

Approved: January 26, 1999  
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on January 22, 1999 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Jerry Donaldson, Legislative Research Department  
Lynne Holt, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Betty Bomar, Committee Secretary

Conferees appearing before the committee:

Walker Hendrix, Consumer Counsel, Citizens' Utility Ratepayer Board  
Rob Hodges, President, Kansas Telecommunications Industry Association  
Teresa Colvin, Cellular One/CMT Partners  
Michael Byington, Director, Envision Governmental affairs

Others attending: See attached list

Upon motion by Senator Donovan, seconded by Senator Brownlee, the Minutes of the January 21, 1999 meeting were unanimously approved.

A public hearing was commenced on the following:

**SB 84 - Telecommunications Act; declaration of purpose**  
**SB 85 - Telecommunications; enhanced universal service definition**  
**SB 86 - Definition of enhanced universal service**

The Chair explained that **SB 84** contains changes in the Statement of Purpose found in subsection (b) and subsection (d); **SB 85** amendments are found on Page 2, lines 40 and 41, and on Page 3, lines 13 and 14, striking the words ~~ISDN, or its technological equivalent~~ from the definition of "enhanced universal service"; and in **SB 86** the changes are on Pages 2 and 3, and Pages 4 and 5, which strike the definition of "enhanced universal service" in its entirety.

Walker Hendrix, Consumer Counsel, Citizens' Utility Ratepayer Board, complimented the Working Group and Staff on the work it had done in preparing its Report. Mr. Hendrix stated he is against striking "at reduced rates" in **SB 84**; in favor of moving away from the principle of "revenue neutrality" to a "cost-based" universal service funding mechanism; and in favor of the proposed changes in **SB 85 and SB 86** amending the definition of "enhanced universal service". (Attachment 1)

Mr. Walker stated that in some parts of the country, where there is competition, the cost of telecommunication services are going down and the availability of services are expanding. In these areas, packages of telecommunications services are bundled with cable, with internet and other types of products, and provided at very affordable rates as compared to Kansas rates. The deletion of the language "at reduced rates" is in contradiction to what many legislators voted in the State Act, as it was their concept that the Act would allow for competition and provide for reduced rates. Competition has not been achieved and other provisions in the bill have resulted in not having reduced rates. The Working Committee made the recommendation to move away from revenue neutrality which is not included in these pieces of legislation. Revenue neutrality is forcing the KUSF to increase. The assessment for KUSF is going to go up again in March 1999, at which time the assessment will be 8.45% and the charges will go from \$1.99 to \$2.26.

Mr. Walker stated the "revenue neutrality" concept contained in the Telecommunications Act was a mistake. If this is deleted the KCC Commission would have greater flexibility. Kansas is not getting the highest advanced telecommunication services, nor getting them at the lowest possible rate, due

CONTINUATION SHEET

MINUTES OF THE SENATE COMMERCE COMMITTEE, Room 123-S Statehouse, at 8:00 a.m. on January 22, 1999.

primarily, to the lack of competition. Kansans should have internet access at discounted rates. Deletion of the "enhanced universal service" definition is a good step toward ensuring maximum flexibility which is needed at this time of rapid advancement in technology.

Rob Hodges, President of the Kansas Telecommunications Industry Association (KTIA), appeared on KTIA's behalf, as well as on behalf of members of the State Independent Telephone Association (SITA). Mr. Hodges stated SITA is not opposing the three telecommunications bills, but they do have a concern, or a question, about the intent of a bill that proposes to significantly change the statutory definition of "enhanced universal service". The change as is proposed in SB 86 affects the investments made by local service providers who made such investments in good faith, and further gives the authority to the KCC to determine what is "enhanced universal service". Mr. Hodges advised that companies vary in the degree that deployment of the technologies included in the current enhanced universal service definition have been completed; but completion of the upgrades are expected to be completed this Spring by all companies with the exception of ISDN and broadband capabilities. Mr. Hodges stated the companies are concerned that, with the proposed change in the statutory language, it could be construed that recovery for investments made under the original definition could be denied. (Attachment 2)

Teresa Colvin, Cellular One/CMT Partners, appeared in support of the three telecommunication bills, specifically **SB 85** and **SB 86**. Ms. Colvin stated it is impossible to statutorily codify evolving technology.

