

## MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Don Myers at 9:00 a.m. on February 17, 1997 in Room 514-S of the Capitol.

All members were present..

Committee staff present: Lynne Holt, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes  
Mary Shaw, Committee Secretary

Conferees appearing before the committee: Carl Krehbiel, President, Moundridge Telephone Company  
Walker Hendrix, Citizens' Utility Ratepayer Board  
Glenda Cafer, Director of Utilities, Kansas Corporation Comm.

Others attending: See attached list

Chairperson Myers asked that Staff brief the Committee on **HB 2314**. Lynne Holt, Research Department, mentioned that the major change on the bill is on Page 2. She said the 1996 Legislature enacted legislation which was rather sweeping that dealt with telecommunications. Among the provisions was a provision that related to Kansas Universal Service Fund. There was an order that was issued and the Commission was instructed in the 1996 legislation to do a whole array of things. Among them the Kansas Corporation Commission looked at the Kansas Universal Service Fund and they issued an order which dealt with it. The original order, which came out in December, basically related only to residential allowing for a supplemental additional Kansas Universal Service Funding for residential service and did not provide for that to go to business service. She mentioned that what this bill would do is essentially in lines 25 through 28 provide that supplemental and additional Kansas Universal Funding be intended to support and shall be available for single and multiple line business service and for single and multiple line residential service. She said the policy difference between the Commission's order, which just came out, and the bill would be that there would be available supplemental additional Kansas Universal Service Funding for multiple line business service whereas now there is only single line. She mentioned that the 1996 legislation did not specify that supplemental funding would go to any type of customer - that was left up to the Commission's discretion.

**HB 2314 - use of Kansas Universal Service Fund**

The Chair recognized Carl Krehbiel, proponent, President of Moundridge Telephone Company, on behalf of the Rural Telephone Companies, State Affairs Committee, who spoke in support of **HB 2314**. (Attachment #1)

The Chair recognized Walker Hendrix, of Citizens' Utility Ratepayer Board, who spoke in opposition to **HB 2314**. (Attachment #2)

The Chair recognized Glenda Cafer, Director of Utilities, Kansas Corporation Commission, who spoke in opposition to **HB 2314**. (Attachment #3)

Written testimony was received and distributed from Kendall Mikesell, proponent, Vice President of Southern Kansas Telephone Company, in support of **HB 2314**. (Attachment #4)

Information was distributed that was requested of the Kansas Corporation Commission by the Chairperson regarding changes in telephone rates. (Attachment #5)

The Chair announced that tomorrow, February 18, 1997, the plans are to have the Committee work **HB 2314**.

The meeting was adjourned at 9:55 a.m. The next meeting is scheduled for February 18, 1997.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 17, 1997

NAME	REPRESENTING
WALKER HENDRIX	CURB
Kathy Peterson	SWB
Mike Reulst	AT&T
JEFF ROSSSELL	SPRINT
Hemenon	Ku
Kam J. Maten	KCC
Tom Gleason	Independent Telecom Group
Mark Carling	State Independent Telephn Assoc
Doug Smith	SITA
Patrick Heerley	AT&T
Shirley Allen	SWB T
Miki Hero	Hein & Weir
JOHN P. BERBERGER	BRAD SMOOT
Jay Scott Emler	KINZI L.C.
DAVID B SCHLOSSER	PETE MCGILL & ASSOC
Steve Montgomery	MCI
George Barber	Barber & Assoc's
Leslie Kaufman	Ks Farm Bureau

**TESTIMONY ON BEHALF OF  
THE RURAL TELEPHONE COMPANIES OF KANSAS  
BEFORE THE HOUSE COMMITTEE ON UTILITIES  
HOUSE BILL 2314  
FEBRUARY 17, 1997**

My name is Carl Krehbiel. I am the president of the Moundridge Telephone Company, a small, independent telephone company that serves the towns of Moundridge (population 1,500) and Goessel (500), and surrounding rural areas that include parts of McPherson, Harvey and Marion counties. The size of my company is about 2,400 telephone lines. I am testifying in support of HB 2314.

