

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Don Myers at 9:00 a.m. on February 19, 1998 in Room 514-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Shawn McKenzie, President, Kansas Southwestern Bell
Michael Ensrud, Secretary, Comp Tel-Kansas

Others attending: See attached list

Chairman Don Myers announced that tomorrow the Committee will hear from Dr. Victor Frost, Professor of Electrical Engineering and Computer Science at the University of Kansas on trends in telecommunications technology. Also, Representative Aurand and the Sub Committee on telecommunications slamming will meet at 10:00 a.m. immediately following the meeting. The Chairman mentioned that he does not plan to open hearings on **HB 2830** having to do with exemptions from KUSF assessments for public institutions, but will allow those who wish to speak to the bill may do so if there is time.

Hearing continued on HB 2802 - Two-year freeze on KUSF rates

The Chairman recognized Shawn McKenzie, President of Kansas Southwestern Bell, opponent, who spoke in opposition of **HB 2802**. Mr. McKenzie indicated in his testimony that the Kansas Telecommunications Act was good policy and is good policy. He urged waiting until the Supreme Court takes action. Questions and discussion followed. (Attachment #1) Mr. McKenzie also distributed a letter to the committee that Southwestern Bell had sent to the Kansas Corporation Commission confirming the cost information the Kansas Corporation Commission has on hand on Southwestern Bell. (Attachment #2)

The Chairman recognized Michael Ensrud, Secretary, CompTel-Kansas, opponent, who spoke in opposition to **HB 2802**. Mr. Ensrud concluded in his testimony that the statute needs to be changed to replace "revenue neutral" criteria with "cost based" criteria concerning the method of calculating the "draws" from the fund. Also, to curtail growth of the assessment rate, reimbursement may be limited to basic essential services in the future. (Attachment #3)

Don Heiman, DISC Director, State of Kansas, sent a letter for distribution to the committee regarding **HB 2830** and his support of the bill for helping avoid increasing their charges to State agencies and public sector organizations who support the State telecommunications network. (Attachment #4)

Representative Sloan distributed a letter that was addressed to him from The Thomsen's regarding Telephone Taxation. (Attachment #5)

The Chairman thanked Mr. McKenzie and Mr. Ensrud for appearing before the committee.

The Chairman announced that Dr. Victor Frost, a Dan F. Servey Professor of Electrical Engineering and Computer Science, University of Kansas, will give a presentation on "Trends in Telecommunications Technology".

The Chairman announced that the Sub-Committee on telecommunications slamming will meet this morning in Room 522-S immediately following the meeting.

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

The next meeting is scheduled for February 20, 1998.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 19, 1998

NAME	REPRESENTING
SHAWN MCKENZIE	SOUTHWESTERN BELL
DENNY KOCH	SW BELL
ED SCHAUB	WESTERN RESOURCES
HEINEMANN	KCC
Bill Sneed	SW Bell
ROGER BALES	KCPR
Michael Emswold	Comp Tel - KS / e 811
Doug Smith	SITA
Bob Dahl	SWBT
Paul Snider	SWBT
CARRIE REECHTS	BOND SMITH
Fred Boesch	Chief Information Architect
Glenda Cater	KCC
Holly Peterson	SWBT
STEVE KEARNEY	KINI L.C.

STATEMENT OF SHAWN MCKENZIE
PRESIDENT-KANSAS, SOUTHWESTERN BELL
House Utilities Committee February 18, 1998

1. The Kansas Telecommunications Act was good policy and is good policy.

- We also think the Supreme Court will find it is a good law.
- It is our opinion that you should not take action until the Supreme Court rules.

2. The Kansas Act was formed after years of study and experience in alternative regulation.

- Under TeleKansas, Southwestern Bell was regulated by the KCC through price regulation.
- The TSPC examined, over 18 months and at a cost of \$250,000, the issue of how to move into a competitive telecommunications environment and sustain investment and universal service.
- The Kansas Act was the subject of 11 weeks of study by House Select Committee.
- The bill was adopted overwhelmingly by the House and unanimously in the Senate.

3. The Kansas Act brought an end to regulatory policies ill-suited to a new competitive environment.

- The Kansas Act allows for moving away from the traditional system of subsidizing lower-than-cost basic services through higher-than-cost long distance and vertical services without the rate shock that would result if competition caused prices to go to cost immediately.