Michael Byington, Director, Envision Governmental Affairs Office, testified to Envision's opposition to the proposed changes in the definition of enhanced universal services. Mr. Byington advocated providing a plain English definition of enhanced universal services, rather than a technical definition, because of the rapid change in technology. Mr. Byington stated he fears that by deleting the definition of enhanced universal service, there would be a cut in the size of the universal service fund. (Attachment 3)

As a representative of persons who are blind, visually impaired, and multiply disabled blind, Mr. Byington stated the definition must include access not only to the necessary lines, but to end user equipment needed to convert text to speech, as well as speech to text, over telephone lines. Currently, the Kansas Telecommunications Access Program (TAP), funded through the KUSF, includes provision for end user equipment for the conversion of voice to text to make basic voice communications available to persons who are deaf, but do not include the conversion of text transmitted over telecommunications lines back to speech. As enhanced services become more and more a part of the competitive work place, people who are blind will be left behind if this particular enhanced service is not universally available to them. As of 1990, 74% of all working age people who are blind or legally blind are unemployed. This figure will only worsen if universal access is not insured for the very enhanced service which can directly lower the unemployment statistic. TAP or other distribution means must be used to insure that the same access which is available with regard to speech to text conversion is also available to people with visual disabilities in order to access the enhanced service of text to speech.

The public hearing and further discussion will be continued on Tuesday, January 26, 1999.

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for January 26, 1999.

# SENATE COMMERCE COMMITTEE GUEST LIST

DATE: January 22, 1999

NAME	REPRESENTING
Robert Trauzle	KGC
Uma Colvin	QMT Partners
Michael Byington	Envision.
Jay Allbaugh	Multimedia Cablesion
John Federico	KS Cable Telecom Assn
Ron Caches <del>_____</del>	McGill, Caches & Asso
Paul Snider	SWBT
Mike Moffer	SWBell
Tom Gleason	Independent Telecom Group
Denny Koch	SW Bell
John Pingar	SITA
John Peterson	KS Governmental Consulting
STEVE KEANEY	KINI L.C.
DAVID FURNAS	KS PRESS
Heinemann	Kec
Jerry Lammers	"
Anne Wickliffe	KCC
Doug Smith	SITA



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

GOVERNOR  
CHAIRMAN  
MEMBER  
MEMBER  
MEMBER  
MEMBER  
CONSUMER COUNSEL

# Citizens' Utility Ratepayer Board

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## TESTIMONY OF THE CITIZENS' UTILITY RATEPAYER BOARD BEFORE THE SENATE COMMERCE COMMITTEE

By Walker Hendrix  
January 22, 1999

I want to thank the Working Committee for the Task Force on the Kansas Universal Service Fund for their patience and perseverance in completing a project which was a difficult job. The debate over the issues seemed almost endless and the guidance of Chair Salisbury made the completion of the report possible. A special thanks is also deserved for Guy McDonald and Lynn Holt, who spent tireless hours in assisting the Committee in its work.

I have prepared supplemental comments to the report, which are attached at the end of the report. As you know, I have not supported the 1996 Kansas Telecommunication Act, because few benefits have been made available to consumers. Although the report makes many sound recommendations, I have a few comments on the recommendations and the proposed legislation.

In the face of the comments made by Dr. Victor S. Frost, Phd. and the downward trend in the cost of providing telecommunication services, I take a special exception to the elimination of the language in the existing law which emphasizes the benefits of competition and increased services at "reduced rates". At both the federal and the state level as a result of technological developments, it is anticipated that a broader range of services will be available at reduced rates. The reduction of rates is certainly the correct goal, and, no doubt the impetus for many legislators voting for the State Act. Even though the incumbent local exchange companies put language in the bill which does not reduce rates, I think it is somewhat cynical at this point in time to undermine the goal of reduced rates. Therefore, I recommend that you not remove the "reduced rates" language in the hope that some of the other recommendations of the Working Committee will allow for the realization of "reduced rates".

With the growth in telecommunications services and revenues, the State Act made a mistake in determining that a reduction in access charges should have been done in a revenue neutral manner. The Working Committee overwhelmingly determined that the pressure on the KUSF was created by the revenue neutral language. The Committee also recommended that the revenue neutral language be eliminated from the State Act. Consequently, I am somewhat concerned by the omission of this recommendation from the proposed legislation.

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Attachment # 1-1 thru 1-3



By removing the revenue neutral language, the Commission would have a wider range of options to use in the regulation of telecommunications until such time as competition can take hold. It is fairly obvious that the state has lagged in the implementation of advanced telecommunications services. Without competition, Kansas is falling further behind other parts of the country where competition has made available higher transmission rates and an array of telecommunication options at very attractive prices. To stimulate the introduction of advanced technology, the Commission should have expanded authority. I would propose removing the revenue neutral language in the State Act. I would also encourage the Committee to have the Commission move ahead with the process of determining the cost of universal service in Kansas. We have done everything possible to move the Commission forward in making its cost determinations. After three years of our advocacy, its time to move forward.

