

Approved: Carl Dean Holmes  
Date 4-29-99

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl Holmes at 9:05 a.m. on March 16, 1999 in Room 522-S of the Capitol.

All members were present except: Rep. Cliff Franklin

Committee staff present: Lynne Holt, Legislative Research Department  
Mary Torrence, Revisor of Statutes  
Jo Cook-Whitmore, Committee Secretary

Conferees appearing before the committee: Glenda Cafer, Kansas Corporation Commission  
Jerry Lammers, Kansas Corporation Commission  
David Dittmore, Kansas Corporation Commission  
Richard Lawson, Sprint/United  
Shawn McKenzie, Southwestern Bell  
Charlie Gleek, Southwestern Bell  
Walker Hendrix, Citizen's Utility Ratepayer Board

Others attending: See Attached List

**Continued Hearing on HB 2539 - Telecommunications; universal service fund access.**

Rep. Sloan: Thank you Mr. Chairman. Glenda Cafer, please, or whoever is speaking for the Commission this morning. The KUSF is approximately \$96 to \$100 million. How much of that is to subsidize the high cost areas.

Glenda Cafer: I'm off to a good start. By high cost, do you mean like, taking the \$36.88 and multiplying by the high cost lines. Or do you mean, how much goes to the company, excluding like the Lifeline program and the TAP program?

Sloan: No, what I want to know is how much of it is the revenue neutrality component and how much of it is purely to serve and subsidize those people who are in high cost areas?

You gave it in Senate testimony, I think.

Jerry Lammers: When the Kansas Telecommunications Act was enacted, the carrying through of that, the provisions to reach revenue neutrality on the access reduction, resulted in \$96.3 million of today's fund is being funded towards the company. Now, you want to split that into two parts. One of those would be what is it at \$36.88 for all the companies to support the lines and that would be \$15.1 million. And then the revenue neutral part would be \$81.2 million, together that is \$96.3 and that's where we are today.

Sloan: So, while we spend a great deal of time talking about equal access to quality telecommunications opportunities, \$81 million of the \$96 million of KUSF is for revenue neutrality.

Lammers: Yes, that's right.

Sloan: And then only \$15.1 or whatever is for infrastructure enhancement. Okay, thank you. I understand that the ALJ issued an opinion yesterday. Is one of the commission people prepared to discuss that?

Dave Dittmore: I've read through it very quickly, one time. In summary, basically, the ALJ upheld the Commission Staff's request for this information. They've indicated that the Staff should have the data and has instructed Southwestern Bell to cooperate in the future. There's several places within the ruling where it mentions that additional

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

Dittemore(cont): data will likely be required and urges Southwestern Bell's cooperation in that regard.

Sloan: Okay. Thank you. I've got a series of questions for Mr. McKenzie and Mr. Lawson. If you guys want to come up and tag team? Richard, I felt badly that you have been here for two days and no one's asked you any questions, so if you'd like to come up.

Shawn McKenzie: I felt badly for him also.

Sloan: Especially after I threw those softballs yesterday that you were able to smash.

Richard Lawson: He offered to let me wear his badge this morning.

Sloan: For the two of you, if you were to re-balance, how much money per month per customer line do your companies need to make you whole.

McKenzie: Just last night, on the way back, we were talking about how much that would be and right now that would \$4.35 per access line in the state of Kansas to take Southwestern Bell completely out of the KUSF.

Lawson: And ours would be \$8.78 per line per month to exit the Fund entirely.

Sloan: Again, for both of you, help me understand, if you were going to re-balance, would you have to be audited by the Commission Staff in order to verify the two numbers you've just given me?

McKenzie: I think there's substantial evidence in the record right now to do what we need to do and the '96 Act gives the Commission the authority to do that. So I think they could proceed on their own right now.

Sloan: Is that a yes or a no to my question about the audit?

McKenzie: Would they have to do another audit?

Sloan: Or continue the one they're doing, I don't care, is an audit entailed?

McKenzie: No they would not.

Lawson: They have the underlying data that recognizes that it's a real simple mathematical formula. We have so much from the Kansas Universal Service Fund today, divide that by the number of access lines and that gives you an annual amount that you would require, divide that by 12 and it gives you the monthly amount.

Sloan: So the Commission Staff, at least, believe that they do need to audit to make sure that what you're asking for is legitimate, am I correct?

McKenzie: That seems to be what they're saying.

Sloan: I understand that you don't agree with that, but the ALJ apparently has. In the original bill, the equal access issue that we haven't talked about, in your collective judgements, what is happening if we go with the way the bill is drafted and equal is taken out?

Lawson: Well, I think that it basically makes wireless carriers eligible for Kansas Universal Service Fund support to the extent that they become from us in rural areas. The second thing is that it makes it consistent, I believe, with the Federal Act where equal access is not a

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

- Lawson(cont): part of the criteria, I believe, for universal service and therefore eligibility to receive federal universal service funds support.
- McKenzie: From my perspective, it puts a different burden on potentially different recipients of KUSF funds. Incumbents would still be required to provide equal access for their customers, whereas new entrants would not be required to provide equal access to it's customers. So there'd be a disparity in how recipients of the KUSF are regulated.
- Sloan: From the customer perspective, do they benefit under the proposed change?
- Lawson: I think that they would have more choices in providers of service if the 'then equal' is taken out. And again, it becomes a matter of customer choice. You would chose a carrier, who would perhaps would offer equal access, but that's your choice. And in doing so, that carrier may become eligible then for KUSF monies servicing a high cost area in which you might live.
- Sloan: Okay, the bill also removed the specific technology that we funded through the KUSF and uses the more generic language to accommodate technological change, is that something both of you support?
- Lawson: I would support it. I think that the market should drive the deployment of technology rather than some industrial policy, that's just our prospective on the issue. ISDN versus ADSL, who knows where technology is going, which one is superior, which one is the most efficient for me to deploy, which one will you buy. Those kinds of things, the fact that it requires or encourages infrastructure improvements or enhancements, that's excellent, that's good policy, but becoming technology specific, it troubles me.
- McKenzie: I have no problem with removing a specific service from the language. I mean, ISDN is a service, ADSL is a service, I have no problem with removing that, but it seems to have worked well in Kansas to have some kind of incentives for additional infrastructure investment. And so I do have some concern that you might abandon the idea of having some incentive for additional infrastructure investment by companies. I certainly don't have any problem with taking ISDN out of the language.
- Sloan: This one is for Mr. McKenzie, specifically. When Governor Finney was governor, there was a commitment by Bell to certain employment levels, has that been kept and is it going to be kept in the future?
- McKenzie: It was a specific time frame, I believe it was '94 to '97, we agreed to raise our employment by 100 folks and that promise was kept.
- Sloan: Okay, then the real reason I wanted you both up there, if this body in it's wisdom or whatever, were to statutorily say, Southwestern Bell could raise it customer service charge by \$2 a line per month, Sprint/United \$4, about half of what you believe you need under re-balancing and ordered you out of KUSF forever and prohibited the Corporation Commission from doing audits of anything related to a price cap company, obviously doing away with the two dockets. I noticed in yesterday's Wall Street Journal there was an article about the baby Bell's can't find \$5 million worth of equipment and Southwestern Bell's got a chunk of that. Is that something worth pursuing as an avenue to get us out of this so we are not here next year continuing to fight over KUSF?
- Lawson: Well, I'll speak to that, it's an interesting concept at \$4 and I would require \$8.78 based on what I'm taking out today, is going to leave me with roughly a revenue shortfall of \$8 million, that's a tenth of my total annual revenue and I don't think that that's something we would endorse, just to say we would go \$4 and give up \$8 million of annual revenue, I

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

Lawson(cont): don't think that's something that we could support.

