a reasonable time frame. A periodic review of the formula after five years to see how the plan is working, but not to readjust prices, would be appropriate.</p>

KCC Universal Service Work Group (USWG)

The following services were tentatively identified to provide commonality to the work of the USWG. A comprehensive list of services will be produced by the Universal Service Docket.

Rates for Basic Services - minimum telecommunications components which meet every Kansas customer's telephone needs:

Includes Single Party Service with -

Access within the exchange area

Installation and connection/reconnection services

24-hour Access to Repair Service, 7-days a week

Local calling capability not limited by number or length of calls made or received

Telephone number assignment

Dial tone

Tone Dialing

Directory listing

Directory assistance

Directory publication

Receive free local directory annually

Free subscriber listing (name, address, telephone #)

Customer Service Support

Access to discuss service and/or billing matters

Itemized monthly statement to meet current KCC standards

Per call dialable code to block caller identification data

Access to Emergency services

Busy Line Verification capability

Call Trap and Trace capability in the central office

Access to Operator services

Local and Toll

Kansas Dual Party Relay

Access to toll* (national and international) network

* Subscribers who abuse toll and/or local may experience restricted network access

Access from toll (national and international) network

Intercept service

Equal Access with 10XXX dialing

Number Portability (In a competitive environment exchange)

Forward calling telephone number to support competitor LEC's Caller ID service

All service providers will be required to meet NARUC and Kansas Network

Performance Standards

Universally Available Services - all other telecommunications components and services which may enhance the use or convenience of the customer's telephone. These services are other than basic services:

Custom calling features - Call Waiting, Three Way Calling, *Caller ID, *Call Return, etc.

Personal/Preventive options - Non-pub services; block transmission of Caller ID data; etc.

Access to *911 or *E-911 - Local Government Option

Higher speed transmission capability - Incrementally above 2400 baud

Enhanced calling service - Burglar Alarm, 900 Blocking, Transmission Quality, etc.

* These services must be available to all customers in any exchange where such services are offered.

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C. With respect to <i>rate rebalancing</i> , the need for rate rebalancing, the rates to be rebalanced, and the period of time over which rate rebalancing should occur.	Rate rebalancing is necessary before the market can be effectively competitive. Subsidies should be removed and a Universal Service Fund established, all under the jurisdiction of the KCC. The KCC should determine what rates to rebalance and the period of time required.		We agree that rate rebalancing is necessary so that all rates are brought more in line with costs. We believe that this will have the effect of eliminating or lessening embedded subsidies. It is important to do so in order to encourage effective competition, and such rebalancing should be done over a reasonable transition period. In the place of embedded subsidies and as needed, there should be instituted a fair universal service mechanism where participants contribute on a non-discriminatory basis and all providers are eligible to draw from the fund.			Rate rebalancing should occur between access/long distance and local services. Telecommunications services have traditionally been priced with the goal of keeping local rates as low as possible. To accomplish this goal, other services have been priced with high margins. Competitors are entering the high margin markets and will drive prices down in those markets which will over time shift the full burden of local cost recovery to that service. A phased-in rebalancing will avoid the rate shock that otherwise will occur with competition. A three year period should be appropriate to gradually move access, long distance and local prices closer to their costs. Affordable local service prices in rural areas should be supported by a universal service fund supported on a competitively neutral manner on all telecommunications providers based on their retail long distance revenues.

Issue	AT&T (Multimedia Hyperion and MCI concur)	Sprint/United	Kansas Cable Television Association	Kansas Corporation Commission	Classic Communications	Kansas Telecommunications Coalition
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TELECOMMUNICATIONS INFRASTRUCTURE

I. What is the problem?

A. From the perspective of LECs, incentives, such as relaxed regulation, are often needed to justify investments in certain advanced telecommunications infrastructure. Absent such incentives, advanced services, such as ISDN and two-way interactive video, might be deployed less rapidly and extensively.

II. Do you agree with the statement of the problem? If you disagree, please provide alternative language.

No, once effective competition is present in the local exchange market, the Local Exchange Companies (LECs) will be incented to increase investments in infrastructure in order to compete for customers. Competition greatly improved infrastructure in the long distance market while customers continued to see rates decline. Relaxed regulation should only be given to a LEC for those services with effective competition in a particular market.

Sprint/United believes a broader statement is needed when stating the problem/issue. Sprint/United suggests the following language:

Absent competition, incentives like relaxed regulation may be needed to justify investments in certain advanced telecommunications infrastructure and services.

The cable television industry does not agree with the statement of the problem. We strongly believe that simply relaxing regulation at this point in time prior to true competition being in the market place will only further entrench monopolies and will do little, if any, to spur investment in infrastructure. A healthy competitive market will do the most for infrastructure development.

We are seeing this to be true in the cable television industry in Kansas. Competition

Alternative language:

From the perspective of LECs, sufficient market demand, competition, or incentives, such as relaxed regulation, are often needed to justify investments in certain advanced telecommunications infrastructure. Absent market place demand or incentives, advanced services, such as ISDN and two-way interactive video might be deployed less rapidly and extensively.

Disagree.

Alternative Language should read:

Incentives are needed to promote the deployment of advanced telecommunications services in sparsely populated areas of the state.

The statement of the problem is reasonable for telephone companies electing price cap regulation. Companies which choose rate of return regulation should be allowed to deploy advanced infrastructure and services consistent with an evolving definition of universal service and be given the opportunity to recover the costs associated with deployment.

1-27

<u>Issue</u>	<u>AT&T (Multimedia Hyperion and MCI concur)</u>	<u>Sprint/United</u>	<u>Kansas Cable Television Association</u>	<u>Kansas Corporation Commission</u>	<u>Classic Communications</u>	<u>Kansas Telecommunications Coalition</u>
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is growing in cable television. Many communities have alternative television delivery systems such as master antennae systems, direct satellite broadcast systems and the like. In order to stay competitive, traditional cable television companies are adding services, channel capacity and programming and, in the process, adding to the infrastructure. We think the same will be true in telecommunications.

III. What is the policy objective?

A. Telecommunications policies should promote investment in Kansas, including the upgrading of the telecommunications infrastructure throughout the entire state in a timely manner.

IV. Do you agree with the stated policy objective? If you disagree, please provide alternative language.

Yes.

Sprint/United does not believe that the policy objective should assume investment and upgrading of the telecommunications infrastructure. Appropriate infrastructure guidelines should be developed which may or may not require infrastructure investment and up-

The cable television industry agrees with the statement of the policy objective.

Yes. In addition, providers of local telecommunication services should maintain an in-state technical force and management presence sufficient to provide a high quality of service and maintain a high degree of reliability in accordance with standards which will be established by

Disagree.

Alternative Language should read:
Telecommunications policies should promote investment in Kansas by more than one telecommunications provider throughout

Yes.

1-28

<u>Issue</u>	<u>AT&T (Multimedia Hyperion and MCI concur)</u>	<u>Sprint/United</u>	<u>Kansas Cable Television Association</u>	<u>Kansas Corporation Commission</u>	<u>Classic Communications</u>	<u>Kansas Telecommunications Coalition</u>
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grade. Therefore, Sprint/United suggests the following language:

Telecommunications policies should promote the deployment of infrastructure throughout the entire state as necessary to respond to the needs of the market.

the KCC. Absent such presence, consumer dissatisfaction could be expected to increase.

For those service providers who operate in multiple states and centralize selected functions such as payroll, procurement, and engineering, etc., a pro-rated portion of those centralized resources will be located in Kansas.

the entire state as rapidly as possible.

V. What are the strategies?

A. The need for a required infrastructure plan as a precondition for relaxed regulation.

Infrastructure improvements should be encouraged via open and fair telecommunications competition for all companies. If competition does not develop in all areas, the Kansas Corporation Commission should be given authority to ensure that subscribers in those areas receive comparable benefits as customers in competitive areas. Once effective competition is present, the KCC already has the authority to relax regulation.

If it appropriate for the Kansas Corporation Commission to propose an infrastructure plan.

We do not think that an infrastructure plan should be a precondition for relaxed regulation. It is our view that relaxed regulation should come about only as a result of effective competition. Infrastructure development will occur as the market becomes more competitive and providers compete for subscribers with new, better and more features and services. The state should adopt and maintain quality of service standards and insist that providers meet these standards and take action to enforce them where necessary.

The need for a required infrastructure plan, including in-state technical and managerial support, as one precondition for relaxed regulation.

The authorization of competition, not infrastructure plans, warrants relaxed regulation in telecommunications. Nevertheless, an infrastructure plan is an appropriate mechanism for the state to insure that all parts of Kansas realize the benefits of advanced telecommunications services. The plan also can serve as a basis for measuring the success of relaxed regulation. For SWBT, the ability to go into a permanent price cap plan at existing rates allows it to commit to the desired infrastructure and discounts.