As you may know, the Commission Staff has recently recommended another increase in the KUSF assessment to 8.45% or \$2.26 for SWBT. Because we already have the highest state universal service fund in the nation, I encourage you to extend the cap beyond the year 2000. With the largest fund in the country, I believe we have a more than adequately funded KUSF. By extending the cap and removing the reference to revenue neutrality, the rates of consumers will go down, the fund will decrease and we can turn our attention the need for competition.

Finally, I would add an additional condition for internet access. I believe that every Kansan should have available discounted rates for internet access, if there is no qualitative internet provider who provides a service at a rate which is reasonable as compared to other providers in the state. If a local provider is excessively pricing the service, consumers should have a toll option at discounted rates.

With these comments, I would like to thank the Committee for their attention.

## ATTACHMENT IX

These comments are from Walker Hendrix, Consumer Counsel, Citizens' Utility Ratepayer Board, December 18, 1998

### COMMENTS

The Kansas Universal Service Fund Working Committee ("Committee") tackled many difficult issues. They made many recommendations that CURB fully endorses. For instance, they recommend that the Legislature create a framework to move away from the principle of revenue neutrality specified in K.S.A. 66-2008(a), to a cost-based universal service funding mechanism. The Committee also recommends the Legislature consider other revenue sources for funding universal service in addition to the present use of surcharges on ratepayers' utility bills. They also recommend a review of the definition and timing for implementation of enhanced universal service. These recommended changes, depending on how or if they are actually implemented, can result in a stronger, better defined, State Telecommunications Act.

The Committee also made recommendations CURB does not feel are in the best interests of Kansas consumers. For instance, the Committee recommends that K.S.A. 66-2001(b) eliminate the phrase "at reduced rates." They also recommend that the cap on the KUSF assessment be reviewed. These changes, again depending on how or if they are implemented, can reduce the current State Act's focus on lower rates. In fact, based on these recommendations, it appears a combination of higher rates and higher surcharges could result.

However, the biggest concern to CURB are the many issues that were never adequately addressed by the Committee. And the biggest of these are the tremendous changes occurring in the telecommunications infrastructure. It has been widely reported that the present day telephone network based on circuit switched technology will be largely obsolete within a five to ten year timeframe, replaced by a network based on packet switching. The magnitude of this change cannot be overstated. It is estimated that nationwide upwards of \$100 billion of existing network switches and facilities will have to be written off. Present day electronic switches will be replaced with routers and ATM switches; transport facilities will be replaced with SONET rings and frame relay networks.

Why is this happening? Because the fundamental use of the telecommunications network has changed. The original telephone network was designed to carry voice traffic. When data applications emerged, they were forced to be compatible with the voice network, but voice traffic remained the dominant traffic on the network. However, with the growth in data networks, FAX traffic, E-mail systems, and the World Wide Web, it is now estimated that the majority of the traffic on the network is data. The network that exists today is a voice network that has been modified to be capable of carrying data. What is needed is a network that can just as easily transport voice or data traffic. That network is beginning to be developed but does not exist today.

The impact on Kansas must be recognized and planned for now. The current State Act does not provide any authority for the Kansas Corporation Commission to require companies to start upgrading their networks. Instead the State Act allows companies to continue to fully earn on their embedded investments and provides extra recovery when companies begin to provide for the networks of the future. Kansas consumers are left with paying for outdated equipment and being required to pay extra when companies do normal upgrades. The Commission must be allowed to examine telecommunications companies' infrastructure plans and reward only those who keep Kansas consumers on the forefront of technology. It should be no surprise that SBC has already implemented xDSL capability in California, but not in Kansas. They have also

**Testimony before the Senate Committee on Commerce**

Friday, January 22, 1999

Rob Hodges

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Madam Chairwoman, members of the committee, I am Rob Hodges, President of the Kansas Telecommunications Industry Association (KTIA). I appear today on behalf of a coalition of local telephone service providers – members of the KTIA as well as members of the State Independent Telephone Association (SITA).

These providers of local telephone service have worked quickly since yesterday's meeting of this committee to review, understand, and draft a response to the bills being considered this morning. My presentation this morning cannot truly be characterized as comprehensive due to the brief amount of time available to review the bills and the large number of local service providers who need to be informed about the contents of the bills.

The input I bring today is not opposition to the bills being presented, but rather a concern or a question about this committee's intent in the bill that proposes to significantly change the statutory definition of "enhanced universal service."