***Did you, the Kansas Legislature, intend to terminate universal service support for one category of Kansas telephone users?***

The Kansas Telecommunications Act of 1996 mandated that rural telephone companies provide a variety of facilities and services to *all Kansans*. It also created the Kansas Universal Service Fund (KUSF) to *continue* -- in a different form, but with the same purpose, functions, and procedures -- universal service support that has been in effect for many years, and has made possible the extension of telephone service to any Kansan who wants it, in every part of the state.

However, the Kansas Corporation Commission, in its final order on implementation of the Kansas Act, decided to restrict future supplemental KUSF support for new telephone lines to residential lines and single business lines only, thus terminating state-level universal service support for new or additional lines to businesses with more than one line. The key question is whether you, the Kansas Legislature, intended for that to happen. The rural telephone companies of Kansas believe that you did not.

**First**, the Kansas Telecommunications Act of 1996 begins, in Section 1, with a clear declaration of the Legislature's intent:

It is hereby declared to be the public policy of the state to:

- (a) Ensure that every Kansan will have access to a first class telecommunications infrastructure that provides excellent services at an affordable price;
- (b) ensure that consumers throughout the state realize the benefits of competition through increased services and improved telecommunications facilities and infrastructure at reduced rates;
- (c) promote consumer access to a full range of telecommunications services, including advanced telecommunications services that are comparable in urban and rural areas throughout the state...

House Utilities  
2-17-97  
Attachment 1

We believe that "every Kansan" means just that. We also believe that "consumers throughout the state" means just that. We do not believe that you intended to exclude multi-line businesses from this clear policy statement, nor that there is anything in the Act that could be construed as supporting the Commission's ruling.

**Second**, the 1996 Legislature imposed on rural telephone companies several infrastructure and service requirements. Those provisions were intended to ensure that advanced telecommunications services would be available to all Kansans. *None* of the provisions excludes multi-line businesses.

-- Section 10(a) requires local telephone companies to serve as *carrier of last resort*. That is, regardless of the number of lines a customer will use, we must provide service to anyone in our service area who requests it. ***This requirement does NOT exclude multi-line businesses.***

-- Section 12(b) requires rural telephone companies to provide *internet access* at certain speeds by certain dates. This will require improvements to long telephone lines that currently cannot offer these high speeds. ***This requirement does NOT exclude multi-line businesses.***

-- Section 6(a) requires local telephone companies to deploy the facilities and services in the Act's definition of *Universal Service* by July 1, 1998, and those in the definition of *Enhanced Universal Service* by July 1, 2001. ***These requirements do NOT exclude multi-line businesses.***

And **third**, the 1996 Legislature recognized the costs involved in those infrastructure requirements, and established the KUSF to replace an existing source of support for required investments in high-cost rural areas. Specifically, Section 9(e) of the Kansas Act authorizes supplemental KUSF funding for new lines. ***There was never any mention of excluding multi-line businesses from KUSF support.*** However, the KCC Order would exclude multi-line businesses from KUSF supplemental funding. If the Legislature imposes these statutory requirements, but the KCC terminates KUSF funding for new multiple business lines, the result is an unfunded mandate.

It is important to understand that the KUSF is not "new money" for universal service support for telecommunications in high-cost rural areas, to be "extended" or not extended to certain subscribers at the Commission's discretion. In fact, it is a ***replacement*** for support that has been in effect for decades through artificially high access charges on long distance calls. Thus, the Commission's action is *not* a case of simply not extending *new* universal service support to multi-line businesses in rural areas. Rather, it is a case of ***terminating***, for this one category of subscriber, universal service support that has been in effect for decades, because while the KUSF is new, the support it provides has been in place for many years. The KUSF ***replaces*** a previous method of universal service support. The purpose is the same, the functions are the same, and the procedures are the same. Only the form is different.

It is also important to note that these days, "multi-line businesses" are not just big businesses. Many small businesses have more than one telephone line, and thus would be considered a "multi-line business." This includes not just small business offices, but also many farmers and people who operate businesses out of their homes. Any new business that requests more than one line, or any existing business that adds another line for telephone calls, a fax machine, a computer modem, Internet access, etc., would be a "multi-line business" and thus not eligible for supplemental KUSF support. This Commission Order will have a widespread, negative impact on small businesses and the agricultural economy throughout rural Kansas -- the very element that is doing much to create jobs, promote economic growth, and generate tax revenues in rural Kansas.