1-29

<u>Issue</u>	<u>AT&T (Multimedia Hyperion and MCI concur)</u>	<u>Sprint/United</u>	<u>Kansas Cable Television Association</u>	<u>Kansas Corporation Commission</u>	<u>Classic Communications</u>	<u>Kansas Telecommunications Coalition</u>
<p>B. If such a plan is required, the facilities and services to be included in such a plan, in addition to other issues, such as quality of service.</p>	<p>With effective competition, customers will decide what infrastructure is needed and what quality of service they want to purchase.</p>	<p>The infrastructure plan should require the local exchange carriers to provide the definition of basic local service by the year 2000.</p>		<p>Initial plans and regularly updated plans should be maintained on file with the KCC.</p>		<p>An infrastructure plan as proposed in HB 2762 should be filed by all LECs to insure the deployment of specified network capabilities. Specifically, those capabilities include SS7 and CLASS service capability; interoffice fiber facilities; basic rate ISDN capabilities and 1.5 megabit broadband capabilities to state and local government facilities as well as schools, hospitals and public libraries in the state. Quality of service standards are not necessary in service areas enjoying a competitively neutral environment, since market forces will ensure that the quality of services desired by consumers is provided. To the extent any quality of service standards are imposed on any provider they should be equally imposed on all providers. In rural areas, where potential competitors might be willing to lose high cost customers to incumbents through the intentional provision of substandard services, reasonable quality of service standards are important to assure competitive neutrality. Policies regarding regulation, cost recovery, resale, and other competition issues</p>

<u>Issue</u>	<u>AT&T (Multimedia Hyperion and MCI concur)</u>	<u>Sprint/United</u>	<u>Kansas Cable Television Association</u>	<u>Kansas Corporation Commission</u>	<u>Classic Communications</u>	<u>Kansas Telecommunications Coalition</u>
C. Services for which discounted prices should apply.	Open competition will drive prices closer to cost and discounts will not be an issue.	The plan should also require discounts for interactive television services to schools, hospitals, and libraries.	We believe there is merit for the Kansas Corporation Commission to give consideration to discounted prices in some areas. Those would include, but not be limited to, schools, colleges and universities, public libraries and certain segments of the health care industry, especially those that are non-profit in nature or remotely located.	Services for which discounted prices apply should <u>be addressed as universal service and quality of service issues, not to be confused as part of these plans.</u>	should be designed to encourage investment in telecommunications facilities needed to bring advanced capability and services to rural areas.	Regulatory plans filed by LECs should include: 1) discounted prices close to, but not below, LRIC for existing and newly ordered point-to-point broadband capable services to any hospital, school, library or state and local government facilities, and; 2) a commitment to provide basic rate ISDN service at prices which are uniform throughout the company's service area and which are designed to stimulate the development of an extensive residential market.



Kansas Corporation Commission

*Bill Graves, Governor Susan M. Seltsam, Chair F.S. Jack Alexander, Commissioner Timothy E. McKee, Commissioner
Judith McConnell, Executive Director David J. Heinemann, General Counsel*

MEMORANDUM

TO: Lynne Holt

FROM: Glenda Cafer

DATE: February 14, 1996

RE: Matrix to Address Telecommunications Issues

Lynne:

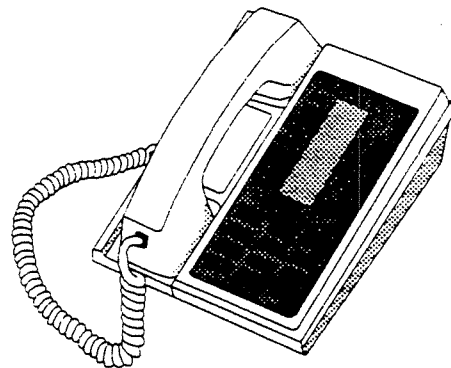
The KCC provided their input to PART II-Policy Framework of your matrix for the House Select Committee on Telecommunications on February 9, 1996. In that document, under the Regulatory Plan section, V. A., we advised that we would submit an analysis of methods used by other states in determining the initial prices for price caps. We were able to make contact with fourteen of the twenty-one states which have price caps and learned that their initial prices were based on existing rates in 5 states and rate reviews in the other 9 states.

Please call me if we can be of further assistance in this project.

KCC PRICE CAP STUDY

PRICE CAP STATES	INITIAL PRICE ESTABLISHED BY
CALIFORNIA	RATES REVIEW
DELAWARE	RATES REVIEW
ILLINOIS	RATES REVIEW
INDIANA	EXISTING RATES
MAINE	RATES REVIEW
MASSACHUSETTS	EXISTING RATES
MICHIGAN	NO RESPONSE
MISSOURI	DOES NOT HAVE PRICE CAPS
MONTANA	EXISTING RATES
NEVADA	RATES REVIEW
NEWJERSEY	EXISTING RATES
NEW MEXICO	NO PRICE CAPS AT CURRENT TIME
NEW YORK	NO RESPONSE
NORTH DAKOTA	EXISTING RATES
OHIO	RATES REVIEW
OREGON	RATES REVIEW
PENNSYLVANIA	NO RESPONSE
RHODE ISLAND	NO RESPONSE
UTAH	NO PRICE CAPS AT CURRENT TIME
VIRGINIA	RATES REVIEW
WISCONSIN	RATES REVIEW

NARUC REPORT ON
THE STATUS OF COMPETITION IN
INTRASTATE TELECOMMUNICATIONS



**NATIONAL ASSOCIATION OF
REGULATORY UTILITY COMMISSIONERS**

Originally published August 26, 1992
Updated and republished November 9, 1993
Updated and republished September 1, 1994
Updated and republished October 4, 1995

Price: \$45.00

TABLE 13 - IMPLEMENTATION OF ALTERNATIVES TO TRADITIONAL RATE OF RETURN REGULATION FOR LOCAL EXCHANGE TELEPHONE COMPANIES

AGENCY	NAME OF COMPANY OPERATING UNDER ALTERNATIVE REGULATORY SCHEME	ALTERNATIVE TO TRADITIONAL RATE OF RETURN REGULATION?				ALTERNATIVE REGULATORY PLAN INCLUDES:			
		Plan Now in Place	Permanent or Trial Basis?	Indicate Beginning and Ending Dates	Citations/Governing Authority	Classifying Services by Level of Competition	Flexible Pricing of Services	Price Caps	Revenue Sharing With Rate-payers
ALABAMA PSC	SC Bell	No	Trial	1986-1994					Yes
ALASKA PUC	None	No							
ARIZONA CC	None	No							
ARKANSAS PSC	None	No							
CALIFORNIA PUC	1/ Pacific Bell/GTE	Yes	Perm.	1990		Yes	Yes	Yes	Yes
COLORADO PUC	Statute-all non-basic US West	Yes	Perm. Trial	1987 1993-1997	40-15-101	Yes	Yes	No	Yes
CONNECTICUT DPUC	None; pending	No							
DELAWARE PSC	Diamond State-non basic All--1993 law	1/ Yes	Perm.	3/24/94 July 1993	SB 115 Order10147	Yes	Yes	Yes	No
DC PSC	2/ Bell Atlantic-DC	Yes	Trial	1993-1996		Yes	Yes	No	Yes
FLORIDA PSC	Southern Bell	Yes	Trial	1988-1997		No	No	No	Yes
GEORGIA PSC	Southern Bell	Yes	Trial	1992-1995		No	No	No	Yes
HAWAII PUC	None								
IDAHO PUC	1/ US West	Yes	Perm.	1989		Yes	Yes	No	Yes
ILLINOIS CC	Ameritech-Illinois	Yes	Perm.	11/95	13-506.1	Yes	Yes	Yes	No
INDIANA URC	1/ Ameritech-IN	2/ Yes	Trial	1994-1997	Order39705	Yes	Yes	Yes	No
IOWA UB	1983 law allows deregulation of competitive svcs. HF 518, 1995, allows UB to authorize price caps for larger LECs.	Yes	Perm.			Yes	No	No	No
KANSAS SCC	1/ 2/ SBC--non-basic	Yes	Trial	1990-1997		No	Yes	No	No
KENTUCKY PSC	South Central Bell	Case pending for price caps							
LOUISIANA PSC	1/ South Central Bell	Yes	Trial	1992-1995		No	No	No	Yes
MAINE PUC	7/ New England Telephone Nynex	Yes	Trial	1989-1993		Yes	Yes	Yes	No
MARYLAND PSC	2/ Bell Atlantic-non basic	Yes	Trial	1993-1995		Yes	Yes	No	Yes
MASSACHUSETTS DPU	Nynex	Yes						Yes	
MICHIGAN PSC	1/ 2/ 1992 law - all non-basic	Yes	Perm.	1992-1995	1991 PA179	No	Yes	Yes	No
MINNESOTA PUC	1/ US West	Yes	Trial	1990-1995		Yes	Yes	No	Yes
MISSISSIPPI PSC	South Central Bell	Yes	Perm.	1990-1995		Yes			Yes
MISSOURI PSC	1/ 2/ SBC	Yes	Trial	1994-1998		No	Yes	Yes	Yes
MONTANA PSC	Law permits deregulation of competitive services.	Yes	Perm.	1985		Yes	Yes	Yes	No
NEBRASKA PSC	All non basic deregulated	Yes	Perm.	1986	86-801	Yes	Yes	Yes	Yes
NEVADA PSC	1/ 2/ Nevada Bell	Yes	Perm.	1991-1996	NAC 704. 6832-6847	Yes	Yes	Yes	Yes
NEW HAMPSHIRE PUC	All LECs	Yes		1995-1999	94-11035	Yes	Yes	Yes	No
NEW HAMPSHIRE PUC	None								
NEW JERSEY BPU	1/ 2/ 1992 law deregulated competitive services	Yes	Trial	1987-1993	T087050398	Yes			
NEW MEXICO SCC	Bell Atlantic-NJ	Yes	Perm.	1993-1999	PL 1991	Yes	Yes	Yes	Yes
NEW YORK PSC	US West/Contel	No	Trial	1990-1993	87-54-TC	No	Yes	Yes	Yes
NEW YORK PSC	Rochester Telephone	No	Trial	1990-1992		Yes	Yes	Yes	Yes
NEW YORK PSC	Nynex	1/ 2/ Yes		1995-1999				Yes	Yes
NORTH CAROLINA UC	1989 law allows alternate	No							
NORTH CAROLINA UC	1995 law--price caps	No							
NORTH DAKOTA PSC	1/ 1989 law separates essential from non-essential	Yes	Perm.	1989	NDCC 49-21	Yes	Yes (Some)	Yes	No
OHIO PUC	1989 law allows alternate	Yes	Perm.	1994-2000	HB 563	Yes	Yes	Yes	Yes
OKLAHOMA CC	None								
OREGON PUC	1/ 2/ US West-non basic	Yes	Trial	1992-1996	Dkt UT 80	Yes	Yes	Yes	Yes
PENNSYLVANIA PUC	1/ Bell Atlantic-PA	2/ Yes	Perm.	1994-2004	P-930715	Yes	6/ Yes	Yes	No
RHODE ISLAND PUC	1/ New England Tel	Yes	Trial	1992-1995	Dkt 1997	Yes	Yes	Yes	Yes
SOUTH CAROLINA PSC	4/ All -SB/GTE participated	No	Trial	1992-1994		No	No	No	Yes
SOUTH DAKOTA PUC	1988 law - all	Yes	Perm.	1988	TC 92-026	Yes	Yes	No	No
TENNESSEE PSC	1/ 8/ Large LECs-non basic	Yes	Perm.	1990-1995		Yes	Yes	No	Yes
TEXAS PUC	1/ 2/ SBC	No	Trial	1990-1994	Dkt 8585	Yes	Yes	No	Yes

For a more detailed discussion of alternative regulation, see NRRI report 94-30, *Measuring the Impact of Alternative Regulatory Pricing Reforms in Telecommunications* and NRRI 95-05 *Aspects of Telecommunications Reform: Results of a Survey of State Regulatory Commissions*.