McKenzie: On it's face, I couldn't support the offer either, but, certainly we've always been interested and approached the KCC and their Staff several times now about trying to negotiate a settlement to this proceedings so that we do not continue to have a KUSF that's much larger than any, everybody else's and have not made much ground in this.

Sloan: Short of the \$4.35 and \$8.78, what's your bottom line.

Lawson: My bottom line is \$8.78 of revenue that I need to recover, how I do that is an entirely different matter. If for example, Southwestern Bell were out of the Fund all together and it raised their rates to that \$14 and change level, because your local rate is around \$10, I think, as is mine; and we went up to that also, so that there's some parity between Southwestern Bell and our rates, take that much out of the Fund. It would substantially reduce the size of the Fund, but I would still require the balance of that money from somewhere, from some revenue source to operate my business.

Sloan: Where do you want if from?

Lawson: I'd rather have it on local rates. As a matter of policy, we've always support the cost causer paying the cost, so that would be about an \$18.78 rate, which sounds high, perhaps, compared to \$10 today, but it's certainly not unprecedented. I think it's either Nebraska or Wyoming, and I always forget which state, the legislature said re-balance rates to move them more toward cost and in doing so don't raise the local rate above \$25. So they're going to have a very small state universal service fund, but they may have local rates of \$25.

McKenzie: The Federal Act wants us laid out an objective to move away from implicit subsidies. When you ask where else might the revenue come from to support local service, you're essentially suggesting we create another implicit subsidy some where else. And I think it's important that we avoid that or ten years from now, your successors will be dealing with a new KUSF problem. So I think we ought to avoid the idea and the movement toward creating another implicit subsidy. In terms of negotiating a deal, and I mean no disrespect by this, but this is kind of where we were in '96. Southwestern Bell, we would like for you to reduce your access charges, we would like for you to invest more in the state, what would it take for you to be willing to do that? And Southwestern Bell and the industry as a whole essentially said, revenue neutrality, price cap regulation and assurance of no earnings audits. So, kind of what we're talking about here is renegotiating the deal, the agreement that was reached in '96 that enabled us to move forward.

Sloan: See, what I think we're talking about is, that as I understand the ALJ's order and the Commission's intent, they are going to continue to attempt to audit your books, as it pertains to the KUSF and when they're finished with Bell they'll move to you. And what I'm asking, is what is worth to stop that process, stop generating dead trees and lawyer time and occupying you here and across town, that's my question.

Lawson: We support the Commission's effort to get to a cost based fund as far as that's the only way they're going to have funds that will be portable and competitors being able to draw those funds also, just as I do today. But the bottom line is, we think that when we get there it's not going to have a substantial financial overall impact on Sprint, because we know, we have a good feel for what our costs are and we know what we're earning from our books. And given that we move forward and do this cost study and get to a cost based Kansas Universal Service Fund in some fair manner, within that, no fancy accounting adjustments, those kinds of things, I feel comfortable in that process, Rep. Sloan, that we'll get there and that we'll be okay financially. That's my view, that's Sprints view.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

McKenzie: You have a different little impression of the impact of the ALJ's opinion than I do. My perspective, the ALJ just resolved the discovery dispute, the KCC, the Commissioners, haven't yet decided how they're going to act on it. I joked with a couple of my friends that there was a lot of discovery dispute over whether or not to submit the glove in O. J. Simpson's trial, I don't know that the submission or lack of submission of that glove made a whole lot of difference in the outcome of that trial. I would prefer to see the Commissioners weigh in, right now all we've heard is from the Staff and the ALJ, not from the Commissioners themselves. I think in the '96 Act there is significant protection of Southwestern Bell's initial rates or initial revenues and access charges were part of those initial rates, those initial revenues and I would hate to, in a negotiation right now, give up any of those rights. I think the '96 Act said these are the rates and you're not going to lose that money going forward. However, in the future, under price caps and competition you may lose part of that money, but will only be due to competition and price caps, not due to action by the KCC.

Rep. McClure: Thank you Mr. Chairman. Does the \$4.35 on the re-balancing, that would be for both the KUSF fund for high cost areas and the revenue neutrality, that whole \$96 million we're talking about?

McKenzie: For Southwestern Bell it's \$65 million and that \$4.35 would take the \$65 million completely out of the Fund.

McClure: So you're talking about the neutrality and the actual high cost?

McKenzie: I've never divided them that way in my mind, it's all of it, 100%.

McClure: I know, that's why I'm dividing it up. And for Sprint then..

Lawson: It's about \$14.3 million, I believe, yes ma'am

McClure: But that would include both of those numbers, the revenue ..

Lawson: It would include both of those numbers, but I don't feel comfortable in saying that's part of it's high cost and part of it's revenue neutrality, it's money that I need to run my business, that I used to get from access. So, you know, I don't think, I'm not comfortable in saying what's high cost and what's just money that I need to run my business.

McClure: Well, maybe I'm, I think that's part of the big dilemma in this whole debate is, firstly, we're collecting this money for what and in discussions yesterday, we talked about where that neutrality actually ended, was it March 1, and you said no as long as that access is going down and I talked with some of your people afterwards and I think it was you had done it within the first two years and that was not an issue, so I think that's one of the problems. I just have no hopes that this is going to end anywhere but in court, I think that that's the way the direction is going. Thank you. I wanted to asked something of the KCC Staff. Just for the process, generically, now that this determination from the Administrative Law Judge, or this person, what happens now.

Dittemore: Well the Commission would have to rule on this ALJ recommendation.

McClure: Which, the way I understand it, Southwestern Bell has submitted information to the ALJ.

