

Approved: \_\_\_\_\_  
Date 3/5/98

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Don Myers at 9:00 a.m. on February 12, 1998 in Room 514-S of the Capitol.

All members were present except: Rep. Mayans - excused

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

Conferees appearing before the committee: Walker Hendrix, CURB  
Jerry Lammers, KCC

Others attending: See attached list

Chairman Don Myers mentioned that the Committee will begin hearing **HB 2802** next week. Tuesday's meeting will be in Room 313-S.

The Chairman recognized Walker Hendrix, Citizens' Utility Ratepayer Board (CURB), who provided information to the Committee and answered questions regarding the Kansas Universal Service Fund (Attachment #1).

The Chairman recognized Jerry Lammers, Senior Telecommunications Analyst for the Kansas Corporation Commission, who also provided information to the Committee and answered questions regarding the Kansas Universal Service Fund (Attachment #2).

Questions and discussion followed.

The Chairman thanked CURB and the Kansas Corporation Commission for the time given to the Committee and standing for questions.

The meeting was adjourned at 10:00 a.m.

The next meeting is scheduled for February 16, 1998.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 12, 1998

NAME	REPRESENTING
Heineman	KCL
Dave Dittmore	KCC
Karen J. Martin	KCC
Glenda Cater	KCC
Mark Caplinger	SITA
Tom Gleason	Independent Telecom Group
Jon X. Meles	KCC
Larrie Ann Brown	KS Govt Consulting
David Bybee	KDOCH
Mark Masarik	In



BILL GRAVES  
FRANK WEIMER  
A.W. DIRKS  
GENE MERRY  
RALPH SOELTER  
FRANCIS THORNE  
WALKER HENDRIX

GOVERNOR  
CHAIRMAN  
MEMBER  
MEMBER  
MEMBER  
MEMBER  
CONSUMER COUNSEL

**Citizens' Utility Ratepayer Board**

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**HOUSE UTILITIES COMMITTEE  
KANSAS UNIVERSAL SERVICE FUND**

**By Walker Hendrix  
February 12, 1998**

The Kansas Universal Service Fund (KUSF) was established in the Kansas Telecommunications Act. It was anticipated to collect \$111.6 million on an annual basis, after a three year transition. In the first year, the KUSF was anticipated to collect \$78 million. Because of tremendous growth in the addition of new access lines (the connection from your home or place business to the central office) and usage (minutes of use), the KUSF is overcollecting the amount of money it was set up to collect.

The KUSF was established to fund access charge reductions and bring intrastate access charges to interstate levels. Because the KUSF was to be set up on a revenue neutral basis, the access charge reductions, which were previously collected as part of your long distance bill, were made up from increases in local service and a 9.89% surcharge on cellular, toll and other services.

The general public has raised numerous questions about the KUSF, because on balance most residential and small business customers and cellular customers pay more for telecommunication services than before the passage of the Kansas Act. Many legislators have appropriately asked why the benefits of competition and lower rates, both objectives under the Kansas Act, have not been met.

Several questions have been brought to mind with these developments. First, what is the present size of the KUSF? Currently, the KUSF is collecting approximately \$1 million more a month than was anticipated. Additionally, there are several carriers (mostly cellular companies which have protested payment into the fund as a violation of federal law) that are accruing payments which have not been realized by the KUSF. This means that the fund is potentially entitled to even more than it is currently overcollecting.

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Attachment 1

Second, how much has been allocated to various telephone companies and who has received it? Each company is compensated for lost access revenue without regard to other revenues which may be increasing. Southwestern Bell is credited with two-thirds of the money from the fund.

Third, what is the criteria for allocating funds? The criteria for allocating funds to universal service should be based on the cost of providing universal service. However, no one has made a determination of what it costs to provide universal service. Therefore, allocations have been made solely on the basis of the reduction in access fees. The KCC should make a determination of what it costs to provide universal service and make an allocation in proportion to costs. In this regard, residential, small commercial and cellular all benefit from a process which treats the local loop as joint and common cost. This permits vertical and class services to make a contribution to the cost of providing the local loop.