TABLE 13 - IMPLEMENTATION OF ALTERNATIVES TO TRADITIONAL RATE OF RETURN REGULATION FOR LOCAL EXCHANGE TELEPHONE COMPANIES

AGENCY	NAME OF COMPANY OPERATING UNDER ALTERNATIVE REGULATORY SCHEME	ALTERNATIVE TO TRADITIONAL RATE OF RETURN REGULATION?				ALTERNATIVE REGULATORY PLAN INCLUDES:			
		Plan Now in Place	Permanent or Trial Basis?	Indicate Beginning and Ending Dates	Citations/Governing Authority	Classifying Services by Level of Competition	Flexible Pricing of Services	Price Caps	Revenue Sharing With Rate-payers
UTAH PSC	US West 1995 law--all	Yes	Perm.	1985 1997	HB 364	Yes	Yes	No	No
VERMONT PSB VIRGINIA SCC	1/ 2/ NET-"new services" BA, United/Centel GTE/Contel	No Yes Yes	Trial Perm. Perm.	1989-1992 1995- 1995-	30 VSA 226 PUC930036 PUC930036	No Yes Yes	Yes Yes Yes	Yes No Yes	No No Yes
WASHINGTON UTC	All-1985 law allows "competitive" classification; '89 law allows alternate	Yes	Perm.	1985		Yes	Yes	No	No
WEST VIRGINIA PSC WISCONSIN PSC	1/ All-non basic 2/ Wisconsin Bell 2/ GTE 2/ All	Yes Yes Yes Yes	Trial Perm. Perm. Perm.	1988-1994 9/1/94 1/1/95 9/1/94	Act 496 Act 496 Act 496	Yes No No No	Yes 5/ 5/ 5/	Yes Yes Yes Yes	3/ No 9/ No 9/ No 9/
WYOMING PSC	US West 1995 law--all	Yes	Perm.	1995	HB 176	Yes	Yes	No	No

For a more detailed discussion of alternative regulation, see NRRI report 94-30, *Measuring the Impact of Alternative Regulatory Pricing Reforms in Telecommunications*.

FOOTNOTES - TABLE 13

- 1/ Alternative regulatory plan is tied to LEC improving infrastructure.
- 2/ Plan includes a freeze on basic local rates.
- 3/ Plan includes an initial rate reduction.
- 4/ Incentive regulatory plan struck down by State Supreme Court in August 1993. In April 1994, Legislature allowed PSC to consider alternative regulation.
- 5/ Under S. 196.196(1), Stats, services are differentiated between a) basic local and toll; b) access; and c) other.
- 6/ Flexible pricing of regulated services can be implemented outside the formal context of the alternative regulation plan. Alternative regulation plan includes Price Stability Mechanism for non-competitive services based on GDP-PI minus 2.93%, rate freeze of protected services until 12/31/99, deregulation of certain competitive services and Network Modernization Plan.
- 7/ Proceeding regarding a new plan to New England Telephone is pending.
- 8/ Pending 1995 legislation will address all these issues.
- 9/ Telcos have option to elect or propose price regulation, or some other form of alternative regulation which may include revenue sharing with ratepayers.
- 10/ Telcos have ability to elect price regulation under s.196.196(1), stats., or propose an alternative regulatory plan under ss.196.195(12) or 196.196(4), stats. Election of price regulation under s.196.196(1), stats., includes a freeze on basic local rates. Telcos under 150,000 access lines may opt out of price regulation.



Kansas Corporation Commission

Bill Graves, Governor Susan M. Seltsam, Chair F.S. Jack Alexander, Commissioner Timothy E. McKee, Commissioner
Judith McConnell, Executive Director David J. Heinemann, General Counsel

MEMORANDUM

TO: Lynne Holt
FROM: Tom Behner
DATE: February 14, 1996
RE: LINK-UP Eligibility

Lynne:

This is in response to Representative Greg Packer's request for information regarding LINK-UP. Enclosed is a copy of Southwestern Bell Telephone Company's tariff providing a descriptive summary and the eligibility requirements for LINK-UP.

Please call me at 271-3238 if you or Representative Packer would like additional information.

*House Sel/Comm Telecomm.
2-15-1996
Attachment 3*

SERVICE CONNECTION

(AT) 23.7 LINK-UP AMERICA SERVICE CONNECTION PROGRAM (LUA)

23.7.1 Descriptive Summary

The Link-Up America Service Connection Program is a federally sponsored lifeline assistance program designed to make telephone service accessible to low-income residential households who are currently not on the public switched network. Through this program the Service Connection Charge for initial installation of the main access service line, as described in the Local Exchange Tariff, will be discounted at a rate of 50 percent, not to exceed \$30.00. The remaining portion of the Service Connection Charge may, at the customer's option, be installment billed in equal increments over a four-month period. The state-specific plan has been named Link-Up Kansas.

23.7.2 Eligibility Requirements

The Federal Communications Commission defined the LUA eligibility requirements in Dockets 80-286 and 78-72. The discounted service connection charges will be provided for one telephone line per household, at the subscriber's principal place of residence. Assistance is targeted to individuals who meet the following two criteria:

1. For federal income tax purposes, the applicant is not a dependent unless over sixty years of age.
2. The applicant must be participating in one of the following programs:
 - a. Aid to Dependent Children (ADC)
 - b. Food Stamps
 - c. General Assistance (GA)
 - d. Medicaid
 - e. Supplemental Security Income (SSI)
 - f. Food Distribution Program

The Kansas Department of Social and Rehabilitation Services administers programs a.-d. Program e. is administered by the Social Security Administration and program f. is administered by the United Tribes of Kansas and S.E. Nebraska, Inc.

Item 1 will be certified by the applicant. To certify item 2, the applicant must provide the Telephone Company proof of participation in one of the programs listed.

(AT)

ISSUED: FEB 21 1990 EFFECTIVE: MAR 01 1990

BY: J. W. CALLAWAY, President - Kansas Division
Southwestern Bell Telephone Company
Topeka, Kansas

Commission Docket Number	1 6 6 8 5 6 - 0
FILED	MAR 1 1990
THE STATE CORPORATION COMMISSION OF KANSAS	
By <i>Judith McConnell</i>	Secretary <i>CEH</i>

32



Memorandum

Donald A. Wilson
President

Date: February 14, 1996
To: House Select Committee on Telecommunications
From: Kansas Hospital Association
Melissa Levy Hungerford, Senior Vice President
Re: House Bill 2994

The Kansas Hospital Association is pleased to support House Bill 2994, which amends and expands Kansas Telecommunication statutes. Raymond Williams, III, CEO of Sumner Regional Medical Center, Wellington, represented health care providers and their patients on the Kansas Telecommunications Strategic Planning committee which proposed the majority of the contents of this bill.

HB 2994 outlines the transition of telecommunications from a heavily regulated to a competitive environment; very similar to what the health care industry is also experiencing. We know from this experience that competition comes very slowly, if at all, to sparsely populated rural areas. In these areas, special provisions are often needed to assure access to needed services. Competition in small areas often selects only the portion of the area or business that is lucrative, leaving the traditional provider to bear the burden of the more difficult areas and services. HB 2994 is sensitive to those circumstances.

KHA had three concerns as the TSPC deliberated. First is the issue of access. In many parts of the state, the broadband capability necessary for many telemedicine applications is not available. Section 2 (c)(4) of this bill requires telephone companies to file an infrastructure plan, which outlines a schedule for responding to hospital requests for broadband services. While this provision does not address the cost of providing broadband capability, it does require telephone companies to respond to requests. Second, and related to the issue of access, has been the cost of laying broadband facilities to low volume rural areas. These costs have often been passed along to the hospital, which made access prohibitive. The definition of universal service in HB 2994 specifically includes this infrastructure and the required fund can be used to offset the costs.

*House Sel/comm. Telecomm
2-15-1996*

Our final concern has been the ongoing cost of access to the lines once they are in place. Our studies show monthly fees ranging from \$200/month to almost \$8,000/month for the same service. We recognize that costs in some areas can be spread over a large number of users, while other areas don't have that luxury. Most of these hospitals are tax supported entities and are being asked to reduce their costs while maintaining access to needed services for their communities. Telecommunications costs have limited telecommunications as a viable option. The regulatory reform plan required in Sec. 2(D)(5)(A) has a provision requiring "commitment," to provide existing and new broadband services to hospital and other community services for reduced rates near the company cost.

KHA encourages your support of HB 2994 because it addresses the special needs in rural parts of the state, assists companies in providing infrastructure where low volumes make it difficult and requires that companies provide these services for reduced costs on an ongoing basis.