Dittemore: Yes

McClure: And now the ALJ looked at it and says there may be more information needed or this is it and we'll now give it to the Staff. (END OF TAPE)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

- Dittemore: .....on this docket. There's also another docket that's open that's intended address what type of cost model should be used.
- McClure: The generic.
- Dittemore: Exactly, so we're proceeding on both of these tracks.
- McClure: Does the, I guess the same question and I'm really struggling with this, does the KCC differentiate between the neutrality dollars and the high cost dollars?
- Dittemore: Yes, we do. We think that there's a distinction there and we think that policy makers need to keep that in mind. The Commission, in the '96 order, has said that anybody that wants to compete with, in high cost area, would be eligible for \$36.88 in support. And so, if you're competitor coming in, that number is very important to in looking at the economics of whether you can compete in that area or not. Now, Southwestern Bell, I mean if you took what Southwestern Bell is receiving from the Fund in total, it is much larger than that \$36.88 per month and I think that the difference is the revenue neutrality piece of the state act. So, it is important in terms of promoting competition among them.
- McClure: Thank you.
- Rep. Klein: Thank you Mr. Chairman. Mr. McKenzie, would you please. I apologize, you may have done this yesterday I wasn't here. But I have a question in respect to your testimony in light of the ALJ's ruling. Some of the information that was in controversy was whether is was irrelevant, proprietary or confidential. And I understand that may not, that fight is probably not over. But what I would like to know, in general not in specificity, is what kind of information are we talking. Are we talking about findings information or are we talking about confidential. And if you can't answer because I'm getting too close to something, tell me. Is that, essentially what the conflict is over?
- McKenzie: I may not be able to answer in the specificity you're asking for.
- Klein: I don't want in specificity
- McKenzie: Oh, I thought you did, sorry.
- Klein: We talking rules, general, are we taking about?
- McKenzie: In general we're talking about a rate case file as if we were still under Hermes regulation. That's what we were asked to file and that's filing we made, in camera, in which she made this ruling this morning or yesterday or when ever it was.
- Klein: So, generally, you're saying that the information that is in controversy could be useful to a competitor to find out how much money they could make if they did the same thing?
- McKenzie: I'd speculate that that's true, but a tremendous concern that we had in this case is that we're no longer subject to earnings audits and that this cost study was being made to look like and replicate an earnings audit.
- Klein: Well, I understand that, but I'm just trying to figure out what you're fighting over and since it's hard for either side to tell me that because of the nature of your business and the interest you have in protecting your company secrets. I'm trying to figure out, in general, what kinds of information we're fighting over. And if it's earnings or profit or something like that, I'd understand it better. And my question is, is it earnings and profit, the kind of things that are proprietary and confidential or is it something and I'm off the track?

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 15, 1999.

McKenzie: I have members of my regulatory team, would you mind if I had them answer?

Klein: And I don't want to trap you or trick or anything if you can't say anything, don't worry, cause, in general, that's what I'm asking.

McKenzie: I just don't want to risk misinforming you and I would be going beyond what I can safely and factually say. Charlie Gleek is the head of our regulatory team and Charlie....

Charlie Gleek: I'd say that most of the information that we have been arguing about is earnings type information. But the major controversy is the Commission order said that they wanted to do a cost of service audit on this. And cost of local service, our local service is what we're talking about, is about \$10 on the average for rates, the cost for providing dial tone to our customers, that's local service. And in this docket, it's our opinion, is Southwestern Bell's position, that they expanded it, not to just look at the cost of local service, but they are using this cost of local service case to really do a full blown earnings review on Southwestern Bell and that's been the subject of the controversy. You know, a rose is a rose by any other name, and they called it cost of local service docket, but they're using that docket to actually do a full blown rate case on us, which we understand the '96 Act to prevent them to do that.

Klein: Okay, so what, I'm just being very broad here. Why, I assume we're talking only about the high cost area in the KUSF, they want to do, what you call, a full blown rate case.

Gleek: No, they're trying to do it on the whole Kansas operation, it's not just on the high cost areas. It's looking at total Kansas operations. And it goes even further than that. What they're interested in doing, based on the request that we received is to expand that to even include subsidiary operations, things are not even Southwestern Bell Telephone company operations that go far beyond the cost of local service. Which have traditionally, things have traditionally been done in rate cases like we were subject to back in the '80's, late '70's.

Klein: So they're not, see I'm trying to be careful. So, there was some discussion earlier about a cost model was going to be used to determine costs. I'm certain under models you guys are going to be able to justify every dime and other models that I could invent and I'm sure some else could think of, they might want to consider how much money you're making off the investment and balance it somehow. Is that really what we're talking about?

Gleek: In the case, that 677 case, where they're looking at Southwestern Bell's "cost of local service", in our opinion has been expanded to include much more than our cost of local service.

Klein: What kind of cost model do you use to determine that?

Gleek: This is part of the confusion, there's a generic docket also that's sitting out where there going to determine actually the cost model, the methodology for how you are to determine the high cost support. And that's going on at the same time. They have not completed that one and I don't know what's going to come out of that model. In the mean time, the Southwestern Bell audit is really not, in our opinion, a cost of service it's a full earnings review. And that's been the underlying source of the controversy. Are they able, under the act, to do a full blown earnings review of Southwestern Bell. And we may have gotten a lot deeper than what you're wanting to get but it is very confusing. It's confusing to us, you know we feel like the generic docket should have been done first so that we knew what the criteria was going to be, what kind of model was going to be used. Not only for Southwestern Bell, but for all local exchange companies in the state, and then moved on

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

Gleek(cont): from there. That's not the way it's happened, these things have been going down the road simultaneously. And actually, Southwestern Bell out in front of the generic docket today and it's not just a matter of looking at our cost of providing local service, it's been expanded way beyond that. And the, I have now seen the ALJ ruling, but I take it from her ruling, she's saying we need to provide all this information.

Klein: Okay, any comment, I mean do you generally agree with that characterization.

Dittemore: No, I take exception to some of the comments made today. There are different cost models that can be used and the Commission will decide whether it's historic and embedded cost model or forward looking model. We thought all along that the use of an embedded cost model would take awhile and it is. It's a struggle, there's a difference of opinion over whether data should be provided, whether we have the authority to request data or not. That's why we started down this track. Initially we're also concerned about a takings argument for the use of using a forwarding looking cost model on the part of Southwestern Bell. Mr. Gleek talked about looking at affiliates, well, there's a lot, Southwestern Bell has a lot of affiliated transactions, where they, where costs are flowing to Southwestern Bell Telephone Company that flow into the cost of providing universal service. And that's why we've requested some of that information. We think it's very much germane to the determination of what it's cost to provide local service. We are not, again, proposing to change any rates of Southwestern Bell. Could the Commission's decision ultimately effect the earnings of Southwestern Bell? Yes, because it could change how much KUSF draw they receive. And so, I'm not going to dispute that, if the facts warrant it, yes that's what would happen, but that doesn't mean we're proposing to change any other rates of Southwestern Bell. We feel like the Supreme Court decision upholds the obligation of the KCC to make this a cost based fund. Commission may decide to go with a forward looking model, if they do, we'll change course. But Staff is trying to move this thing along, we've got a very large fund that we feel like that we've been told to make it cost based. That's, we believe, consistent with the federal act, consistent with the Supreme Court decision and that's what we're attempting to do here. It's not anything sinister about changing any other rates of Southwestern Bell or for anything else. We're just doing what we believe that the Supreme Court decision says and most other parties believe that the Supreme Court decision says and get this to a cost based fund.