Fourth, does the KCC have authority to audit the actual costs of universal service? This question is misstated. The KCC has the authority to determine the cost of universal service, and it should do so in a manner that is consistent with the public interest. What the KCC cannot do is audit the existing rates of price cap companies. The only company that is applying for price cap authority is Southwestern Bell. The Kansas Act prevents the KCC from auditing the existing rates under the price cap plan. Because Southwestern Bell receives support for universal service from existing rates, this prohibition coupled with the KCC's refusal to determine the cost of universal service results in the inescapable conclusion that universal service is being overfunded?

Additionally, the Committee should be wary of the definition of enhanced universal service. This definition does not go into effect until 2001, however, technology deployed today and in the near future may arguably be a basis to claim KUSF reimbursement. This will substantially increase the amount of money which is necessary to fund universal service and will dramatically increase local service, cellular and toll. It should also be noted that outdated technology may be the basis for reimbursement. The definition of enhanced universal service includes ISDN or its technical equivalent. However, ADSL (Asymmetrical Digital Subscriber Line) appears to be a superior technology to ISDN. This technology permits one-way T-1 to the home over the plain old, single twisted pair wiring already going to the home. ADSL is designed

to carry video to the home. This technology has the potential to provide video on demand. It also will permit work at home access to corporate LANs, interactive services such as home shopping and home banking and even multi-party video gaming, interactive travelogues and remote medical diagnosis. Although these are great technological breakthroughs, it is quite another matter to make these services available through a subsidy mechanism. Moreover, it is still another question whether these technologies should be promoted through the universal service fund, if their application will be of limited duration.

Finally, it should be noted that the KCC, itself, has requested the Kansas Supreme Court to stay the effect of its orders with respect to the next round of increases which are to take place on March 1, 1998 for the KUSF. The Supreme Court has agreed to stay the effect of the KCC orders pending its decision on the KUSF. However, if the law is upheld, the KCC will not be able to forestall all future increases to the KUSF, because the fund is dependent on additional changes to access rates and the liberal reimbursement provisions which are included in K.S.A. 66-2008 (e) and (f), as well as the definition of universal service. Consequently, to prevent further increases for KUSF reimbursement, some change in Kansas law will be necessary.

# PRESENTATION TO THE HOUSE UTILITIES COMMITTEE

## KANSAS UNIVERSAL SERVICE FUND (KUSF)

By Jerry Lammers, KCC

February 12, 1998

The Committee requested that the following questions be addressed:

### 1. What is the present size of the Kansas Universal Service Fund?

The KUSF size for Mar., 1997 to Feb., 1998 is \$77.8M. This is the amount that was expected to be collected from the KUSF assessment. When fully implemented the amount originally determined is \$111.6M

### 2. How much has been allocated to various telephone companies and who has received it?

See Attachment 1, which shows the companies who receive support and the amount that each has received for 9 months ending Nov., 1997. The second page of the attachment is information provided to Legislative Research. It shows the grouping of the companies by type and includes the amount that the companies have paid into the KUSF as well as the support received.

### 3. What is the KCC criteria for allocating funds?

Under section 66-2005 (c) the Kansas Act provides for the reduction of access charges to be recovered thru a local service increase and the balance to be funded by the KUSF. Thus the amount of support paid to each company was determined by the decrease in their access revenues when the access rates were reduced. For those rural local exchange companies who had increases toward the statewide average, their local increases reduced the amount paid out of the KUSF.

### 4. Does the KCC have authority to audit actual costs of universal service?

The Commission Staff believes that section 66-2008 (d): "The Commission shall periodically review the KUSF to determine if the costs ... to provide local service justify modification of the KUSF. If the Commission determines that any changes are needed, the commission shall modify the KUSF accordingly" gives the Commission authority to conduct such audits. We expect that some parties especially those who seek price cap regulation will argue otherwise by citing section 66-2005 (b): "Carriers that elect price cap regulation shall be exempt from rate base, rate of return and earnings regulation." This concerns us because ambiguity will lead to the court proceedings which are a severe drain on the Commission's resources.

This matter regarding whether the KUSF should be on a revenue neutral basis or on a cost basis is currently before the Kansas Supreme Court. The Court's ruling may or may not clarify this issue. If the Court's ruling does not clarify this issue, then the question: "Does the KCC have authority to audit?" remains uncertain.