KANSAS TELECOMMUNICATIONS COALITION

TESTIMONY ON BEHALF OF THE KANSAS TELECOMMUNICATIONS COALITION HOUSE SELECT COMMITTEE ON TELECOMMUNICATIONS CARL C. KREHBIEL FEBRUARY 15, 1996

- Blue Valley Telephone Company Home
Columbus Telephone Company
Craw-Kan Telephone Coop., Inc. Girard
Cunningham Telephone Company, Inc. Glen Elder
Elkhart Telephone Company, Inc.
Golden Belt Telephone Assn., Inc. Rusb Center
Gorham Telephone Company
H&B Communications, Inc. Holyrood
Haviland Telephone Company, Inc.
Home Telephone Company, Inc. Galva
JBN Telephone Company, Inc. Wetmore
KanOkla Telephone Assn., Inc. Caldwell
LaHarpe Telephone Company, Inc.
Madison Telephone Company, Inc.
MoKan Dial, Inc. Louisburg
Moundridge Telephone Company, Inc.
Mutual Telephone Company Little River
Peoples Mutual Telephone Company LaCygne
Pioneer Telephone Assn., Inc. Ulysses
Rainbow Telephone Coop. Assn., Inc. Everest
Rural Telephone Service Company, Inc. Lenora
S & A Telephone Company, Inc. Allen
S & T Telephone Coop. Assn. Brewster
South Central Telephone Assn., Inc. Medicine Lodge
South Central Telecommunications of Kiowa, Inc. Medicine Lodge
Southern Kansas Telephone Co., Inc. Clearwater
Southwestern Bell Telephone Company Topeka
Sunflower Telephone Company, Inc. Dodge City
Totah Telephone Company, Inc. Ochelata, OK
Tri-County Telephone Assn., Inc. Council Grove
Twin Valley Telephone, Inc. Millonsvale
United Telephone Association, Inc. Dodge City
Warnego Telephone Company, Inc.
The Wheat State Telephone Co., Inc. Udall
Wilson Telephone Company, Inc.
Zenda Telephone Company, Inc.

My name is Carl Krehbiel. I am the president of the Moundridge Telephone Company, a member of the Kansas Telecommunications Coalition, and I am here to testify in support of HB 2994.

THE TELECOMMUNICATIONS ACT OF 1996

One common theme of our testimony before this Committee to date, whether from the Kansas Telecommunications Coalition or from individual independent telephone companies, is that our State cannot afford to take a one-size-fits-all approach to telecommunications policy.

The United States Congress affirmed this principle in the Telecommunications Act of 1996 by enacting into U.S. law several provisions that apply only to rural telephone companies, and that are significantly different from provisions that apply to other telephone companies. Furthermore, many of those provisions explicitly grant to the States the ability to decide what policies to establish with regard to rural telephone companies. This is a great opportunity for the Kansas Legislature to take action to help fulfill the promise of deployment of a state-of-the-art telecommunications network to all Kansas communities, and to ensure that we do not create a society of telecommunications "haves" and "have-nots."

The new law contains a specific definition of a "rural telephone company" (Section 3(2)(47)), and the "service area" of a rural telephone company in which rural provisions would apply (Section 214(e)(5)).

With regard to the obligations of incumbent local exchange carriers of interconnection, unbundling, resale and collocation, the Act exempts a rural telephone company until such company has received a bona fide

Handwritten notes: House sel/comm. Telecomm. 2-15-1996 P.O. Box 960 Moundridge, Kansas 67107 ATTACHMENT 5

request for interconnection, services, or network elements, and the State commission determines that such request is not unduly economically burdensome, is technically feasible, and is consistent with the universal service section of the Act (Section 251(f)(1)(A)). And a local exchange carrier with fewer than 2 percent of the Nation's subscriber lines may petition for a suspension or modification of the application of those previously listed requirements (Section 251(f)(2)), although if it were granted, such a petition would have very adverse consequences, including allowing cherry-picking competition in selected parts of a rural telephone company's service area.

The Act explicitly allows the States to impose requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers (Section 253(b)). And a State may adopt regulations to preserve and advance universal service, and to provide for additional definitions and standards of universal service (Section 254(f)).

It also allows a State to require a telecommunications carrier that seeks to provide telephone exchange service or exchange access in a service area of a rural telephone company to meet the requirements for designation as an "eligible telecommunications carrier" for that area before being permitted to provide such service (Section 253(f)).

The requirements for designation as an "eligible telecommunications carrier" are somewhat similar to those of a "carrier of last resort," including offering services throughout the service area for which the designation is sought. Furthermore, in the case of an area served by a rural telephone company, a State is not required to designate more than one carrier as an "eligible telecommunications carrier," and before designating an additional "eligible telecommunications carrier" in such an area, a State commission must find that the designation is in the public interest (Section 214(e)(2)).

THE NEED FOR STATE LEGISLATION

In some of these provisions, the Act refers to actions a "State" may take. In others, it refers to an action or decision by a "State commission." Of course, the Act thereby simply reflects the reality to which we have drawn attention since our first testimony before this Committee: the Commission is the body that implements State policies. The Kansas Legislature cannot convene to make a ruling any time a petition arrives in Topeka, and so the Commission will make decisions regarding policy implementation on a day-to-day basis. But the Telecommunications Act of 1996 does not eliminate, in any way, shape or form, the policy-making function of the Kansas Legislature. The "chain of command" does not extend from the U.S. Congress directly to the Kansas Corporation Commission, with the Kansas Legislature reduced to the role of an helpless bystander. Rather, in each instance in which this new Federal law gives States the ability to set policy, the proper body to make that policy for the State of

Kansas remains the Kansas Legislature. After all, it was the Kansas Legislature that created the Commission, and the Commission is responsible to the Legislature.

We welcome the Telecommunications Act of 1996 because it, along with previous legislation and court decisions not altered by this Act, enables you, the Legislature, to establish policies regarding rural telephone companies where the Federal Act leaves decisions up to the States. The purpose of HB 2994 is to give the Legislature a way to fulfill the responsibilities that the U.S. Congress has given to the States.

PROVISIONS OF HB 2994 APPLYING TO RURAL TELEPHONE COMPANIES

The focus of my testimony today will be on that part of the bill under New Section 2(b)(5), beginning on Page 4, Line 17 of HB 2994, the section that contains provisions to set policies for Kansas regarding rural telephone companies.

When we drafted these provisions, we made every effort to make them consistent with draft versions of the Telecommunications Act that were circulating in Washington. In most cases, this section is consistent with that Act. However, since our deadline for requesting this bill was before the final action by the U.S. Congress, we could not be sure that HB 2994 would be fully consistent with every detail of that Act.

In drafting this section, we could assume neither that the final version would be the same as draft versions on which our work was based, nor that the Congress would, in fact, pass the Act at all. Consequently, there may be a few provisions in Section 2(b)(5) that reflect what we believed would be necessary in State law in the absence of an Act of Congress, and some may be superseded by the new Federal law. And in fact, now that we have seen the Act, we have found a few places where adjustments may be required.

Some of these changes are simply a matter of terminology. For example, we used the term "small telephone company" in HB 2994, while the Federal Act uses "rural telephone company." The meaning is the same, and we believe that using the latter term would eliminate any confusion as to why a proposed Kansas bill uses a different term. Also, in some cases, HB 2994 contains provisions taken directly from, or derived from, the Federal Act. Until that Act was passed and signed into law, we could not assume that those provisions would already be established in Federal law, and so we proposed them in HB 2994. Now that the Telecommunications Act is law, some provisions in HB 2994 may be redundant, and eliminating unnecessary language would serve to shorten and simplify this bill. However, in some cases it may be necessary to add a definition here or a provision there, in view of what is now Federal law.

Certainly, we are willing to make any changes that may be advisable or necessary in view of the signing into law of the Telecommunications Act of 1996. In view of this unusual circumstance of the U.S. Congress enacting a law just after we had requested a bill on that subject, we ask for the Committee's forbearance in allowing us to make any changes that may be necessary to bring HB 2994 in line with the Telecommunications Act of 1996, and would welcome the Committee's guidance on how we should best proceed.

The most important aspect of this Section 2(b)(5) of HB 2994 is not so much its individual provisions, but rather the recognition encompassed in those provisions, derived from the new Federal law, that one size will not fit all when it comes to telecommunications policy in Kansas, and the premise that preservation and advancement of universal service in Kansas should be the preeminent concern when the Legislature considers what forms of competition would be appropriate in rural areas.

Subsection 2(b)(5)(A), Page 4, Line 17, simply requires that the Commission find that it is in the public interest to issue more than one certificate to provide local exchange or exchange access service in the service area of a small telephone company. I would think that such a requirement would be rather obvious, fully desirable, and not controversial.

Subparagraph (i), Line 22, requires the applicant for an additional certificate to establish that certification of more than one telecommunications service provider will have no undue negative effect on maintenance and enhancement of universal service at reasonable and affordable rates, and that such certification will not jeopardize the continued existence of a carrier of last resort capable of providing access to the capabilities set forth in subsection 2(c), beginning on Page 6, Line 6, for any customer requesting service in such service area.

Actually, the reference to subsection (c) is now incomplete, since some capabilities and services to which we intended to refer are now contained not in subsection 2(c), but rather in the definition of "Universal service" in subsection 1(p), Page 2, Line 36. Our intention is to include all of the capabilities and services that are included in that definition of universal service.

Once again, I believe that these requirements would be desirable and not controversial. Surely no one would suggest that it is acceptable that a Commission's decision would have an adverse affect on universal service. And continued existence of a carrier of last resort capable of providing service to any customer who requests it in that service area is fundamental to the concept of universal service. Without a viable carrier of last resort, there is no universal service.

Subparagraph (ii), Line 30, reflects a combination of provisions in the Telecommunications Act of 1996 that I mentioned previously, to the effect that a State can require a telecommunications carrier that seeks to provide service in the service area of a rural telephone company to meet the requirements of an eligible telecommunications carrier, and that one of those requirements is to provide a variety of services throughout that service area. This provision would help to hinder the practice of cherry-picking; that is, electing to serve only the most lucrative customers, or the most lucrative part, of a rural telephone company's service area. Watch who opposes this provision; you will then see who intends only to cherry-pick in rural areas.