Neither the Federal Telecommunications Act of 1996 nor the Kansas Act mandated the *termination* of this universal service support; quite the contrary. There are no fewer than ten references in the Federal Act to the requirement to preserve and advance universal service. The Kansas Act also makes clear that the preservation and advancement of universal service are high priorities in our state, as well. Elimination of state-level universal service support to new, multiple business lines certainly does not preserve, let alone advance, universal service.

The rural telephone companies are not anxious to offer another bill for consideration, and I am sure you are not anxious to revisit the telecommunications issues decided last year. I want to stress that we are *not* attempting to reopen the Kansas Telecommunications Act for debate, nor are we proposing any substantive change to the Act. We believe the intent of the Legislature has been seriously misunderstood by the Commission, and in a way that will have negative implications for many telephone subscribers in rural Kansas. All we ask is that the Legislature send an unmistakable, one-sentence clarification regarding your intent in an aspect of the Act that is crucial for rural Kansans.

Allowing the Commission's interpretation of the Kansas Act to stand would deal a blow to universal service and to a vital economic component in a large portion of rural Kansas. We believe the Legislature did not intend to do this, and does not intend that the Kansas Telecommunications Act cause this negative consequence. We therefore respectfully request that you report HB 2314 favorably.



BILL GRAVES  
FRANK WEIMER  
DONNA KIDD  
A.W. DIRKS  
LAVON KRUCKENBERG  
GENE MERRY  
WALKER HENDRIX

GOVERNOR  
CHAIRMAN  
VICE-CHAIR  
MEMBER  
MEMBER  
MEMBER  
CONSUMER COUNSEL

# Citizens' Utility Ratepayer Board

1500 Southwest Arrowhead Road  
TOPEKA, KANSAS 66604-4027  
Ph. 913-271-3200

## BEFORE THE HOUSE UTILITIES COMMITTEE

PRESENTATION BY WALKER HENDRIX, CONSUMER COUNSEL  
THE CITIZENS' UTILITY RATEPAYER BOARD

### H. B. 2314

H. B. 2314 proposes to amend Kansas Telecommunications Act by expanding universal service funding to include multiline business and residential service. This proposed change expands the scope of universal service beyond its original intention and provides for additional subsidies for carriers in the rendition of telecommunication service in Kansas. The end result of this legislation will be to increase the cost of basic service, which, in turn, will subsidize multiline telecommunication service for large volume users. This legislation turns universal service on its head and provides for the possible subsidization of all telecommunication access in rural and high cost areas.

After a fairly exhaustive study of these issues, the Federal-State Joint Board on Universal Service, in its recommended decision, proposed not to fund multi-line service. The Joint Board made its decision to limit the scope of funding based on the principles which are outlined in Section 254 of the Federal Telecommunications Act. The Joint Board defined universal service to include: "voice grade access to the public switched network, with the ability to place and receive calls; touch-tone or dual tone multi-frequency signalling (DTMF) or its equivalent; single-party service; access to emergency services; access to operator services; access to interexchange services; and access to directory assistance." Besides the issues of cost, the Joint

House Utilities  
2-17-97  
Attachment 2

Board elected not to fund multi-line services, because the concept of universal service is to fund programs for the support of individual households. The goal of universal service is to keep penetration rates high so that everyone has access to a telephone network. It is not designed to fund every aspect of telephone communication access, especially where the economics are such that support is unnecessary. In fact, the funding of multi-line services would pose a hardship on basic service by requiring basic service customers to bear the subsidies for the rendition of multi-line service. In essence, multi-line subsidies for business would be the ultimate type of corporate welfare.

High cost providers already receive substantial subsidies under federal and state law. Under federal law, there are three programs which more than amply support rural service. Carriers in Kansas receive substantial amounts of money from (1) high cost assistance, (2) Dial Equipment Minute weighting and (3) long term support. In Kansas, carriers receive support through access charges and the payment of \$36.88 per residential loop. Adding more subsidy to support multi-line service is overkill, given the amount of funds already received by carriers.