That section of the bill would remove the specificity in the definition and leave to the Kansas Corporation Commission the determination of what is enhanced universal service. The companies I appear today to represent pose this question: If the definition is changed, what will be the affect on investments made by local service providers in good faith while the more specific definition was in place?

I'm told by telephone companies that, with the exception of deployment of ISDN and broadband capabilities, most of the other technologies included in the current enhanced universal service definition have already been deployed.

I must qualify that statement by saying that the extent to which the deployment has been made varies from company to company. Some companies are finished with the upgrades, while others have just started or may be just ready to start with the upcoming construction season.

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Attachment # *2-1 thru 2-2*

For those companies which have made investments, please remember that they were faced with what they thought was a compliance deadline in the '96 act. That original deadline was extended last year, but for many companies the construction project was scheduled or already underway.

Now, those companies are concerned that, with a change in the statutory language, it could be construed recovery for investments made under the original definition of enhanced universal service could be denied. That would leave companies in an economically untenable position.

While the companies do not send to you today specific language for amendment to address their concerns, they are willing to work to craft such language. Today, we merely ask that you receive our concerns and, please, include discussion of these concerns in your deliberations on these bills.

Thank you for your time this morning. I will attempt to answer your questions.



Choices & resources for people who are blind or low vision



**Envision**<sup>SM</sup>

**PLEASE REPLY TO: Michael Byington, Director**  
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January 21, 1999

TO THE SENATE COMMERCE COMMITTEE

ON THE SUBJECT OF TELECOMMUNICATIONS BILLS

This testimony concerns the three yet un-numbered bills dealing with telecommunications issues, and specifically with telecommunications public policy and enhanced universal services.

The top of this testimony says my name is "Michael," but in this instance, I feel more akin to "Mikey" on the LIFE cereal commercial, the one who hates everything. I do not like the existing definition of enhanced universal services. I do not like the proposed changes in the one bill or the elimination of the definition in the other. I am not sure that leaving the definition to the Kansas Corporation Commission solves anything. Granted, updated equipment and new technology will continue to develop, and if the law is made too specific, the Legislature will be shepherding technical changes into perpetuity. At the same time, it is in my view, the obligation of the Kansas Legislature to give the Kansas Corporation Commission

801 East Senate Commerce Committee

Tel 316 Date: 1-22-99

Web h Attachment # 3-1 thru 3-3

guidance by providing at least a plain English definition of enhanced universal services that tells what they are in a little more specific terms than something akin to "a little more and a little better than universal services.

Also, I get the impression that the gutting of the definition of enhanced universal services is a prelude to consideration of massive cuts in the size of the universal services fund. This is a backward approach. Lets figure out once and for all what we are really talking about with enhanced universal services, codify it in law, and then right-size the fund and the relevant assessments accordingly.

As a representative of people who are blind, visually impaired, and multiply disabled blind, my main contribution can be to provide you with a piece of the definition of enhanced universal services which will need to be there when all is said and done.

The definition must include access not only to the necessary lines, but to the end user equipment needed to easily convert text to speech as well as speech to text over telephone lines.

Currently, the Kansas Telecommunications Access Program, funded through the Universal Services fund, includes the provision of end user equipment to accommodate people with disabilities in obtaining basic telephone access -ie- voice communications, or the conversion of voice to text to make basic voice communications available to persons who are deaf or deafblind.

For people who are blind or low vision, however, to remain competitive in the workplace, and for that matter, to remain competitively employed at all, available technology, including end user technology, has to also include the conversion of text transmitted over telecommunications lines back to speech.

As enhanced services become more and more a part of the competitive work place, people who are blind will be left decades behind if this particular

enhanced service is not universally available to them. They must be able to get the same information off of a computer screen, off of the internet, as their sighted counterparts. The capability of doing so through speech access to text transmitted over telephone lines exists. It is in fact, old technology compared to many of the things in the definition of enhanced universal services contained in current law. It is also, however, out of the financial reach of many blind and low vision consumers who could use the technology to improve their station in life, their earnings, and accordingly the amount of taxes they pay.

We know from data generated during the last census that 74% of all working age people who are blind or legally blind are unemployed. This figure will only worsen if universal access is not insured for the very enhanced service which can directly lower the unemployment statistics. The Telecommunications Access Program or other distribution means must be used to insure that the same access which is currently available with regard to speech to text conversion, including end user equipment, also becomes available to people with disabilities in order to access the enhanced service of text to speech.

Thank you for your consideration of this concern. Thank you for listening.