Subsection 5(B), Line 33, states explicitly that when the Commission considers whether to issue more than one certificate in the service area of a rural telephone company, it shall place the highest priority on maintaining universal service. This is a policy decision that is fully appropriate for the Legislature to make, and we urge you to establish this principle as State policy. This section then establishes that issuing an additional certificate in such service area would have to be in the public interest, which surely is both essential and not controversial.

Subparagraph (i), Line 40, sets a requirement for a new entrant to build facilities. It is similar to the requirement that is placed on incumbent telephone companies in Section 2(c), Page 6, Line 6, which is only reasonable if competition is to take place on a level playing field. The time frame of five years was selected because it reflects the provision in Section 2(a), Page 3, Line 4, that the provision of access to the universal service capabilities specified in the definition of "Universal service" should be accomplished "within five years from the effective date of this act."

Subparagraph (ii), Page 5, Line 3, establishes as a public interest criterion the effect on maintenance and enhancement of universal service, and those services that the Legislature believes should be available universally, at reasonable and affordable rates, for every customer in the relevant service area. And again, maintaining a viable carrier of last resort is a prerequisite for the provision of universal service.

The phrase "at reasonable and affordable rates" is included not only because this is a firmly-established principle of universal service. This provision would also hinder the practice of a cherry-picker ostensibly offering and advertising service throughout the service area, as required in the Federal Act, but actually offering competitive and attractive rates only to the most lucrative customers, while offering only exorbitant rates to those customers that it had no desire to serve because they are rural, residential and/or poor. A competitor should not be allowed to use high rates as a means of repelling, or "redlining," customers it deems undesirable to serve.

The last clause in this subparagraph would require the Commission to consider the ability of a rural telephone company's service area to support more than one provider

of local exchange and exchange access service. The rationale for this provision is the reality that in many areas of our State, a telephone company exists today only because of a variety of support and cost recovery mechanisms. It makes no sense to have a second subsidized carrier in such areas, or, in effect, subsidized competition for its own sake. Furthermore, considering that the question likely would be not how much market share each of two (or more) thriving competitors would garner, but rather which one would survive, there is the specter of replacement of a regulated monopoly with an unregulated monopoly. This provision would require the Commission to consider these factors in making a decision on whether or not to issue an additional certificate.

With regard to Subparagraph (iii), Line 9, both the Federal Telecommunications Act of 1996 and other sections of HB 2994 make it clear that infrastructure deployment is vital not only in rural areas, but in the entire State. The Vision Statement of the Telecommunications Strategic Planning Committee, which is now encompassed in HCR 5036 and SCR 1618, explicitly states that Kansas telecommunications policies should "promote investment in Kansas, including the upgrading of the telecommunications infrastructure throughout the entire state in a timely manner." Indeed, Section 2(c) of HB 2994, which is derived from the TSPC Final Report, and the very definition of "Universal service" in Section 1(p) require deployment of the infrastructure necessary to provide a variety of advanced telecommunications capabilities and services. This provision reflects the reality that what is needed in rural areas is deployment of advanced new infrastructure, not theories of how to induce competition by the artificial means of reselling existing services over existing facilities.

Without modern telecommunications facilities, there will be no advanced telecommunications services. And only investment in new facilities contributes to the deployment of modern telecommunications infrastructure. Therefore, in considering whether to grant an additional certificate in the service area of a rural telephone company, the Commission should have to establish that the applicant's infrastructure plan would result in significant new investment in telecommunications infrastructure in the entire relevant service area.

Subparagraph (iv), Line 12, is another provision that surely is both desirable and not controversial. Quality of service is important, and quality service should be available to all consumers. It should be unacceptable for the entrance of a new service provider to result in *lower* service quality standards. Without such a provision, it is entirely possible that a company intent on cherry-picking could indeed offer service throughout a rural telephone company service area, but offer quality service only to a handful of desirable, lucrative customers, while offering inferior services at much lower quality standards to customers that are deemed undesirable because they are rural, residential and/or poor. It is not a level playing field if a rural telephone company is obligated to provide quality services to every customer in its service area, while a cherry-picker is allowed to take very good care only of that handful of "cherries," while offering

services of vastly lower quality, or at increased prices, to undesirable customers. The inevitable result of such a situation would be a decline in the quality of service for those consumers who are not among the most lucrative customers, and that result should be unacceptable.

The unnumbered paragraph beginning on Page 5, Line 16, is purely a matter of fairness. We rural telephone companies welcome the infrastructure deployment requirements recommended in the TSPC Final Report, and included elsewhere in this Bill. We are enthusiastic about bringing these capabilities to the communities we serve, to the extent that we have not already done so. However, it is only fair that if State law requires us to make the investment needed to deploy these facilities, we be permitted the opportunity to recover those costs.

The provisions in Subsection 5(C), Line 22, through the clauses numbered (1) and (2) are taken directly from the draft Conference Report that was recently enacted as the Telecommunications Act of 1996. We do not yet know if it would be necessary to repeat them in this Bill, or whether they have been rendered redundant, now that they have been established in Federal law. However, they are very important, and we have been advised by legislative affairs experts at our national associations in Washington that they probably should be included any in State telecommunications law, as well.

The clause numbered (iii), beginning on Line 31, reflects the importance of investment in infrastructure as discussed above, and recognizes the fact that resale contributes nothing toward such investment. The Federal Act does allow an "eligible telecommunications carrier" to serve an area using either its own facilities or a combination of its own facilities and resale of another carrier's services. Thus, the Federal Act does require a carrier to have its own facilities -- but it does not specify the degree to which a carrier must be facilities-based, or can rely on resale. Obviously, there is an opportunity for the Legislature to establish a policy, and that policy should be heavily weighted on the side of deploying facilities. We believe the Legislature should instruct the Commission to consider the relative benefits of resale versus investment in facilities in rural areas. The extent to which a new applicant would rely upon resale, instead of contributing to the deployment of advanced telecommunications infrastructure, should be an important factor in the Commission's decision as to whether to issue a certificate to an additional telecommunications service provider that proposes to operate in the service area of a rural telephone company.

Another important factor that the Commission should consider is the effect of resale on deployment of facilities. Not only does resale, by definition, contribute absolutely nothing to the deployment of telecommunications infrastructure. In fact, resale would also have the effect of deterring investment in facilities by a facilities-based telecommunications service provider. Why should a rural telephone company take the risk of building expensive, new, advanced telecommunications facilities when, if

services provided over those facilities are successful, a reseller can simply move in and demand to sell those services over the rural telephone company's facilities? If those services are a business failure, will a reseller step forward and volunteer to assume a share of the losses? And since resale simply results in revenues from the retail price of telecommunications services being taken from the facilities-based service provider and placed in the pocket of the reseller, resale would actually reduce the financial ability of a rural telephone company to invest in new facilities.

Again, without facilities, there will be no services. While resale is permitted in the Federal Act, we believe it is necessary and perfectly appropriate that the Legislature establish the policy that construction of new facilities is the highest priority in rural areas, and that the extent to which an applicant for a certificate to serve the service area of a rural telephone company would rely on resale, as opposed to construction of advanced telecommunications facilities, should be a major criterion in the Commission's decision. A reseller leeching off of existing facilities contributes absolutely nothing to the deployment of a state-of-the-art telecommunications network to all Kansas communities. This provision simply reflects that reality.

Subsection 5(D), Line 40, is based on the recognition that it would not be fair for rural telephone companies to have their cake, and eat it, too. If a rural telephone company, or an affiliate in which such company owns a certain equity interest, provides competitive service in any area of the State outside of its service area, then the provisions of Section 2(b)(5) would no longer apply to that rural telephone company. In view of the definition of an "affiliate" in the Telecommunications Act of 1996, however, it will be necessary to change the equity interest percentage from 8% to 10%.

CONCLUSIONS

The essence of this Section 2(b)(5) of HB 2994 is for the Kansas Legislature not to ban competition in rural areas, nor to exempt rural telephone companies from any possibility of competition. Rather, combined with the sections of this bill that would establish a Kansas Universal Service Fund, it is to promote the maintenance and advancement of universal service, to include fostering rapid, aggressive deployment of advanced telecommunications facilities, in the areas served by rural telephone companies.

I think that there are three ways in which competition could be introduced into the service areas of rural telephone companies: (1) cherry-picking, (2) heavy reliance on resale; and (3) facilities-based services provided universally, to every consumer throughout the service area.

The approach of this Bill is to "just say no" to cherry-pickers in rural areas, since the cherry-picking form of competition would inevitably lead to a decline of universal service, including at a minimum lower service quality for every consumer except a few lucrative customers; as well as the likely demise of a carrier of last resort capable of providing service to any customer who wants it, throughout the service area of a rural telephone company; and the replacement of a regulated monopoly with an unregulated monopoly. The cherry-picking form of "competition" is inherently contradictory to the principle of universal service, and the two are mutually exclusive. You can have cherry-picking rural competition or you can have universal service, but you cannot have both. We ask the Legislature to choose universal service.

The provisions in this section would also have the effect of encouraging investment in modern telecommunications infrastructure, not deterring or impeding the deployment of advanced telecommunications facilities. Again, the Federal Act permits resale, but we believe that deployment of infrastructure is so vital, so clearly in the best interests of rural Kansas, and the public interest of the State as a whole, that the Legislature should instruct the Commission to make the extent of an applicant's reliance on resale a major factor in a decision as to whether to issue an additional certificate in the first place.

These provisions clearly would promote the public interest by not exempting rural telephone company service areas from competition, and yet mandating that admitting any new entrant must have the effect of maintaining and advancing universal service, not jeopardizing it; promoting new investment in telecommunications infrastructure in rural Kansas, not deterring or impeding it; encouraging improvement, not decline, of service quality standards; and providing advanced telecommunications services at reasonable and affordable rates for every consumer, not just a handful of lucrative customers.