Section 254 (i) provides that universal service is to be provided at "affordable rates." Consequently, the federal law envisions some economic hardship to permit universal service funding. Moreover, the Federal Act limits universal service to those services "subscribed to by a substantial majority of residential customers." The Federal law simply does not envision providing universal support for multi-line business customers. Conversely, it does not envision that basic service customers would be subsidizing large business concerns in providing telecommunication services through multi-line support.

At the time of the passage of the Kansas Telecommunication Act (H. B. 2728), no one reasonably considered providing for subsidies for multi-line service and it was not provided as part of the definition of universal service or enhanced universal service. The absence of universal support for multi-line services was no accident.

Finally, this legislation would be a collateral attack on the Corporation Commission and

its decision in Docket No. 190,492-U not to expand support beyond single line service. If there is any integrity in the administrative process, this legislation should not be enacted. Inasmuch as the Corporation Commission has provided for substantial increases in the rates of basic local service without supporting multi-line services, the outcome of this legislation will be to increase the rates of local service even more.

In concluding, I leave you with this question: Is it appropriate for the elderly customer, who uses telephone service as a matter of survival and may be on a fixed income, to support large volume corporate customers who may deduct the full amount of their telephone services under federal and state tax laws?



## **Presentation Before the House Committee on Utilities**

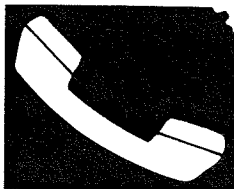
House Bill No. 2314

by the Kansas Corporation Commission Staff

February 17-18, 1997

- The Kansas Telecommunications Act of 1996 called for excellent telecommunications service at an affordable price. [Act, 1(a)]
- What is affordable? Attachment 1 shows the disparity in local service rates paid by business customers in Kansas. Attachment 2 shows what is considered affordable in surrounding states.
- KUSF support is predominantly paid to help support service in rural areas.
  - Cost to provide local loop average from \$221 to \$1211. Federal USF steps in at \$288.
  - USF funding ranges from 0 to \$ 685 per line, most are \$125 to \$250 per line.
- KUSF support available to all residential lines.
- Expanded its decision to include single line business service.
- Balance the interests of all Kansans. Being fair to residential and metropolitan customers.
- Tie support to the costs. Most of the high cost is associated with running facilities 20 miles to reach farms. Multiline business customers are typically located close to the central office.
- Untie subsidy from multiline services. Avoid creating an incentive for competitors to cherry pick the highest revenue producing customers and then give KUSF support.
- Avoids creating a corporate welfare program for approximately 10,000 customers.
- Wait and see:
  - FCC decision on Universal Service will be issued in May, 1997.
  - No harm initially, the revenue neutral provision insures continued support for the present service providers.

House Utilities  
2-17-97  
Attachment 3



February 13, 1997

The Honorable Don Myers, Chairman  
House Committee on Utilities  
Room 175-W  
State Capitol  
300 S.W. 10th Ave.  
Topeka, Kansas 66612

Dear Representative Myers:

As you are aware, the Committee on Utilities will hold a hearing on House Bill No. 2314 on Monday, February 17, 1997. My good friend, Carl Krehbiel, the President of Moundridge Telephone Company, is scheduled to speak in support of this bill, on behalf of the independent telephone companies of Kansas. I am writing to indicate my support for this bill, and to ask that you vote to move it on toward enactment.

As you will remember, the independent telephone companies of Kansas were key players in the debate that surrounded what ultimately became Substitute For Substitute For HB 2728, more commonly referred to as The Kansas Telecommunications Act of 1996. We enthusiastically supported many of the provisions included in that bill, especially those centered on the visionary statement that it be the public policy of the state to ensure that every Kansan will have access to a first-class telecommunications infrastructure that provides excellent services at affordable prices. We worked hard to convince the Legislature that keeping prices for advanced services affordable in high-cost areas of the state requires a support mechanism, and thus the concept of a Kansas Universal Service Fund was included in the bill. However, through the legislative process, the final makeup of the support fund was left in the hands of the Kansas Corporation Commission (KCC).

Now the KCC has issued its order on the Kansas Universal Service Fund, and has ruled that investment to serve multi-line businesses should be excluded from qualifying for support. Throughout the regulatory process, we have disagreed with this position, and have exhausted our regulatory options to change the KCC's view.