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Attachment 2

**KANSAS UNIVERSAL SERVICE FUND**  
**GROSS KUSF SUPPORT**

Attachment 1

PREPARED FOR THE KANSAS CORPORATION COMMISSION BY NECA

<u>KUSF CODE</u>	<u>NAME</u>	<u>9 MOS THRU NOV.</u>	
		<u>FISCAL YEAR</u>	<u>TO DATE</u>
KS-001010	Bluestem Telephone Company		\$126,990
KS-001020	The Blue Valley Tel. Company		\$356,364
KS-001030	Cass County Telephone		\$22,995
KS-001050	Columbus Telephone Co., Inc.		\$72,827
KS-001060	Council Grove Telephone Co.		\$0
KS-001070	The Craw-Kan Tel. Coop., Inc.		\$221,805
KS-001080	Cunningham Tel. Company, Inc.		\$404,627
KS-001090	Elkhart Telephone Company, Inc.		\$0
KS-001100	The Golden Belt Tel. Assn., Inc.		\$570,482
KS-001110	Gorham Telephone Company		\$27,501
KS-001120	H & B Communications, Inc.		\$356,136
KS-001140	Haviland Tel. Company, Inc.		\$313,162
KS-001150	Home Telephone Company, Inc.		\$387,585
KS-001160	JBN Tel. Co. Inc.		\$394,857
KS-001170	The Kan-Okla Telephone Assn., Inc.		\$481,527
KS-001190	LaHarpe Telephone Company, Inc.		\$23,571
KS-001200	Madison Telephone Company, Inc.		\$201,816
KS-001230	MO-KAN Dial, Inc.		\$0
KS-001240	The Moundridge Telephone Company		\$314,352
KS-001260	Mutual Telephone Company		\$17,769
KS-001270	Peoples Mutual Telephone Company		\$92,772
KS-001280	Pioneer Telephone Association, Inc.		\$550,530
KS-001290	Rainbow Telephone Co op Assn., Inc.		\$101,673
KS-001300	Rural Telephone Service Co., Inc.		\$2,541,189
KS-001310	S & A Telephone Company, Inc.		\$411,732
KS-001320	S & T Telephone Coop. Asso.		\$713,511
KS-001321	S & T of Dighton, Inc.		\$65,502
KS-001330	S & T Communications of Dighton, Inc.		\$259,856
KS-001340	South Central Telecommunication of Kiowa, Inc.		\$129,490
KS-001350	The Southern Kansas Tel. Company, Inc.		\$0
KS-001361	Southwestern Bell Telephone Company		\$29,389,784
KS-001370	Sunflower Telephone Company, Inc.		\$957,870
KS-001380	The Totah Telephone Company, Inc.		\$204,804
KS-001390	The Tri-County Telephone Assn., Inc.		\$174,408
KS-001400	Twin Valley Telephone, Inc.		\$519,948
KS-001410	United Telephone Assn., Inc.		\$187,281
KS-001411	Sprint/United Telephone of Kansas		\$6,148,199
KS-001440	Wamego Telephone Company, Inc.		\$0
KS-001450	The Wheat State Telephone Company, Inc.		\$501,215
KS-001480	Wilson Telephone Company, Inc.		\$625,014
KS-001490	Zenda Telephone Company, Inc.		\$61,443
<b>TOTAL GROSS KUSF SUPPORT:</b>			<b>\$47,930,587</b>

## NET SUPPORT DETERMINATION FOR COMPANIES WHO ARE RECEIVING SUPPORT

9 Months Mar - Nov 97

		<u>Paid into KUSF</u>	<u>Support Received</u>	<u>Net Support</u>	<u>Net Support after Long Dist*</u>
Cooperatives	Co-Op	604,481	6,444,214	5,839,733	5,803,509
Private Corp	Pvt Corp	259,371	3,017,753	2,758,382	2,758,382
Private Holding Cos.	Holding	157,173	2,930,637	2,773,464	2,768,715
SWBT & Sprint	Public	29,608,074	35,537,983	5,929,909	(2,893,307)
		30,629,099	47,930,587	17,301,488	8,437,299

\* This recognizes the additional KUSF support paid for long distance service for those LECs that provide long distance