Rep. Kuether: Thank you. Isn't the Supreme Court decision that local services had never been set on the basis of cost? Sort of contradictory, isn't it?

Dittemore: I don't think it's contradictory. There hasn't been a cost audit of Southwestern Bell for quite some time.

Kuether: A cost audit is a little bit different that a periodic review or maybe we're playing with words here, but they say quite different things to me.

Dittemore: It's a little bit difficult for me to address that and I'm not sure the context of that.

Kuether: It's in the Supreme Court decision, that the KCC is statutorily required to periodically review, which is different, I think, from cost audit. It goes down here and says it's never been set on the basis of cost.

Dittemore: It's a little difficult for me to respond to that without taking the whole thing in context.

Rep. Vining: A few weeks ago, we tried to get a resolution out of this committee and it had to do with just asking you to look at something for us in Wichita regarding the inequity in another area and this committee, wholeheartedly, voted to allow to you to not have that resolution because you were doing your job. We evidently supported you in that area, that you were



CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

Vining(cont): doing a good job. I'm hearing a kind of different tone from this same committee. And I think if we supported you then, we should support you now in doing your job and allowing you the wisdom and what you are saying you think you need to do. I have not made any decision, one way or another, on this myself. I'm still gathering information. It was my understanding that the Kansas Universal Service Fund was given to Southwestern Bell in exchange for access charges as to kind of, to balance their rates. Was it given to them for a certain amount of time? I heard three years yesterday, was it just given to them for a certain amount of time?

Dittemore: It's little bit difficult question. We believe, based on the Supreme Court decision, that the revenue neutrality provision was transitioned for three years and I know there's been a lot of debate on what happened in '96 and what the intent was of the '96 act. I was not there in the room when all these discussions were held, but it's my understanding the Supreme Court has held that that revenue neutrality provision is for three years, at which time there would be a movement towards a cost based fund.

Vining: That's kind of what thought. Now what you're only saying is, okay, on true charges, all what we want to know is what your true charges are so we can pay a fair amount.

Dittemore: That's correct.

Vining: Can you tell me what the problem is and why there is so much resistance to trying to pay them a fair amount for a job that they're doing?

Dittemore: I've been given an opportunity to speak on Southwestern Bell's behalf, I think that...

Vining: That's what's coming down to me. And that's what I'm beginning to see, is there is resistance us finding out what do we owe you, what can we pay you for a fair amount, but we need to see what that is.

Dittemore: I agree 100% with where you're coming from. That's what we're trying to do. If the results of the cost docket indicate that Southwestern Bell's rates need to be raised, need to be increased we're leaving that door open and that would correspondly reduce the size of the fund, but we think we need a thorough review before we go ahead with that process.

Vining: If I thought you were up here trying to cheat Southwestern Bell, I wouldn't like that, but from what I'm beginning to understand is, you're wanting to know what we owe them, you're wanting to pay a fair price. And I see resistance to that and I'm curious.

Dittemore: I agree with you.

Kuether: This is for Shawn McKenzie. Shawn, would the impact of **HB 2539**, will it have an impact on the rates that our local people pay?

McKenzie: **HB 2539**, not instantly. It just reduces Southwestern Bell's earnings.

Kuether: So you're going to have to make that up somewhere. Our local rates going to go up?

McKenzie: I don't know, I'm sorry I don't know. There's several factors that play in here and I think some would perceive that if **HB 2539** became law and Southwestern Bell's KUSF revenue was reduced by \$57.2 million, then you would see the KUSF assessment go down and some people would interpret that to be a lowering of local rates. I don't know. At the same time, I don't know that it dictates that Southwestern Bell's revenues have to go down, perhaps access charges go up as a result. Perhaps the rate re-balancing occurs as a result. You're asking me to speculate beyond what I think I can do safely.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

- Holmes: I'm going to ask one or two questions. I'm going to ask the KCC. With current law, two companies now have switched from rate base to price cap. Does the law allow them to go back and forth, say a year from now they would want to go back to rate base, can they go back to rate base or are they locked into price cap.
- Dittemore: Well, I think it's a little unclear. We have stated that we think that they can go back to cost based, there may be others that have a different interpretation than that.
- Holmes: Okay, since you responded that way, I'm going to expand this just a little bit. Across the country, are quite a few of the companies still rate based or are they price capped.
- Dittemore: I think there's probably some combination. I think, in Kansas, we probably went to less regulation much earlier than other states have, but I still think there's a combination out there. I think more companies are going to price cap as time goes on.
- Holmes: Across the county, not just Kansas, of the companies that are rate based, what would you say is the average rate of return is allowed by their Commissions, across the country.
- Dittemore: I've not done that study, but I would, if I could offer an educated guess and that's all it is, is a guess, I would say probably 11% to 12% return on equity.
- Holmes: So would it be a fair statement, if that's the case, we'll say it's 12%, would it be a fair statement that in Kansas if the companies are now price cap, if for any reason it looked like the rate of return might, what they know and nobody else realizes, dropped below 12% it would be advantageous for them to come back and be a rate of return company instead of a price cap company?
- Dittemore: Yes, if that were ultimately found that they could do that, that's correct.
- Holmes: Are you aware of any companies anyplace in the United States that, once they've taken price cap, have gone back to rate base accounting.
- Dittemore: I don't know that, I don't know that one way or the other.
- Holmes: Do any of the states prohibit that?
- Dittemore: I don't know that either.
- Holmes: When you look at the KUSF and, now that you're getting some information on that, are you allowed to take into consideration technological advances in the company's cost or is technology outside the....
- Dittemore: We think we could take recognition of technological advances. A lot of that depends on the cost docket that's used, under the information that we're attempting to get here is more historic based on 1997 book costs, so it's the extent that it would not go greatly into under this one particular cost docket. So it'd be '97 embedded cost data.
- Holmes: One more time, is there any magic about what happens on January 1, 2000 that's in the statutes that relates to rate re-balancing audits, revenue neutrality and cost based KUSF. What changes at the end of the three year period?
- Dittemore: Well, the three year period has ended March 1.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

Holmes: Okay, March the first.

Dittemore: We believe that at that point the Commission has the authority and obligation to move to a cost based fund and that's what we're attempting to do. I think that's the main distinction about that date. That date is the termination point of the revenue neutrality transition provisions that were in the state act.

Holmes: It's been indicated by other questions that you've not received all the information you need to make that analysis, is that a fair statement?

Dittemore: Yes

Holmes: Do you believe that with the ruling that came along yesterday, that you will now be able to get all that information or do you think that there's still going to be problems getting the information that you need to do your job.

Dittemore: I suspect that there'll be additional information that we need, but I don't want to leave anybody with the impression that, if the Commission adopts this recommendation, I don't want to leave anybody with the impression that we've got everything we need. There will likely be more questions based on the answers we get, if indeed the Commission upholds this, there'll likely be more questions.