4. Now I would like to address some of the issues that have been raised during the hearings you have held this year.

Is information available that explains the cost of providing universal service to SWBT customers?

- I'll be happy to tell you the cost of providing local service to Kansas customers. We have filed this information with the KCC, most recently in December of 1996. The cost is \$34.50 per line per month, considerably above the average price of \$14 to \$15 that Kansas customers pay.
- The price of local service in Kansas is about \$2 below the national average price, even though the cost of providing local service is above the national average.
- If you prefer total numbers, it costs SWBT \$506 million dollars per year to provide local service in Kansas. Our total local exchange revenues are \$399 million dollars. That means there is \$107 million dollars in local exchange service subsidy coming from other services such as access, toll, and vertical services.

Why is SWBT price cap regulated rather than through rate-of-return?

First, a short primer on price cap regulation. In a competitive market, price cap regulation is a superior form of regulation than rate of return. While rate of return essentially caps a carrier's earnings, it also provides some assurance of a reasonable earnings rate, even in the face of

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competitors winning away customers. Price cap regulation, on the other hand, safeguards consumers by imposing ceilings (or caps) on the prices that customers will pay. Price cap regulation also provides some flexibility within the constraints of the caps in order for the price cap carrier to meet its competitors' prices. The differences between price cap regulation and rate of return regulation essentially are: 1) consumers are protected by price regulation rather than earnings regulation; 2) price cap regulation creates incentives to be more efficient and to invest in efficient technologies; and 3) price cap carriers may more flexibly change prices to meet competition.

- The Kansas Act gave each local exchange company the option of which form of regulation to be under.
- Since it is only in the urban markets that competition is expected in the foreseeable future, it is critical for those companies that do business there to have the pricing flexibility that price cap regulation affords. We must be able to meet competitor's prices.
- For those in more rural areas, where competition is unlikely to emerge in the near future, rate-of-return may be the appropriate choice.
- For those companies operating under price cap regulation, costly and time-consuming rate cases serve no purpose since consumers are safeguarded by the price caps and by the discipline of a competitive market. In fact, consumers have a double safeguard under price cap regulation. Regulators continue to regulate prices, and competitors will create price competition for services priced above their cost.

Is the local market open to competition?

- Already, more than 40 companies have been approved by the KCC to offer competing local service in Kansas, and we have signed interconnection agreements with 38 of them.
- All we can do is open our markets – we can't make our competitors open up shop. Each of them must make that internal business decision themselves.

We are in Kansas to do business.

- Make no mistake, my company is here in Kansas to do business. And that means earning a profit.
- We've been here for more than 100 years. We have nearly 4,000 employees. We have a \$2 billion investment in the state.
- Our goal is to be the top choice for all telecommunications needs.
- And, we strongly believe that these goals can best be achieved in an environment of full and open competition.

5. We want to help address your constituents' concerns.

- The concerns that we've heard can be addressed without abandoning the sound policies thoughtfully crafted by policy makers in Kansas over the last decade that are reflected in the Kansas Act.
- Once the court rules, we're willing to work with you to constructively address those concerns and hope you'll give us the opportunity to do so.

April 12, 1996

Ms. Judith McConnell
Executive Director
Kansas Corporation Commission
1500 S. W. Arrowhead Rd.
Topeka, KS 66604-4027

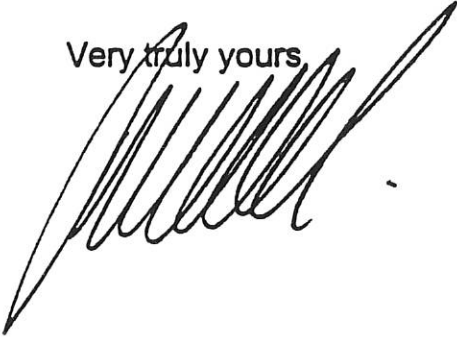
Re: Dkt. 190,492-U
[Cost Studies]

Dear Ms. McConnell:

Enclosed are the SWBT cost studies [six blue binders] required by the Commission Order in the above, dated January 4, 1996, and prior Orders. These studies were conducted in accordance with the guidelines previously distributed to the parties in accordance with the January 4, 1996 Order, par. 13.