If a company is willing to come into a rural telephone company's service area and compete on a level playing field, providing universal service on the same basis on which the existing rural telephone companies provide it, by investing in telecommunications infrastructure to extend advanced services to everyone in the service area, to include the universal service and public service responsibilities of providing advanced facilities to health care providers, educational providers, and libraries, at reasonable and affordable rates for everyone and with service quality standards at least equal to those of the existing telephone company, then that company should be able to do so. That form of competition would be in the public interest. And if a rural telephone company ever falls short of fulfilling its responsibilities to the communities and the people it serves, it should not be protected from competition just because of its size and location. It would be an injustice to Kansas consumers to prevent competition on the basis of a form of competition that would maintain and advance universal service and the deployment of advanced

telecommunications facilities in rural Kansas, and nothing in HB 2994 would prevent or impede such competition.

But it would be an even greater injustice to Kansans if the Legislature failed to take up the U.S. Congress on its offer to allow States to set certain criteria for competition in rural areas; if it thereby allowed cherry-picking, or did not discourage artificial forms of competition that hinder investment in the new facilities that are so desperately needed to prevent small towns and rural areas from being bypassed by the "information superhighway."

The Kansas Legislature has a golden opportunity to set a course for the future of telecommunications in Kansas. But you also have to make some crucial choices about how and, indeed, whether that future will extend to rural Kansas.

Will the future be universal service, or cherry-picking?

Will it be investment in infrastructure to create a state-of-the-art telecommunications network to provide tomorrow's services to all Kansans, or will it be resale of today's basic services over existing facilities?

I believe the answers to these questions are clear. Telecommunications has the potential to open many doors for rural Kansas, and the provisions in HB 2994 give you the tools to make the rural areas we serve full participants in the information society. The Kansas Telecommunications Coalition supports HB 2994, and asks you to seize the opportunity given to you by the passage of the Telecommunications Act of 1996, and make the provisions of HB 2994 the policy for the State of Kansas.



KANSAS TELECOMMUNICATIONS COALITION

TESTIMONY ON BEHALF OF THE KANSAS TELECOMMUNICATIONS COALITION BEFORE THE HOUSE SELECT COMMITTEE ON TELECOMMUNICATIONS

KENDALL S. MIKESELL

FEBRUARY 15, 1996

Chairman Lawrence and Members of the Committee:

Thank you for giving me the opportunity to testify before you today. My name is Kendall Mikesell. I manage Southern Kansas Telephone Company, headquartered in Clearwater, about 15 miles southwest of Wichita. My company has been owned and operated by the Mikesell family since 1940, and I represent the third generation of family management. Southern Kansas Telephone is a certificated local exchange carrier serving approximately 4,300 customers across seven counties of south central Kansas.

As you are aware, I appeared before this committee on January 22nd, and made a request for the introduction of a bill coupling the basic Telecommunications Strategic Planning Committee (TSPC) policy framework with a Universal Service and Infrastructure plan designed to assure all Kansans of accessibility to advanced telecommunications services at reasonable rates. This request has become House Bill No. 2994, and I'm here today, on behalf of the Kansas Telecommunications Coalition (KTC) to speak as a proponent of this bill.

The KTC, as you know by now, is an alliance of 35 small Kansas independent telephone companies and Southwestern Bell. The KTC members are bound by the common thread of a long history of providing Universal Service across all parts of the state of Kansas. We have stated repeatedly that we believe the Kansas Legislature should establish telecommunications policy for the state, with that policy being implemented by the Kansas Corporation Commission (KCC). Other coalition members will be discussing various aspects of House Bill No. 2994 during the hearing. My remarks today will be focused on the Universal Service provisions of the bill.

Blue Valley Telephone Company
Home

Columbus Telephone Company

Craw-Kan Telephone Coop., Inc.
Girard

Cunningham Telephone Company, Inc.
Glen Elder

Elkhart Telephone Company, Inc.

Golden Belt Telephone Assn., Inc.
Rush Center

Gorham Telephone Company

H&B Communications, Inc.
Holyrood

Haviland Telephone Company, Inc.

Home Telephone Company, Inc.
Galva

JBN Telephone Company, Inc.
Wetmore

KanOkla Telephone Assn., Inc.
Caldwell

LaHarpe Telephone Company, Inc.

Madison Telephone Company, Inc.

MoKan Dial, Inc.
Louisburg

Moundridge Telephone Company, Inc.

Mutual Telephone Company
Little River

Peoples Mutual Telephone Company
LaCygne

Pioneer Telephone Assn., Inc.
Ulysses

Rainbow Telephone Coop. Assn., Inc.
Everest

Rural Telephone Service Company, Inc.
Lenora

S & A Telephone Company, Inc.
Allen

S & T Telephone Coop. Assn.
Breuster

South Central Telephone Assn., Inc.
Medicine Lodge

South Central Telecommunications
of Kiowa, Inc.
Medicine Lodge

Southern Kansas Telephone Co., Inc.
Clearwater

Southwestern Bell Telephone Company
Topeka

Sunflower Telephone Company, Inc.
Dodge City

Total Telephone Company, Inc.
Ochelata, OK

Tri-County Telephone Assn., Inc.
Council Grove

Twin Valley Telephone, Inc.
Millonvale

United Telephone Association, Inc.
Dodge City

Wamego Telephone Company, Inc.

The Wheat State Telephone Co., Inc.
Udall

Wilson Telephone Company, Inc.

Zenda Telephone Company, Inc.

House Sel/comm. Telecomm
2-15-1996 P.O. Box 960
Moundridge, Kansas 67107
Attachment 6

As I said on January 22nd, discussions on Universal Service have been going on for years. It is generally accepted that preserving Universal Service at reasonable rates in a high-cost area requires a system of shared responsibility. The dilemma of blending the benefits of competition in urban areas with a mechanism that assures the provision of basic and advanced services for rural areas must be solved if we are to include everyone in the information age.

I would like to spend a few moments highlighting the Universal Service features of House Bill No. 2994. I have referenced the page, line, and section numbers from the bill to make it as easy as possible for you to follow my discussion.

- Beginning on Page 2, Line 36, Universal Service is defined as telecommunications services and facilities which include single party, two-way voice grade calling, stored program controlled switching with vertical service capability, E9-1-1 capability, tone dialing, access to operator services, access to directory assistance, and equal access to long distance services. It also includes enhanced capabilities consisting of Signaling System Seven capability, with CLASS service capability, basic and primary rate ISDN capability, full fiber interconnectivity or the technological equivalent between central offices, and broadband capable facilities to all schools, hospitals, libraries, state and local government facilities which request broadband services.
- Beginning on Page 3, Line 4, New Section 2 states that a Universal Service funding mechanism shall permit, to the extent possible, the provision of access to the defined Universal Service capabilities within five years.
- Beginning on Page 6, Line 6, Section (c) states that each telephone company, as a part of Universal Service protection, will file a network infrastructure plan with the KCC, including agreed to schedules for the deployment of advanced facilities and services.
- Beginning on Page 8, Line 32, New Section 3 details the establishment of a Kansas Lifeline Service Fund (KLSF) designed to promote the provision of Universal Service by telephone companies to persons with low income or special needs. This section also establishes that the KLSF will fund dual party relay services for Kansans that are speech or hearing impaired.
- Beginning on Page 9, Line 2, New Section 4 details for small telephone companies the moving of intrastate switched and special access rates to parity with their interstate rates and a method for continuing at parity in the future. This section goes on to require that access reductions will be flowed through to the end user in reduced long distance rates.
- Beginning on Page 9, Line 38, New Section 5 directs the KCC to establish a Kansas Universal Service Fund (KUSF) designed to provide support to companies serving high-cost areas so they can continue providing Universal Service to customers at reasonable rates. The fund initially would replace revenues lost in the access rate restructure.

- Beginning on Page 10, Line 22, Section (c) details how a small telephone company may request supplemental KUSF support in response to a variety of circumstances, including required investment in infrastructure to meet an evolving definition of Universal Service.
- Beginning on Page 11, Line 31, New Section 6 charges the existing telephone company with the responsibility of serving as provider of last resort, and establishes its eligibility to receive KUSF and KLSF funding.
- Beginning on Page 11, Line 43, Section (b) details how a telephone company could be relieved of its provider of last resort obligation, and under what conditions its KUSF support could be eliminated.
- Beginning on Page 12, Line 18, New Section 7 details the funding of the KUSF and KLSF through a per minute surcharge assessed to the providers of all intrastate retail billed toll minutes or similar services, such as wireless. This mechanism allows for the surcharge to be collected from the end user.
- And finally, beginning on Page 12, Line 39, Section (c) details a methodology for KUSF and KLSF administration, including the use of a competitive bid process to select a neutral, bonded, third-party fund administrator.

When taken as a whole, the Universal Service provisions of House Bill No. 2994 are designed to assure that every Kansan will have access to a first class telecommunications infrastructure that provides excellent services at an affordable price.

I'm sure you are all aware by now that sweeping federal legislation on telecommunications has been passed by Congress and signed into law by President Clinton. Part of this committee's work will be to make sure that any telecommunications bill referred to the House floor is consistent with federal law. The TSPC deliberations were not done in vacuum, nor was the KTC's development of this Universal Service and Infrastructure plan. Both efforts were undertaken with an eye on what was happening in Washington. Our analysis continues, but we currently believe that House Bill No. 2994 is on solid ground in light of the new federal legislation.

I would like to close by quoting some of that federal legislation to allow you to contrast it with House Bill No. 2994. Section 254 of the Telecommunications Act of 1996, states: "A state may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms."

The Kansas Telecommunications Coalition believes that House Bill No. 2994 correctly balances the issues surrounding equitable competition, the provision of Universal Service, and the deployment of an advanced infrastructure. We urge you to begin the process of enacting this bill into law.

Thank you for your time and attention.

Before The Select Committee on Telecommunications
Comments Regarding House Bill 2994

Richard D. Lawson, Vice President - Kansas
Sprint/United Telephone of Kansas
February 14, 1996

Thank you Chairman Lawrence and members of this Select Committee for again giving Sprint/United the opportunity to offer its views about telecommunications policy for the state of Kansas. My name is Richard Lawson, and I am State Vice President for Sprint/United Telephone Company of Kansas.