Holmes: What kind of a time frame do you think the Commission might be on in making that decision?

Dittemore: I would like to give you an answer to that, but there are so many outside influences, a lot of it will depend upon, Southwestern Bell has an effect on the time frame. The Commission, as you well know, everybody has their due process rights, we may ask for more information, they'll exercise their rights and say this is not relevant, we're not going to provide this information to you, then again, the Commission would have to make a ruling on the relevancy of that information. Those types of things tend to make the process longer, but we're in the, kind of judicial type setting at the KCC, where people to have legal rights, which is good. But the flip side is that that does take longer when those rights are exercised.

Holmes: Give me a time frame, shortest if everything goes right, longest if everything falls apart.

Dittemore: I'd say, if things go right, October 1, if things do not go right, I hate to say this, we could be looking at a year from now.

Holmes: I'd thought we'd have this resolved before then.

Rep. Toelkes: Thank you Mr. Chairman. If you have the companies that are price cap now were forced to go to rate based, would all of the regulations on them now be released and they could play on a level playing field with those who are not so heavily regulated?

Dittemore: Well, first of all, no one is going to force them to go to rate based rate of return regulation, that was their election under the '96 act.

Toelkes: I understand that.

Dittemore: They have freedom under price cap regulation to, when a competitor comes into an area, they can reduce their prices in their area.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

- Toelkes: I'm aware of all that, I guess my real question is, in order to get real competition in this state, there are some companies that are so heavily regulated they really can't compete. And now I see all of what's left if they can keep the companies going and provide the services they're supposed to provide, I see that lessening and lessening. You know, the governor made a statement a couple of weeks ago, and it was in the paper, about KCC Staff over-playing their hand with a pretty important company with the state of Kansas. Do you have any comments on that?
- Dittemore: No I don't.
- McClure: We were talking about the generic docket on the cost, the cost model. I think I heard you say that you weren't sure you have the authority to do some of the questions or require some of the information for that generic docket. Why?
- Dittemore: A concern that we had had from a legal standpoint, and I'm not an attorney, but I know a concern we had from a legal standpoint, is that if we base the KUSF on forward looking costs, that that could be challenged on it's face, just the use of forward looking cost to determine the size of Southwestern Bell's KUSF draw, under a takings claim. That was one reason why we attempted to gather embedded cost data and evaluate that for purpose of sizing the KUSF.
- McClure: In that generic docket, are you acquiring costs right now from other companies, just looking at a model?
- Dittemore: Yes, there'll be comments takings on, yes, whether is should forward looking or should be based on embedded cost model. There's no real data, there'll be nothing coming out of that docket, you know the cost of universal service is "X".
- McClure: Just a method?
- Dittemore: Right.
- McClure: Have other states reached that point, have they come up with a model or method yet for costs?
- Dittemore: I think some probably have, although I can't address that in detail.
- McClure: Thank you. Can I ask CURB a question? Either Walker or the other gentleman from CURB. Is there anyway to come up with a generic model for costs for the universal service fund. We have a generic docket...
- Walker Hendrix: I suppose you could come up with a model not indifferent to the way it was devised for the wholesale costs. Whether you use the Southwestern Bell model, whether you use a Hatfield model or whether you use the Sprint model, so there are models that have been purposed with respect to trying to determine cost. This Commission has decided to use the Southwestern Bell model because they think it more accurately reflects the composition of the network in Kansas and the cost components with respect to that particular network.
- McClure: What is the argument, I asked the other day and didn't understand, on the takings and the KCC alluded to the takings possibility?

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

Hendrix: Well the argument with respect to takings, I think that Mr. Cavell quite adequately explained that issue yesterday. If you are a regulated entity, you're allowed to earn a reasonable rate of return as compared to other businesses that might be competing in a competitive industry. And there is a classic decision, the Hope case, which reflects that particular point of view. If the earnings of the company were not compensatory, they could make an argument that their property is being taken without due process of law. I think also Mr. Cavell noted that that might require some investigation and some positive determination on behalf of the company to show whether or not they're making an adequate rate of return. With respect to the Kansas Universal Service Fund, I think testimony of Mr. McKenzie and other people, would suggest that they're earnings might possibly be impaired but it won't create the situation where they would be financially distressed to the point that they could make a constitutional argument, if I understand the statements that Mr. McKenzie made with the impact that it would have on their earnings. But that's design. Let's say the universal service fund constituted all of their money and you took that away, that would be a clear example of where that would be in violation of the constitution. I think the argument about takings has probably gotten a little bit confused in the particular arena, because there is some suggestion that if the cost determination show that the amount of money that would be recovered would be less than \$100 million, you would be taking away something they were previously able to collect. Whether that would drive them to a level where there would be an unconstitutional taking or not would be an argument, but it does not seem to rise to that level. So it's a question of whether you want to go with a preexisting situation, allow them to collect these revenues or whether there should be a determination and the Kansas Corporation Commission to go forward and make a determination as to what it actually cost. Federal law requires that universal service be based on cost of service methodology and reserves to the state commissions to make that determination. I think that's why the Supreme Court ruled the way it did rule is that, arguments were presented that the federal law preempted the state law, because we didn't have a cost based universal service fund. In order for the court to avoid that problem and in order for them not to determine that the Kansas Act was unconstitutional or preempted by federal law, they basically made a determination that this has to be a transitional sort of mechanism. And in fact, the FCC has indicated with respect to it's deliberations on universal service that it is very much in transition.

McClure: Let's do a hypothetical, we love these. Okay, let's say we use Southwestern Bell's model for cost and we find out that, because no cost studies were done in '96, that the people of the state of Kansas have paid too much money in and the KCC says we have reduce the KUSF fund by half. Can Southwestern Bell, then, claim a takings because it was money that wasn't actually cost based? Neutrality is out of picture, we're talking about the actual cost of the high cost areas.

Hendrix: If Southwestern Bell could demonstrate that their overall rate of return was inadequate so it would rise to level of constitutional taking, they could make that argument. But retrospectively, if they were over-collecting, that's something that no one can do anything about because the Commission decisions and state law are prospective, so any money that would have been earned to date would not be a factor, other than you could make, I guess, an argument that they were over-collecting at that time. But you can't go back, retroactively and change their rates. And I don't understand, really, juxtaposition your questions takes in terms of what was happening on an historical basis and how that might impact retrospectively. But the fundamental argument is is that they're earning a 10% rate of return or maybe even if they're earning an 8% rate of return, under the Hope decision, it might not make a difference. Unfortunately in this area there's a rather ambiguous standard which says that it's the result reached and the determination is based on that. So it gives the regulatory body a rather wide level of discretion in order to make a determination in this area. And I think the company would have to show that they were in a financial impairment situation in order to make that constitutional argument. Now that's my