These studies, along with the other previously filed studies [listing attached], are filed under seal and marked as confidential and commercially valuable data. Pursuant to K.S.A. 66-1220a, SWBT presumes that these studies will remain confidential and not be disclosed to other entities. Full copies are being and have previously been delivered to the Commission Staff, under the terms of an existing non-disclosure agreement, to facilitate staff's complete review. SWBT has engaged in some discussions with one other party of record concerning disclosure but has not concluded that discussion.


Very truly yours,



Enclosure

cc: All parties of record
(w/attached listing)

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STATE CORPORATION COMMISSION
APR 12 1996
 Docket Room

SERVICES/COST STUDIES

COMPETITIVE

Service Connection-Incremental	Service Connection-Plexar [®] -Incremental
1+SAVER SM Service Connection	Business 1+SAVER SM Service Connection
Directory White Pages-Cost Per Line	Directory-Line of Distinction SM -Incremental
Directory-Personality Logo SM -Incremental	Nonpub/Nonlist Service-Incremental
Directory Additional Listing-Incremental	Family Space SM Directory Listing-Incremental
Signature Listings [®]	Electronic Interexchange Data Billing
Bill Plus SM	Electronic Interexchange Data Billing Enhancement
Multipoint Video Service	Consolidated Billing Departmental Billing Reports
Duplicate Bills	Business Installment Billing
Customer Billing Reports	Incremental IntraLATA DDD Usage
Prepaid Calling Card IntraLATA Toll Usage	Incremental IntraLATA Outward WATS Usage
Public Coin Local Usage	Semi-Public Coin Local Usage
Private Coin Local Usage (COPT)	Incremental IntraLATA 800 Usage
Common Line 800 Business Service Usage	LATAwide Flat Rate Calling Usage
1+SAVER SM OCP 5 & 10 Hour Block of Time Usage	Plexar [®] -I Restructure
Plexar [®] -II Restructure	Plexar [®] -II CCO Features
Remote Access to Call Forwarding	800 Portability
Custom Calling Service	Call Control Options
Public & Semi-Public Local Coin	MicroLink [®] -II
DACC	DA IUC
DA/DACC Cellular	Positron PSAP Price List
LIDB Access Order Charge Update	STN SecureNet SM Option 2 Feature
Plexar [®] -II	Business/Video
Coinless Semi Public	Billing and Collections
Common Line 800 Service (NRC)	Improved Data Transmission
1.544 Interoffice	Data Over Voice
SecureNet SM	Local Coin (Pub and Semi Pub)
Local Coin	800 Number Portability
Bill Period Reorganization	DS3 Fiber Loop
Special Access-Access Order Charge	STN/SNS Interconnect Option
Network Reconfiguration DS0 and DS1	Digital Special Access
Network Reconfiguration (DS3)	Transport Resource Management
Special Access (FCC)	Special Access (FCC) Statewide
STN-Option	FCC 73, Section 13 (NRC)
SecureNet SM Intrastate	Diversity Service
Alternate Bill Media	Private Switch 911
Broadband Education Video Service	Voice Dialing
Unbundled Transport	1+SAVER SM Direct
Special Access-Statewide	Expanded 800 Database (NRC)
Network Reconfiguration Service	MAARS PSAP Price List
911 CCMIS Price List	911 CPE Plan Electrokey Price List
911 CPE Plan ComCentrex Price List	911 Data Products PSAP Price List
911 TCI TDD CPE Price List	911 TDD CPE Price List
Callstalker PSAP Price List	Interoffice Mileage for Voice Grade
B&C Startup and Maintenance	800 Common Line (Business)
Frame Relay	Expanded 800 Database (NRC)
Network Reconfiguration Service	Dovlink SM
AutoConnect SM Call Completion Service	