I appeared before you earlier and commented on the "Policy Framework for Telecommunications" developed by the Telecommunications Strategic Planning Committee. I said at that time that the citizens of Kansas can reap huge benefits from the deployment and use of an advanced and feature-rich telecommunications network. I continue to believe that the best approach to realizing such a network is for the state to change how local telephone companies are regulated and simultaneously create an environment which encourages robust competition for telephone services. I told you then that the Strategic Planning Committee report contained many strong elements in achieving these objectives but also fell short in several key areas.

My remarks will be brief today because House Bill 2994 -- the subject of this hearing -- is built around the Strategic Planning Committee report. As a result, House Bill 2994 contains the same strong points and shortcomings I outlined when we last met. However, a landmark event has occurred which remedies most of the shortcomings of the report. That event, of course, was President Clinton signing the Telecommunications Competition and Deregulation Act of 1995 last week. The federal legislation will require, at a minimum, that HB 2994 be amended to require the resale of local telephone service facilities to other telecommunications providers. Also, the

federal legislation will not permit states to prohibit in any way the competitive provision of any intrastate or interstate telecommunications service. Thus, in our view, such requirements as having to build a network before being allowed to compete is a barrier to competitive entry and will have to be removed from the bill.

While these provisions offered in the original Strategic Planning Committee report can be easily amended in HB 2994. Other troubling provisions have been added and should be modified or eliminated to achieve a balance between changing how local exchange carriers are regulated and encouraging robust competition. These additional elements were not included in the Strategic Planning Committee report.

First, the Strategic Planning Committee did not define universal service but left that responsibility to the Kansas Corporation Commission. The Strategic Planning Committee approach was wholly consistent with the recently signed federal legislation, which correctly defines universal service as an "evolving level of telecommunications services" that a regulatory commission is to establish periodically. In contrast to the Strategic Planning Committee report and the federal legislation, HB 2994 carves the definition of universal service in stone. The legislative proposal requires that all local carriers offer specific advanced services for which there has not been sufficient demand to warrant private investment. Yet, the proposed bill would have all Kansans pay for the technology to provide these services, regardless of whether they use them.

The Strategic Planning Committee also did not prescribe a Universal Service Fund but left the chore to the Kansas Corporation Commission, which is well underway in establishing such a fund. The Strategic Planning Committee anticipated the federal legislation which also leaves the establishment of a Universal Service Fund up to regulatory authority. In contrast, HB 2994 prescribes in detail a mechanism for funding universal service. In doing so, HB 2994 ignores the fact that federal legislation says a

state Universal Service Fund must be consistent with federal universal service rules. The problem here is that the federal rules will not be known for at least 15 months. In fact, the proposed state legislation already violates at least one of the federal principles, which is that more than one carrier shall be eligible to receive universal service support in all areas other than those served by rural telephone companies. HB 2994 should set out broad principles upon which the Corporation Commission builds the specifics.

HB 2994 also goes much too far in prescribing what must be demonstrated before a competitive provider is allowed to enter a rural area. The proposal addresses with specificity the kind of network investment that a new entrant must make and even detailed criteria for a public interest finding. In contrast, federal legislation offers broad principles that are to be used by a state commission in allowing competitive entry in a rural area. These principles are that entry should not create undue economic burden; that interconnection for network unbundling must be technically feasible; and that entry be consistent with Universal Service Fund principles. HB 2994 is so prescriptive that the conditions for entry could easily be viewed as having the effect of prohibiting competition.

Finally, HB 2994 continues to reflect one of the more thornier recommendations of the Strategic Planning Committee report, which deals with pricing flexibility. Even as a local exchange carrier, I think that HB 2994 goes much too far in this regard. The proposal would price deregulate all local exchange carrier services except residential and single line business service, switched access and unbundled network functions. There would be no showing required of the price cap company as to why the balance of services should be price deregulated. In Sprint/United's proposed legislation, we would have the Corporation Commission to determine which service should be capped and

which services should be price deregulated. Further, HB 2994 also allows great latitude in setting prices for individual services and for services to individual customers within the price cap baskets. This would allow a local carrier to discriminate among customers on some basis other than actual costs. Because tariffing is not required, customers would have no way of demonstrating such practices. And this kind of pricing flexibility would be permitted whether or not competition is present. Again, the better approach would be to allow the Corporation Commission to determine, on an expedited basis, the degree of pricing flexibility required by a local carrier to respond to competition.

We are in the process now of developing amendments to HB 2994 to reflect the proposals of Sprint/United in HB 2960, which achieves a balance between regulatory reform for existing local carriers and fostering competition.

Once more, Mr. Chairman, please accept our thanks for the opportunity to offer our views on telecommunications policy for the state of Kansas.

**Testimony on behalf of
Multimedia Hyperion Telecommunications
Before the House Select Committee on Telecommunications**

House Bill No. 2762

**Brian Lippold
February 15, 1996**

Chairman Lawrence and Members of the Committee:

Thank you for giving me the opportunity to speak with you today.

My name is Brian Lippold and I am General Manager of Multimedia Hyperion, a competitive access provider located in Wichita.

As you consider HB 2762, you need to be intimately familiar with the federal Telecommunications Act of 1996, which has recently been enacted. If you compare the Act with HB 2762, you will discover that many of the provisions of HB 2762 have been addressed in detail within the Act. As such, I recommend that the following sections of HB 2762 be removed and/or revised:

Section 2 (b)(1)

Revise to read - Within 60 days of the effective date of the act, the commission shall authorize any requesting telecommunications company to provide local exchange service that relies on the facilities of such company or any other company in any location in the state in conformance with the Federal Telecommunications Act of 1996.

Section 2 (b)(2) RESALE & UNBUNDLING

Should be removed. Addressed in Telecommunications Act of 1996.

Section 2 (b)(3) 1+ PRESUBSCRIPTION

Should be removed. Addressed in Telecommunications Act of 1996.

Section 2 (b)(4) INTERCONNECTION & NUMBER PORTABILITY

Should be removed. Addressed in Telecommunications Act of 1996.

Leaving these sections intact, will conflict with the federal Act, and if passed will cause delays in the introduction of competition, while competitors spend time and money to appeal these provisions of HB 2762 to the Federal Communications Commission.

Any legislation which is being considered by this Committee, should be candled against the following paragraphs of Section 253 of the federal Telecommunications Act of 1996.

SEC. 253. REMOVAL OF BARRIERS TO ENTRY

(a) IN GENERAL

No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

(d) PREEMPTION

If, after notice and an opportunity for public comment, the Commission (FCC) determines that a State or local government has permitted or imposed any statute, regulation, or legal requirement that violates subsection (a) or (b), the Commission shall preempt the enforcement of such statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency.

The federal Telecommunications Act of 1996 gives the State of Kansas wide latitude with regard to regulating, or not regulating, prices for intrastate telecommunications services. Section 2.(d)(2) of HB 2762 addresses this pricing and the associated Price Cap plans, and is the area of the bill which causes my company the greatest concern.

Under this section, SWBT will have all services except residential, single line business, and switched access totally deregulated. No cap on prices and a floor of long-run incremental cost. The only way in which the deregulated services can be brought back under regulation is if a) the service is essential for particular residential or business users; b) there is no alternative source for the service; and, c) the price of the service has risen more rapidly than the price of basic residential local service. This provision has been touted by SWBT and their

consultant, Weber Temin & Co. as a protection mechanism for consumers. Chairman Lawrence, Members of the Committee - nothing could be further from the truth. This is a cost declining industry. Rates for these services will not rise more rapidly than the price of basic residential local service. Prices will drop and the provision will never be invoked.

Our concern is that prices will move too far in the other direction. If this section of HB 2762 is enacted, SWBT will have the opportunity to drop the prices right down to long-run incremental cost. It will also give SWBT the opportunity to drop prices below long-run incremental cost. Our only remedy will be to file a complaint at the KCC and prove that SWBT's rates are below cost. This will take time and money. Money that can be better spent deploying additional network.

Why do I believe that SWBT will take advantage of these opportunities? Because they will do everything within their power, including the utilization of predatory pricing to drive competition out of their markets before competition has an opportunity to become effective. As SWBT Vice President of Marketing, J. David Gallemore said, "We're at a critical juncture, . . . and we want to make our welcome mat smaller than anyone else's".

(March 8, 1995 article referencing the Texas legislation in Business Week)

Let me give you an example of how SWBT can use their size, their money and the market power to crush competitive inroads. Multimedia Hyperion has a customer in Wichita by the name of Best Western Reservation Center. Ever since we first entered the competitive access business in March of 1994, we have been talking with this customer and their long distance carrier about using our network to connect the center to their long distance carrier. We spent more than a year working with them. SWBT did the same. Late last year, they awarded the contract to Multimedia Hyperion. And boy - was SWBT mad. In an effort to reverse the customer's decision, SWBT went so far as appealing the decision to a member of the Best Western board of directors. Their efforts failed and we converted the service. But SWBT wasn't done yet. They became predatory and they have been successful with their predatory efforts thus far. Let me explain.

In the back of my handout, there is a diagram labeled "Traditional Serving Arrangement". Traditionally, the connection between Best Western and their long distance carrier was configured in a single route, from the reservation center to their serving central office, across an inter-office facility to the serving central office for their long distance carrier, and then connected to the long distance carrier. A fiber cut or a central office failure

anywhere along the route would sever the connection and Best Western would lose business. The customer wanted a self-healing network to protect their revenue stream.

Multimedia Hyperion and SWBT both proposed a self healing arrangement (diagram labeled "Before Competition") which provided for redundant central offices and diverse fiber optic cables into both the reservation center and the long distance carrier. Both Multimedia Hyperion and SWBT incur additional costs to provide this type of diversity and we both submitted proposals which included prices to cover these additional costs. For each T1, SWBT had a cost of \$140.44 per month for each end of the T1 (Best Western side and IXC side) as well as an installation charge of \$923 for each side of the T1 for this self-healing diversity option. As I indicated previously, SWBT lost the business.