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

- Hendrix(cont): perspective. I think minor adjustments are not going to cause you to rise to the level of the unconstitutional.
- McClure: Then just a little different twist. I don't remember who's testimony it was, but it talked about if it was found too much money was collected we might have to pay back to those who had paid, the customers. That same argument would hold, we wouldn't have to because that was the decision of the '96 and the KCC.
- Hendrix: Right, they've been collecting revenues pursuant to law assuming that their reports to the KUSF administrator has been proper and there would be no reason to go back and readjust those rates. Although, you obviously would have to look at those to try to determine the magnitude of what might happen prospective.
- Rep. Alldritt: Walker, how do we balance this, how do we balance this issue before between, you know, our constituents, the people of Kansas and two companies that we're talking about. I mean, how do we weigh and balance, in CURB's opinion, what action should we take.
- Hendrix: It is my belief that the Commission process is about balancing. They have to make determinations in accordance with the public interest. They need to look at the financial integrity of the company. They have to look at the reasonableness of the rates and whether they're affordable with respect to consumers and whether there is some logical connection between the charges and the overall cost related to that particular service. So that's the balancing that goes on in that sort of process and I think that most people feel that the Commission is a good forum for making that determination. I wouldn't disagree with Rep. Vining's point of view, but these proceedings are highly contentious, so consumers would like to have lower prices. The company and it's shareholders would like to have higher prices assuming that their market share would not be impaired, so there's a good deal of controversy in all these proceedings. We wouldn't be here, probably, if that wasn't true.
- Alldritt: In this particular case, or this issue, does the Commission have the authority and power they need to resolve this issue?
- Hendrix: Well, I think that there's some language in the Supreme Court decision that would lend credence to the argument that the Staff is making that they need to make a cost based determination. The Federal law also requires that universal service be based on cost, because if you create a subsidy for a company for a company that is competing and it is too much, then there is an opportunity for the company to use some of that revenue and under-price other services in order to drive competitors out of the market place. So you want to make sure that you don't over compensate with respect to the subsidy to give them the flexibility to be able to drive competitors out of the market. By the same token, you have to have an objective standard, so that if competitors were able to win some of the services that are being provided by the incumbent, that they know what it is that would be available to them with respect to compensation. Currently, we have the situation that is not a very level playing field. If you're a competitor, you get \$36.88 on an annual basis, if you're an incumbent, you get what has been described as much more than that. That would not be a comparable situation.
- Alldritt: Is there competition today in Kansas, is there true competition across the state for local service?
- Hendrix: Well most of the loss of service we've seen in the Southwestern Bell area relates to re-sale so Southwestern Bell is still the underlying provider with respect to most of that service.
- Alldritt: So no matter who comes in to compete with Bell, Bell still gets a percentage of that operation?

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

Hendrix: That's correct.

Alldritt: So where's the competition. If any competitor comes in and has to use the Bell system to be in business, and they're paying Bell a fee, a charge or whatever, where's the competition?

Hendrix: I think that's a good question. I think that there probably is some competitive threat to the incumbents on the horizon with respect to what the cable companies are offering in terms of their data transmission rates with respect of Internet. You see Multimedia and some of the other cable companies offering this service to cable subscribers. At the same time in the major metropolitan areas has proposed a DSL service that would be able to compete with cable companies. So there would be an avenue where there's some competition. With respect to wireless, if we reach a level where there is G3 technology, which probably is anticipated in the early part of the next century, wireless could be very competitive with respect to the land line system. There is also a good deal of competition with respect to the large corporate customers where you can have direct access providers and a number of other people provide service for those people. This is an emerging competition, it hasn't, it's not full fledged with respect to residential service, small business service there is the competition there'd be for the large companies.

Alldritt: What steps or actions are necessary to really provide true competition in telecommunications in this state, to really give people a choice? Where an entity can come in and compete on a level playing field with Bell or Sprint or any other telecommunications company?

Hendrix: Well, it's our argument and it was the argument that we made before the Supreme Court, we believe that rates and subsidies and those sorts of things need to be based on cost and that's what occurs if you have a fully competitive environment.

Alldritt: Is there any evidence that those fees, charges or expenses that competitors or long distance providers have to pay to Bell? Are there any records of those charges and fees being cost based?

Hendrix: Well, there's some arbitration agreements that have been negotiated between would-be competitors and Bell that would have a number of prices that are included within them and we have just completed a cost docket where the unbundled elements have been priced and, hopefully, once that order is in effect and all the appeals are associated with it, it would provide a basis upon which competitors obtain various components of the Bell network.

Alldritt: And that would take how many years?

Hendrix: Well, you probably saw correspondence, or saw newspaper articles related to Birch, where they wish the process would be expedited. I would hope that it would be somewhat soon.

Alldritt: Somewhat soon meaning?

Hendrix: Next year.

Alldritt: Rep. Loyd asked a question, I don't know when it was, I don't even know what day this is, yesterday. And he was, I think the heart of his question was, has the KUSF and has the, and now we're understanding that a fraction of the money goes to the high cost areas, most of the KUSF deals with revenue neutrality, and I'm just wondering about enhancements and service enhancements that, in rural Kansas, in the small towns and the farm and ranch country that I represent, are those people being offered those services? Are people of rural Kansas, is there any benefit at all for them by paying into the KUSF?

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

Hendrix: The design of the Federal Act was to make those services ubiquitous, comparable. But I think the testimony Mr. McKenzie said they're going to PSL in the more profitable, metropolitan markets. I think that there's a concern because there isn't enough regulatory oversight to incent some of the companies to provide service in the rural areas, where it isn't quite as lucrative as it is in the urban areas.

Alldritt: Is there any incentive in TeleKansas I or II or the '96 Act to provide incentive?  
(END OF TAPE)

Hendrix: .....service in those rural areas.

Alldritt: Let me ask you again, of what benefit to rural Kansans has the KUSF been? Has there base rate been increased, they're still paying \$30 for Internet service.

Hendrix: I think the company has testified that they've made capitol improvements and enhancements to some areas of rural communities, whether it's at the pace that you would like to see, whether it's keeping pace with the technological development then, you could probably criticize the KUSF and the 1996 Act for not creating the incentives to provide advance services in rural areas and the state of Kansas that we're in right now, dealing with those issues, it seems to me that that is a fundamental issue and a fundamental concern for people who live in rural areas.

Alldritt: Well, there's the rub, you've got 400,000 customers in Sedgwick County and you've got 400,000 customers that live west of Highway 81 and if you can make investments in technology and enhancements and you can place them in one county and serve 400,000 people, why in the world would you go out in the western half of the state and make any service available to anybody. I mean, there's just no way to make money on it.

Hendrix: But you can look at independent telephone companies that basically receive a good deal of federal universal service and local universal service and most of their networks are state of the art. The problem then, with the large systems, they don't receive the same sort of contribution and there is a reluctance on their part based on the revenue pressure that they're under to be able to appease all kind of people to provide those services to the rural area because they don't think they're going to get in the urban areas. And so, where you have a company that's split between rural and urban and they're only introducing these products in the urban areas, there is some question as to whether it's going to be available in those rural areas served by major companies.