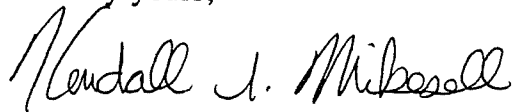
SOUTHERN KANSAS TELEPHONE CO., INC.

House Utilities  
2-17-97  
Attachment 4

We believe it was the intent of the 1996 Legislature that independent telephone company investment to serve all customers be eligible for Universal Service support, and that this intent has not been understood by the KCC. HB2314 has been designed simply to clarify the intent of the Legislature that *any* future investment in telecommunications infrastructure in high-cost areas of Kansas be eligible for KUSF support. It does not guarantee cost recovery; rather it affirms the right of a telephone company to seek it for all of its customers.

For these reasons, I again ask that you support the passage of HB2314. Thank you for your consideration, and should you have any questions, please feel free to call me.

Sincerely yours,



Kendall S. Mikesell  
Vice President

DON -

THANKS FOR YOUR SUPPORT  
IN GETTING THIS ISSUE  
BEFORE THE COMMITTEE.  
PLEASE LET ME KNOW  
IF YOU NEED ANY  
FURTHER ASSISTANCE ON  
ANY OF THE ISSUES.



## **Notice Changes in telephone rates**

The Kansas Corporation Commission issued an order December 27, 1996 concerning the implementation of competition in local telephone service as required by the Kansas Telecommunications Act. The Commission order established the rules and regulations regarding the conditions for competition, while ensuring every Kansan has access to a first class telecommunications system with a full range of services at affordable rates.

The Commission order set the stage for the development of competition in local phone service and consumer choices. The following major changes became effective March 1, 1997:

- Intrastate (within Kansas) long distance rates began decreasing to bring intrastate long distance rates closer to interstate (out-of-state) long distance rates.
- The Kansas Universal Service Fund (KUSF) was established to provide financial support to local telephone companies providing service in high cost areas of the state to assure their ability to continue high quality service at reasonable rates in a competitive environment. All companies providing any form of telecommunications service in the state will contribute to the KUSF by an equal assessment on all intrastate retail revenue. The companies are allowed by the Kansas Telecommunications Act to pass this cost through to customers.
- The Kansas Telecommunications Act allows local telephone companies to increase monthly local service rates over the next three years to offset their cost of funding the KUSF. Customers served by Southwestern Bell will experience an increase in their monthly local service charge of \$2.00 the first year, \$1.00 the second year, and at least 21 cents the third year, for a total of approximately \$3.21. Customers of Sprint/United will see an increase of approximately \$3.00 to be phased in over the three-year period. Customers served by other local telephone companies will experience a total monthly local service charge increase of \$1.43.
- Rates for pay phone calls in Southwestern Bell Telephone and Sprint/United Telephone service areas increased to 35 cents and the free call allowance for directory assistance was eliminated.
- The Kansas Lifeline Service Program was established to offset increases in local service rates for persons with low income to help them maintain their local telephone service. Qualifying customers will receive a discount on local service of \$3.50 to be phased in over three years. Qualifying criteria are tied to eligibility for public assistance programs.
- Less regulation for local telephone companies.

In 1996, Congress passed a sweeping reform of the 1934 Telecommunications Act. It set the framework for new competitors to enter local telephone markets, as well as to allow Southwestern Bell and other local exchange companies to compete in long distance markets.

The 1996 Kansas Legislature passed a law requiring the Kansas Corporation Commission to begin enacting the Federal Law and to implement widespread regulatory reform in Kansas. The Kansas Act declares consumers in Kansas should realize the benefits of competition and emphasizes that quality services should be made available to all Kansans.