SERVICES/COST STUDIES

NON-COMPETITIVE/NON-ESSENTIAL

Second Line Control-Installation & Reinstatement
of Service-Service Connection-Incremental
Special Access Collocation Nonrecurring
MicroLink[®]-I Local Usage
Interoffice Trunk Local Usage
AWCP Cellular IUC
TeleBranch[®]
MicroLink[®]-I
Call Trace/Activation Service Establishment
Call Trace/Activation
ISDN DigiLineSM Features
Intelligent Redirect
900 Call Restriction
Digital PBX - SAF
Digital Loop PBX
0+ 900 Activation (NRC)
SRAS (NRC)
ISDN - NI (NRC)
ONA BSE - (NRC)
Digital PBX Loop DS1
555 Information Delivery - 2 Additional Elements
DS-3 Fiber Loop

Optional Calling Plans Service Connection
Incremental DigiLineSM Local Usage
SelectVideo PlusSM (SWF-DS1) Local Usage
AreaWide Networking
AWCP Non Vol GHQ OP #2
DID
Intellinumber
Manual Trap and Trace
DigiLineSM
Caller Intellidata
Disaster Routing Service
Primary Rate Access Loop
ONA: BSE# 26, 23, 27, 19, 140
Busy Line
Flexible ANI (NRC)
Service Loop Facilities Modification
IDDD Blocking
MF to SS7
MicroLink[®]-I
DigiLineSM (NRC)

NON-COMPETITIVE/ESSENTIAL

*Incremental Local Switching Access Usage
Access Section 6 - FCC (NRC)
Switched Access SS7 Optional Feature
*Local Service Residence Statewide Average
*Local Service Residence Rural
*Unbundled Local Loop
*Unbundled Switch

*Incremental Local Transport Access Usage
E911
E911 Transport (NRC)
*Local Service Business Statewide Average
*Local Service Business Rural
*Unbundled Port

*Filed with the Kansas Corporation Commission April 12, 1996

CompTel-Kansas

*Competitive TELECOMMUNICATIONS
Kansas ASSOCIATION*

WHY HOUSE BILL No. 2830 AND HOUSE BILL 2802 SHOULD BE REJECTED

Presented by Michael Jay Ensrud, Secretary of CompTel-Kansas

The Committee has heard essentially two proposals concerning the future of KUSF. The first of which is American Association of Retired Persons' (AARP's) proposal to "cap" the KUSF (establish a "cap" of 9.89% as to how high the KUSF assessment can go). After capping the fund, AARP proposes to replace "revenue neutrality" (Ms. Matson's "teeter totter" effect, or "dollar for dollar" replacement) with a "cost-based" criteria. The term "cost-based" criteria means that the underlying cost of offering the service becomes the basis upon which an entity providing the service, is allowed to "draw" (seek reimbursement) from the fund.

The second proposal is that we remain with essentially the status quo. The assessment rates would (barring Court action) be allowed to fluctuate to reimburse various entities for already scheduled activities, based upon "revenue neutrality" payout criteria.

CompTel proposes essentially a "middle ground" approach to the two alternatives being proposed. Specifics are as follows:

Basis To Draw From The Fund

- We agree with AARP that "draws" (reimbursement) from the KUSF should eventually be calculated using a "cost based" criteria. Therefore, language relating to payments from the KUSF being "revenue neutral" needs to be removed from the Statute. If the services were truly competitive and properly constrained by competitive market-forces, the market would drive the price of the various services being subject to KUSF reimbursement. Therefore price would reflect underlying cost. AARP's proposal mimics market-forces in that price

(including the compensation from KUSF) paid for a service in question is predicated on that service's underlying cost.

- Future mandated activities which are currently entitled to reimbursement from KUSF needs to be reviewed as to their merits in relation to projected underlying cost. The existing Statute may need to be revised to eliminate some of future "draws" scheduled to take place, assuming the Legislature finds there to be inadequate cost/benefit relationships.
- While CompTel realizes that the requirements of each state is unique, we would ask the Committee to note similar funds in Oklahoma resulted in an assessment of 2.5%, and in Arkansas, an assessment of 1%. This is an indication to the scope of activity subject to reimbursement from the Kansas fund compared to similar states. Our fund **may** pay for more than essential activity.