Rep. Dahl: Thank you, Mr. Chairman. Mr. McKenzie please. Earlier in your testimony you, I heard correctly, if I was paying close enough attention, did you say that you were, that Southwestern Bell was attempting to work out a deal, a fair compromise or something with the KCC on this issue?

McKenzie: The Commission chair has told me that he likes to settle dockets. He likes for the parties to come together and reach agreement and we've attempted to do that and the KCC Staff member that we wanted to sit down and negotiate with us told us he wanted to conclude this audit before he'd be willing to negotiate with us.

Dahl: Okay, did they give you an idea when this audit would be completed?

McKenzie: You heard Mr. Dittmore speculate on when that could be. I think he said October at the earliest and who knows, years from now, at the latest. No he said a year from now, excuse me.



CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

Dahl: So they don't want to sit down with you and work out a deal, it's going to be a least a year from now, when you, as a corporation can iron out a compromise with KCC, is that right?

McKenzie: If that compromise is to include the KCC Staff, but we have not given up yet.

Rep. Kuether: Thank you Mr. Chairman. I just wanted to make a clarification of something that was that we voted down a resolution to interfere with another decision with another corporation in this state. And I would just like to state that feel very strongly that this bill is sort of going down the same line that resolution was, that it's giving direction to something that's already in the works, trying to be worked out in an open docket and I really feel that this bill is not necessary at this time and allow the parties to work out their differences. And I, probably say with Laura, Rep. McClure, that this probably will go to court an they will be back. So I think we need to let the system do it's work and let them come back and work out and present what the next move is. And I just think that this is too early for this.

Rep. Toelkes: Thank you Mr. Chairman. The statement that they have made that you have done nothing to enhance any customers in the western part of the state, in the rural areas. Do have any comments on that.

McKenzie: I think that the TeleKansas programs of most of the '90's had disproportionate benefit to the rural areas, far greater benefit to the rural areas of Kansas than to the metropolitan areas. In fact, I have metropolitan areas that have yet to receive the latest in technology and switching. In fact, our main office here in Topeka doesn't have as good as a central office as Liberal, Kansas does, for example. So I think there has been a disproportionate benefit in the investment Southwestern Bell has made since 1990 in Kansas to the rural areas and right now, with the exception, I noted when Rep. Loyd was asking about five to ten miles from the central office. For those customers, not everything that's possible can be offered to them right now. But, I can't think of any other service that's available in a metropolitan area that would not also be available in a rural area, in Southwestern Bell service territory. So we have made a significant investment in rural Kansas.

Holmes: Just a follow up on that, referring back to Ward's question yesterday, did you find any information on my question?

McKenzie: Yes I did.

Holmes: And just to follow up with what was said. We do have ISDN in Liberal, but I believe the cost is probably what it is in Wichita. Isn't that a fair statement?

McKenzie: I think that's fair enough. (Attachment 1) You had specifically asked about the local calling scope with ISDN, if Rep. Loyd had ISDN in his law office in Garden City, would someone else, and he had no other plain old telephone service, would someone in Garden City be able to call him in a local call and none of us could answer that question yesterday. We did our homework and we found out, someone in Wichita could call him and it would a local call, but someone in Garden City could not, it would be a toll call for someone in Garden City. Because Garden City would be served out of our ISDN switch out of Wichita and would have a Wichita local number, so Rep. Loyd's law office, he would have the same calling scope as someone in Wichita.

Holmes: So anybody in Garden City that wanted to contact him would have to have a long distance charge.

McKenzie: If all he had was that ISDN service in his law office, that would be the case.

Holmes: That's the way I understood it. Ward, do you have further questions as a result of this?

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m on March 16, 1999.

Rep. Loyd: I probably have a number of questions but I'm not sure that they pertain to this bill.

Holmes: But that was my understanding, the switch is in Wichita and anybody outside of Wichita in the 316 area code that had ISDN, it'd be a long distance call unless you called in Wichita, Kansas to that person.

McKenzie: Of course there's nothing that would keep them from also having plain old telephone service in their office in addition to ISDN. But if all they had was ISDN, they were outside the call scope of Wichita, that would be the case as you described.

Holmes: But one of the selling points of ISDN is it opens up more than one telephone line, in case you want to send signals simultaneously, I believe.

McKenzie: The integration of voice and data.

Holmes: Thank you for this information.

Alldritt: Thank you, Mr. Chairman. Mr. McKenzie, yesterday we talked briefly about your high cost, your cost to provide the high cost line. You said \$60 to \$80 and I guess we kind of settled in there on \$70. Can you kind of give me a breakdown of that \$70, what's included in that \$70, that's your cost of providing a high cost line? Do you know, roughly, what that is?

McKenzie: The different elements of it?

Alldritt: Right, the different elements, how do we get the \$70?

McKenzie: You'd have the loop inside someone's home, you'd have the network interface on their home or business and that loop would go from their home or business, their premise, to our central office, then you'd have the cost of that central office, the cost of maintaining the loop, the cost of maintaining the central office and all the different pieces you can imagine it would take to service that account.

Alldritt: So that's physical structure?

McKenzie: And the administration it takes to support it?

Alldritt: And the administration, what about the services, are there services in that \$70 figure?

McKenzie: What I was referring specifically to was plain old telephone service, not as if there were anything added to it.

Alldritt: Plain old telephone service is \$70, that's no enhancements, so I can pick up the phone and answer and I call and dial and that's pretty much, and I understand the physical structure of the network and the wires and the administration, but it's about \$70?

McKenzie: Yes

Alldritt: So there aren't any other, caller ID or any of those other enhanced services are not figured in this cost?

McKenzie: I was trying to address just universal service and in a \$60 to \$80 range, the difference in cost of adding call waiting or speed calling or any of those types of services to a line are relative low by comparison, so I think that still within that \$60 to \$80 range it's a safe number.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

Alldritt: Okay, now would this be, typically would this be a rural telephone customer, for this \$70 charge, or \$70 cost?

McKenzie: The bulk of them yes, we do have some high cost lines within metropolitan areas, just because the distance a customer is from the a central office, but primarily we're talking about rural line.

Alldritt: What would the low cost number for your company just to provide basic service, if \$70's the high, what's the low?

McKenzie: In the most dense metropolitan area in Wichita, or Johnson County, I'd say around \$20.

Alldritt: So there's a range there, \$20 for the low and \$70 for the high. I guess, you know, my understanding, I mean I went through all the telecom stuff, and my understanding, that the intention of the Legislature, some of us, maybe all of us, was to bring that \$70 figure down closer to the \$20. Was that your understanding, how you read the TeleKansas? I mean, was the KUSF basically set up, the legislative intent of that bill, this is what the people at home think, the reason they're paying is to balance rates, between low cost and high cost. In any way do you believe that was the intent of the legislature, the '96 Act?