*House Utilities  
2-17-97  
Attachment 5*

Local Rates

## State of Kansas

Local Service Rates for ILEC's Sorted by Business Rate  
March, 1996

Uses composite rates

COMPANY	LOCAL RATE		Range of Rates
	RESIDENCE	BUSINESS	
Columbus	3.50	5.00	
Pioneer	3.92	6.77	
Home	6.86	6.86	R6.19-9.29,B6.19-9.29
H&B Comm.	4.80	7.30	
South Central	4.00	7.50	R4-4.50,B7.50-8
Haviland	4.70	7.70	
Blue Valley	6.75	8.25	
Council Grove	5.30	8.80	
Southern KS	6.20	8.95	
LaHarpe	6.50	9.00	
Sunflower	5.73	9.43	R5.50-6.75,B9-12
Gorham	5.80	9.45	
United Tele. Assoc.	4.50	9.50	
MoKan	6.20	9.70	
S&A	7.82	9.86	R6.30-8.95,B7.05-12.40
Totah	7.25	10.00	
KanOkla	7.13	10.19	R6.25-7.75,B9.25-10.75
Golden Belt	7.40	10.50	
Rural	7.16	10.76	
Twin Valley	7.85	10.85	
Moundridge	7.20	10.95	
Craw-Kan	7.50	11.00	
Wilson	7.00	11.25	
Zenda	8.85	11.35	
Cunningham	7.25	11.40	
Mutual	8.20	11.50	
Rainbow	7.80	11.85	R7.50-8.30,B11.45-12.25
Tri-County	7.18	11.93	R6.90-7.40,B11.65-12.15
Wamego	8.10	12.00	
Madison	7.90	12.70	
Peoples	9.15	13.05	
Wheat State	8.85	13.50	
JBN	10.09	15.23	R9.42-10.78,B14.21-16.26
Elkhart	10.10	16.30	
S&T	11.60	18.60	
S. Cntrl Kiowa	11.59	20.00	
ILEC Average Used for Legislation	\$6.94	\$10.54	

Local for SWBT  
& United

**State of Kansas**  
Local Service Rates for United and Southwestern Bell  
April, 1995

COMPANY	RESIDENCE	SINGLE LINE BUSINESS
<b>United Tele</b>		
High	14.69	25.23
Low	6.35	9.33
Average	9.13	14.47
<b>S W Bell</b>		
High	12.05	25.80
Low	8.95	13.80
Average	11.16	23.89

**United Telephone Company Local Rates**

Residence	E-Untd Ext Sv - - United	A-South Cen	A-Eastern*	A-Southeast*
1- 1-500	6.90	6.35	10.99	10.99
2- 501-1000	6.95	6.44	11.58	11.58
3-1001-2000	7.05	6.54	12.16	12.16
4-2001-4000	7.20	6.69	12.52	12.52
5-4001-8000	7.50	6.99	13.11	13.11
6-8001-16000	7.65	7.14		
Metro >50000				14.69
	7.21	6.69	12.07	12.51
<b>Business</b>				
1- 1-500	9.84	9.33	18.97	18.97
2- 501-1000	10.14	9.63	20.00	20.00
3-1001-2000	10.64	10.13	21.08	21.08
4-2001-4000	11.29	10.78	22.16	22.16
5-4001-8000	12.19	11.68	23.25	23.25
6-8001-16000	13.29	12.78		
Metro >50000				25.23

SWBT	Rate Groups	Residence	Business	Multiline	Trunks
0-499	1	8.95	13.80	15.15	20.85
500-1799	2	9.40	15.05	16.55	23.05
1800-5999	3	9.80	16.80	18.60	26.10
6000-15999	4	10.05	18.55	20.60	29.20
16000-99999	5	10.70	21.00	23.40	33.45
100000-229999	6	11.00	22.00	24.55	35.20
230000-549999	7	11.25	23.75	26.60	38.30
> 550000	8	12.05	25.80	28.95	41.85

## AVERAGE BUSINESS RATES

The following information was used by Southwestern Bell in the Competition Docket to demonstrate the affordability of business service. This data may differ from the averages shown for Southwestern Bell on Attachment I since these include touchtone charges, but the comparison is still valid since it uses the same method to gather the data for all the states shown. This demonstrates that "affordability" for business service is in the \$ 25 to \$ 40 range.

<u>STATE</u>	<u>BUSINESS RATE</u>
Kansas *	\$25.44
Arkansas	\$30.55
Missouri	\$29.37
Oklahoma	\$34.60
Nebraska	\$40.55
Colorado	\$37.23
National Average	\$32.34

\* The rate used in Table 3 of the original testimony reflected a proposed increase. This increase has been removed so that it reflects current rate levels. Rates shown do not include any state Universal Service Assessments such as the KUSF.