Now I refer you to the diagram labeled "After Competition". On January 30th of this year, SWBT implemented new rates for this self healing diversity feature. They reduced their charge of \$140.44 per month and \$923 installation to zero for both.

Ladies and gentlemen. SWBT has costs. Yet they price their service at zero. This is predatory pricing and can only be interpreted as an attempt to drive competition from the market.

- They have costs for the second conduit entering the reservation center.
- They have costs for the additional piece of fiber optic cable.
- They have costs for the additional manhole which is required.
- They have costs for the splice case which is required to accomplish the diversity.
- They have costs for the labor required to splice the fiber optic cable.

I could go on and on. The items I just mentioned only cover the cost of the diverse entrance at the reservation center. SWBT has other costs for the central office diversity and the diversity at the long distance carrier point-of-presence. Yet, they price the service at zero. Again, this is predatory pricing. HB 2762 creates the opportunity for SWBT to conduct this type of behavior on an intrastate basis. Granted, the section limits their price floor to long run incremental cost. But they could still try it and we will be forced to fight them at the KCC or in court. Even with the limit of LRIC for the price floor, SWBT can still use its power to drive competitors from the market.

Until there is effective competition for a particular service, the service must be subject to price cap regulation. That price cap regulation should contain a pricing floor which is at a rate above long run incremental cost. Sufficiently above, that competitors have an opportunity to compete until there is effective competition. When the KCC determines that a service is subject to effective competition, then and only then, should SWBT be permitted to lower the price all the way down to long-run incremental cost.

The section also allows SWBT to deaverage local exchange and special access services. It allows SWBT to discriminate among similarly situated customers. It allows SWBT to offer a lower rate for local service to the affluent business customers on the east side of Wichita and higher rates to the less affluent business customers in the less affluent areas of Wichita.

It sets the stage for allowing SWBT to offer rates set at LRIC to an equipment and software company in northeast Wichita that SWBT buys services and equipment from and higher rates to a newspaper publisher that does not share SWBT's views.

Bottom line, this provision allows SWBT to abuse their monopoly status, gives them free reign to set their own rates, discriminate among customers, without being kept in check by the presence of effective competition.

I submit that based on my company's experience with SWBT withholding access to conduits, withholding access to tenants within SWBT controlled buildings, predatory pricing on an interstate level and their self-confessed efforts to make their welcome mat as small as possible, that this committee must include some consumer protections into this section of HB 2762.

Specifically, this committee should require:

- 1) Geographically average rates for the provision of all services, with local service rates averaged based on exchange density. This supports the concept of universal service and provides a degree of protection against predatory pricing.
- 2) Prohibit incumbent LECs from offering ICB rates until the KCC determines that the service in question is subject to effective competition. Again, this supports the concept of universal service and provides a degree of protection against predatory pricing.

In summary, take care to remove issues which are under federal jurisdiction. Any conflicts with only serve to delay the benefits of competition. Understand that if you give SWBT the opportunity to abuse, they will, because they have in the past.

One last item that needs to be addressed, is this propaganda called "Cream-skimming or Cherry-picking". Those who claim that new competitors are cream-skimming by under cutting the regulated prices of incumbent LECs don't have all of the facts.

FACT. Over 80% of the end-user businesses served by Multimedia Hyperion converted their service to MHT without realizing a reduction in price.

FACT. Price is not a factor in the majority of MHT conversions from SWBT. Quality, reliability, diversity and service are the key factors in customer decisions to utilize MHT.

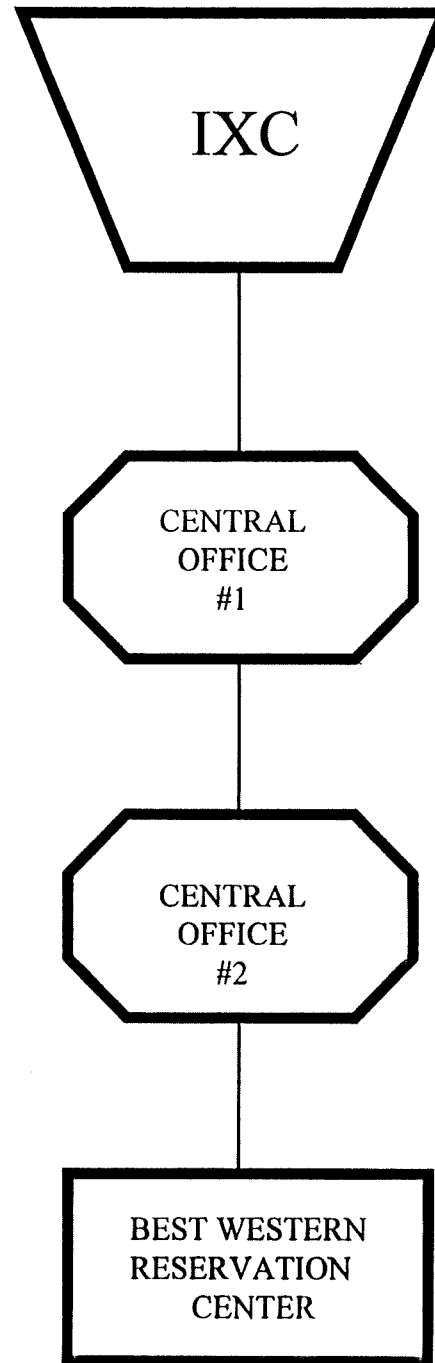
FACT. There is a pent-up demand for choice. Some users will change providers simply because they have never before had a choice.

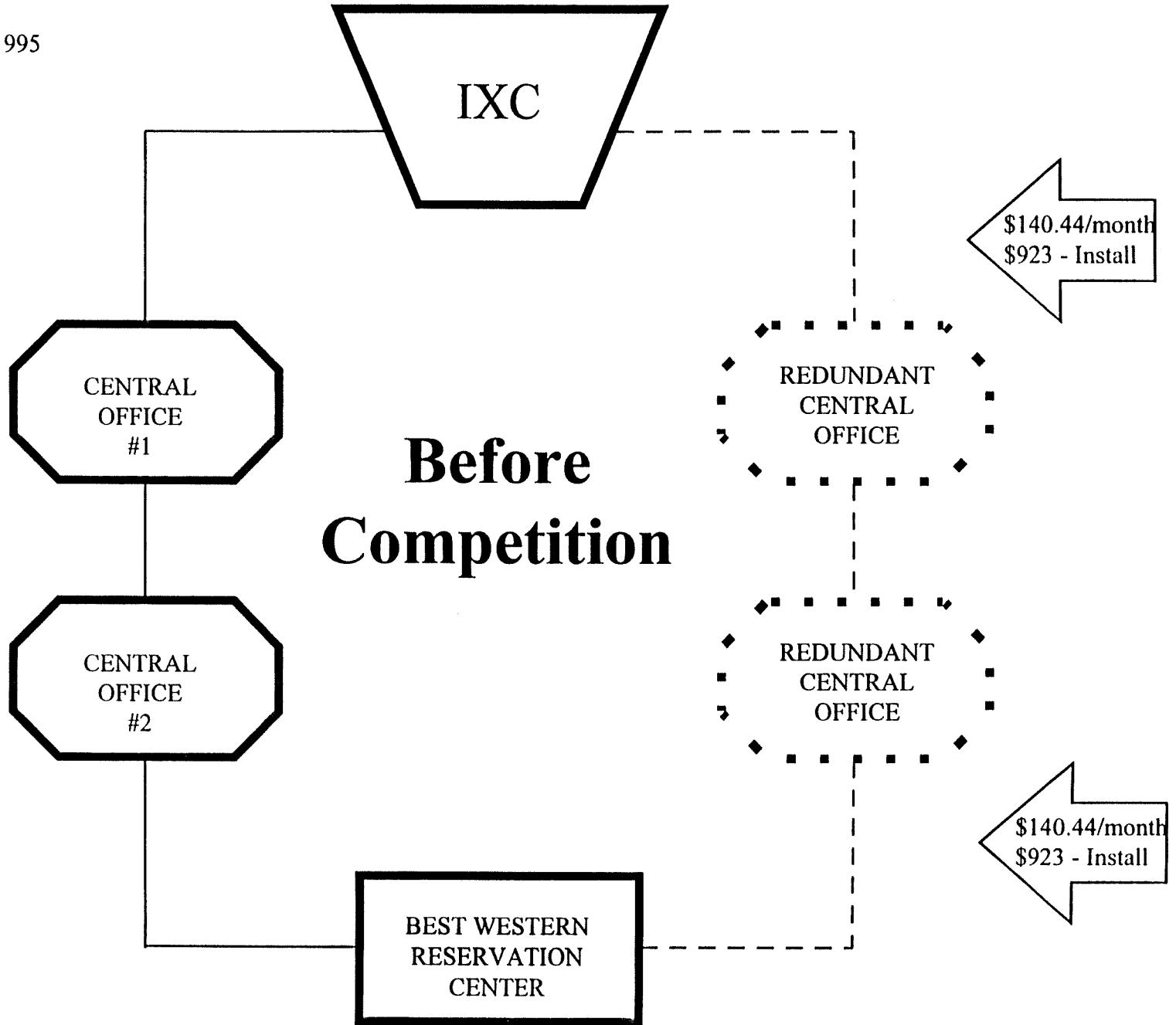
FACT. Larger customers are currently being targeted by MHT because MHT does not have the capability to offer the full range of products offered by SWBT. This imbalance will be corrected and MHT will target the full range of customers when the provisions of the federal Telecommunications Act of 1996 are implemented by the FCC and the KCC.

Multimedia Hyperion is simply meeting the unserved demands for quality service and reliability that SWBT isn't meeting. The issue is not price. The issue is service. You cannot define that as cream-skimming or cherry picking.

Thank you.

Traditional Serving Arrangement





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