McKenzie: I'm not sure I understand, let me try to answer, but I'm not sure I understand your question, so I may miss the mark here. From Southwestern Bell's participation in KUSF, we thought the KUSF was designed just to prevent an initial shock of the rates jumping to the \$4.50. So that as access charges were brought down immediately, we could get that initial immediate savings in bringing access charges down, but then we could, at \$1.50 a year ratchet local rates up so that the end user customer wouldn't see that \$4.50 increase in the first year, they would have the transition to that \$4.50 increase.

Alldritt: So the purpose of the KUSF is to basically to re-balance rates?

McKenzie: From my perspective, yes. Now independent telephone companies may have a different perspective that may get closer to what it sounded like you're saying.

Alldritt: But you said, your company, the Telecom Act the purpose was basically to just re-balance rates and the revenue neutrality issue is very important, decline (sic) . Is that correct?

McKenzie: Yes

Rep. Vining: The other day I thought you got the like the \$2 from the universal service fund, instead of the \$4.50. Are you saying you got the universal service fund and you were able to jack it up?

McKenzie: Okay, we're talking about two different amounts of money here, the \$2 that you're talking about is I think you're probably thinking about the assessment that we charge our customers in order to pay into the KUSF.

Vining: .....being able to raise it. My question is, did you get the universal service fund's 10% on the bill and did you get to raise it?

McKenzie: No we did not.

Vining: Okay, that was my question.

McKenzie: The KCC took all of our access charges and put them in the KUSF so local rates did not go up.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 9:05 a.m. on March 16, 1999.

Vining: That's what I thought, I just got confused. Thank you.

Holmes: Seeing no further questions, I do have one question. You gave us information on ISDN, with the ADSL, are you also looking at just one switch per area code and it'd be the same type of rate charge for anybody outside where it's located.

McKenzie: It's a possibility, but to be competitive I think we're going to need to look at greater deployment of the technology. And we're still researching what type of system, how small can that system be and still support a profitable business plan. So if we, for example, wanted to go to Liberal, how much demand would there be, how many residences of Liberal would need to buy ADSL in order to make that a profitable business plan for us to deploy ADSL technology right in Liberal. And I've not gotten that number yet.

Holmes: Does the ADSL really also help the Internet transmission?

McKenzie: It is much better designed for Internet access than ISDN is.

Holmes: Basically what you're saying is there is a good possibility that Internet accessibility may be only available in Topeka, Kansas City and Wichita and everything else would have a line extension charge.

McKenzie: That's a possibility, I consider it a low probability, but that is still a possibility.

Holmes: Thank you. I appreciate everybody, all the conferees taking the time. This is a very difficult issue for the committee, I think for a lot of the committee members, it was new information to take into consideration. I feel we've had a good education the last five days. For the committee, I hope the committee members are all a little better educated on telecommunications than what they were last Wednesday. I do appreciate, again, all the conferees taking the time to answer the committee questions. I know some were kind of tough at times, but I think that all of you did an excellent job in trying to respond to the questions. I do appreciate that. We will close the hearings on **HB 2539**.

The Chair then announced there would be a hearing on **HCR 5033** and the committee would be working **SB 123**, **SB 86** and **HCR 5033** tomorrow. There will not be a meeting on Friday and the committee could possibly complete it's work on Wednesday.

Meeting adjourned at 10:31 a.m.

Next meeting is Wednesday, March 17.


# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 16, 1999

NAME	REPRESENTING
Shuly Allen	SWBT
Mike Murray	Sprint
Richard Harrison	Sprint
Sandy Braden	McMill, Gaches & Assoc.
Kim Kelley	LKIM
Cal Dickinson	AARP - KS. STATE LEG COMM.
Charles H. Freeman	AARP - KS. STATE LEG COMM.
Keeley Kuitala	City of Overland Park
Tom DAI	KCC
April Rodewald	SWBT
M CARBU	u
C Cleek	u
S. McKenzie	/
Ron Gacher	

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March, 16, 1999

NAME	REPRESENTING
	Inten-Dou Dahl
Ausen Mahner	Senate Leadership Office
WALKER HENDRIX	CURB
Nelson Krueger	LEL
Rob Hodges	KTIA
MIKE Moffet	SWBT
Mike Speck	<del>ATET</del>
MIKE LURA	CURB
Jerry Lammers	KCC
Glenda Cater	KCC
Dave Dittmore	KCC
Anne Wickliffe	KCC
Heinemann	"
Mike Scott	SWBT
Doug Lawrence	SWBT

**Kansas ISDN  
DigiLine<sup>®</sup> Service**

**Service Description**

DigiLine is an Integrated Services Digital Network (ISDN) based service that provides two 64 Kbps B channels and one 16 Kbps D channel. It provides access to and from the Public Switched Telephone Network and/or SWBT's Public Packet Switched Network, depending upon the configuration. Either voice or data calls may be transmitted over the B channels. The D channel sends a signal that connects and disconnects telephone calls, and may also be configured to send packet-switched data transmissions. When purchasing DigiLine service, the customer pays for a Basic Rate Interface (BRI), a usage package, and link extension, if applicable, and optional features are available.

**Link Extension**

Link extension is applicable when the customer is not located in an exchange with DigiLine equipped central offices. For example, DigiLine service for Garden City is provided through link extension to the DigiLine serving office in Wichita.

**Calling Scope**

The local calling scope for a DigiLine customer is determined by the local calling scope of the DigiLine serving office.

**Rate and Calling Scope Example - Wichita**

Basic Rate Interface	<u>Monthly Rate</u>	<u>Installation Charge</u>
Month-to-Month	\$ 44.50	\$ 250.00
12 Month Term	\$ 44.50	\$ 125.00
24 Month Term	\$ 44.50	-

Usage Package	<u>Monthly Rate</u>	<u>Usage Rate Per Minute</u>
Flat Rate/unlimited local calling	\$ 34.50	-
Package A/600 minute allowance	-	\$ .04 after allowance
Package B/7200 minute allowance	\$ 18.00	\$ .02 after allowance

A customer in Wichita subscribing to DigiLine has the same local calling scope as a Wichita POTS customer.

**Rate and Calling Scope Example - Garden City**

Basic Rate Interface	<u>Monthly Rate</u>	<u>Installation Charge</u>
Month-to-Month	\$ 44.50	\$ 250.00
12 Month Term	\$ 44.50	\$ 125.00
24 Month Term	\$ 44.50	-

Usage Package	<u>Monthly Rate</u>	<u>Usage Rate Per Minute</u>
Flat Rate/unlimited local calling	\$ 34.50	-
Package A/600 minute allowance	-	\$ .04 after allowance
Package B/7200 minute allowance	\$ 18.00	\$ .02 after allowance

Link Extension	\$ 66.00	
----------------	----------	--

A customer in Garden City subscribing to DigiLine has the same local calling scope as a Wichita POTS customer since Wichita is the DigiLine serving office for Garden City.

*HOUSE UTILITIES*

DATE: 3-16-99

ATTACHMENT 1