Short Term Effects / Solvency Of The Fund

- We disagree that the fund should be "capped" in the interim, until the costing procedure is complete - unless the potential for insolvency is addressed. CompTel fears the fund may become insolvent if the sequence of events is: #1) cap the fund and then #2) start to create a "cost based" criteria to draw from the fund. The consequences of the fund becoming insolvent are unknown. Such a development is likely to result in further litigation and further delay, unless that contingency is addressed. Again, insolvency is a possible outcome of either the "cap" or the "exemption" legislation being implemented.
- CompTel believes that all parties have an interest in the KUSF being properly funded in order to pay current obligations. This is true even if there legitimate debate about how these obligations or "draws" from the fund are calculated.
- If the fund were to become insolvent, those seeking reimbursement could receive prorated (for example \$.80 on the \$1.00) compensation from the fund. The remainder of the "draw" **could**, at the drawer's option, be recovered by increasing the rates for other services or by

the party seeking reimbursement from the fund not being fully reimbursed. In other words, the party drawing from the fund would have the option to forgo full reimbursement. If CompTel's suggested default position is not acceptable, some alternative is needed.

- The development of prerequisite cost studies can not be completed in a short interval. It is realistic that it could take a year or more to complete the cost studies necessary to base KUSF payments on a "cost" criteria.

Conclusion

- Rejection of the "cap" bill (HB 2802) and rejection of "exemption" bill (HB 2830) goes a long way to ensure the solvency of the KUSF.
- To CompTel's knowledge no one knows whether elimination of the monies lost by granting the exemptions proposed will leave enough money in the fund to "pay for" current obligations already in place. How much money is lost by granting exemptions is unknown. We fear granting the exemptions can cause the fund to become insolvent. In any case, the Legislature needs a "default" position if the fund does become insolvent.
- The Statute needs to be changed to replace "revenue neutral" criteria with "cost based" criteria concerning the method of calculating the "draws" from the fund. The Legislature may want to review the wide range of activity scheduled for future funding. To curtail growth of the assessment rate, reimbursement may be limited to basic essential services in the future.

Testimony
House Bill 2830
House Utilities Committee
February , 1998

Presenter: Don Heiman
DISC Director

Mr. Chairman and Members of the Committee

Thank you for the opportunity to present to you on House Bill 2830. This bill exempts Kansas public sector organizations from paying into the Kansas Universal Services Fund. Today, telecommunication carriers bill a surcharge of 9.8% in 1997 on select services. This surcharge increases to 12.13% in 1998; and to 13.68% in 1999. The collected amounts are deposited in the Universal Services fund and the monies are distributed back to carriers for discounts they provide to rural customers. This allows the carriers to lower telecom rates for areas of the State that are highly expensive to serve.

DISC provides telecommunication services to State agencies and local units of government who are part of the State network. The network is designed to serve rural as well as urban locations. DISC purchases services from the telecommunications industry by aggregating demand in order to receive best pricing. The cost to provide these services, including our cost to manage the network, are pooled and billed based on rates that are the same for all users. In effect, we rate rebalance rural and urban sites by charging one uniform price for services. The cost to DISC for the Kansas Universal Services Fund is \$632,452 in FY98. This cost will increase to \$667,920 in FY99. These costs will be saved and the savings passed on to agencies if this bill is passed.

I appreciate your support of this bill and for helping us avoid increasing our charges to State agencies and public sector organizations who support the State telecommunications network.

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Attachment 4

The Thomsen's

February 17, 1998

Rep. Thomas Sloan
Kansas House of Representatives
772 Highway 40
Lawrence, Kansas 66049

ATTENTION: Rep. Thomas Sloan

SUBJECT: TELEPHONE TAXATION

Dear Tom,

To say that I am livid is an understatement! I just received my cellular phone bill. I am not a big user because I don't hand out my number to everyone. I give out my pager number and then if I get paged, I pick who I call on my cell phone. As a result, my costs are low. A cell phone for me is not an option, I must have one in my line of work. It is not a toy. This month my bill is \$58.48. This is about average. BUT, the total tax is \$10.39 on a base of \$48.09 !! This is absolutely ludicrous!

\$4.75 for Kansas Universal
\$0.37 for Federal Universal
\$1.60 for Federal excise
\$3.67 for Kansas sales

This amounts to 21.6% tax on a simple cell phone. Please tell me - what's a person to do?



797 E. 1375 Road, Lawrence, Kansas

66046

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