

Approved: January 27, 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 26, 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:

Rob Hodges, President, Kansas Telecommunications Industry Association  
Charles H. Cleek, Executive Director, Regulatory Matters for Southwestern  
Bell Telephone Company  
Anne Wickliffe, Chief Telecommunications Analyst, Kansas Corporation  
Commission

Others attending:

The public hearing and public comments continued on:

**SB 84 - Telecommunications Act; declaration of purpose**

**SB 85 - Telecommunications; enhanced universal service definition**

**SB 86 - Definition of enhanced universal service**

Lynne Holt, Legislative Research Department, in response to a request from Senator Barone, submitted a Memorandum listing all companies who are eligible to receive federal universal service support. (Attachment 1) Ms. Holt stated the same list of companies are eligible to receive support from the Kansas Universal Service Fund (KUSF) with the exception of Southwestern Bell Telephone (SWBT) of Kansas, who does not receive any high cost support from the federal fund but is eligible to receive funding from the KUSF to serve "high cost areas". Ms. Holt stated the federal universal service funding formula consists of high cost loop support, local switching (DEM weighting) support and long term support. SWBT is too big a company to qualify for DEM weighting and their loop costs are, on an average, less than the 115 percent threshold which triggers the high cost loop support.

Rob Hodges, President, Kansas Telecommunications Industry Association (KTIA), submitted written testimony from the rural independent telephone companies which states their concerns about provisions in **SB 85 and SB 86** which: 1) significantly change the definition of "Enhanced Universal Service"; 2) fail to include the Working Committee's recommendation to request the KCC to expedite its review of the definitions of "basic universal service" and "enhanced universal service", and to identify the appropriate date of deployment of additional services, and the cost of any modifications; 3) Give the KCC greater discretion in identifying services required to be provided to Kansas telecommunications customers. (Attachment 2)

Mr. Hodges also submitted on behalf of local telephone service providers and the State Independent Telephone Association (SITA), proposed language to amend KSA 66-2008(e) to address a concern about reimbursement to companies who have invested in deployment of enhanced universal services: *A local exchange carrier shall continue to be eligible for recovery from the KUSF of investments for deployment and maintenance of facilities reasonable and necessary for provisions of any service defined as universal service of enhanced universal service at the time of such deployment* (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMERCE COMMITTEE, Room 123-S of the Statehouse, at 8:00 a.m. on January 26, 1999.

Senator Ranson asked Mr. Hodges if he has a definitive list of the companies who have actually made investments to date. Mr. Hodges, stated he did not have a definitive list, but may be able to generate such a list. Other than the ISDN deployment, most of the other technology included in the definition of enhanced universal service has been deployed. Not everywhere, but most of it. The deployment of full fiber interconnectivity between central office; SS7; and CLASS service capability have been virtually completed by all companies. The investments were made to meet the deadline established in the 1996 Act which has been extended to July 1, 2003. The recovery of those costs were to be recoverable through the KUSF. . Senator Ranson questioned the number of years it takes to pay off the initial investment and if payment goes on forever, particularly when the words "maintenance of facilities" are included in the proposed amendment.

Charles H. Cleek, Executive Director, Regulatory Matters for Southwestern Bell Telephone Company, appeared in response to a request of the Committee to discuss Attachments III and IV of the Report of the Kansas Universal Service Fund Working Committee. Mr. Cleek stated Attachment III was prepared by the KCC staff. The three columns labeled Fund Amount, Relative Size Fund/Lines and the Assessment percent is an accurate reflection of the status of funds in other states.

SWBT prepared Attachment IV, as it believed an incomplete conclusion could be reached by not considering other factors, primarily the cost of providing the local access line and the rates being charged for that line. In Attachment IV, SWBT has tried to show what the Revised Fund/Line would be in other states if they lowered their monthly local rates to the Kansas rate and recovered the difference through their respective Universal Services Funds. (Attachment 4)

Senator Barone asked Mr. Cleek if it were possible to provide the Committee with information as to the average total revenue per line in other states. Mr. Cleek stated they would call the other states and attempt to get that information.

Anne Wickliffe, Chief Telecommunications Analyst for the KCC, stated the KCC staff favors the flexible proposed language in **SB 84** to ensure that conditions exist for consumers to realize the benefits of competition through increased services and improved telecommunications; and establishing a public policy of foster[ing] conditions for continuous innovation in information networking and telecommunications.

Ms. Wickliffe stated the KCC has the statutory authority to review and revise the definitions of universal service and enhanced universal service periodically, taking into account technological advances. The Working Committee recommended that the KCC undertake a review of these definitions and provide a report of its findings and recommendation to the Legislature no later than February 15, 1999. The Working Committee later proposed the revisions set out in **SB 85**. (Attachment 5)

Ms. Wickliffe, in response to a question from the Chair, stated there was nothing to preclude the KCC from considering an application for the conversion of text to speech in its definition under the TAP Program, other than it being economically feasible.

The Committee inquired of KCC staff if there were any legislative impediments to the KCC receiving information they needed in order to make their decisions regarding the KUSF. Mr. David Dittmore stated there were not. The KCC has had disputes with some providers about its statutory authority; however, those disputes are the result of fundamental disagreements as to the KCC's authority.

The Chair informed the Committee additional testimony on telecommunication legislation will be deferred until after February 15, 1999, at which time the KCC is to submit its findings to the Committee.

Senator Brownlee distributed a letter she addressed to KCC Chairman John Wine, to comment on the Kansas statutory definitions of universal service and enhanced universal service.. (Attachment 6)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMERCE COMMITTEE, Room 123-S of the Statehouse, at 8:00 a.m. on January 26, 1999.

Upon motion by Senator Gooch, seconded by Senator Jordan, the Minutes of the January 22, 1999 meeting were unanimously approved.

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for January 27, 1999.

# SENATE COMMERCE COMMITTEE GUEST LIST

DATE: January 26, 1999

NAME	REPRESENTING
Mike Reecht	AT&T
Anne Wickliffe	KCC
Guy McDonald	KCC
Jerry Summers	KCC
Dale Dithmore	KCC
Stacey Farmer	KASB.
David L. Furnas	Ks Press
Walker Hendrix	CARB
Nelson Krueger	LEL
Paul Snider	SWBT
Mike Moffet	SWBell
Denny Koch	SW Bell
Les Depperschmidt	SW BELL
Roger Bales	KCPK
Mal Caplinger	SITA
John D. Pingar	SITA
Mike Murray	Sprint
Dusan Bechard	<del>XXXX</del> Kearney law Office
Susan Dura	Issues Management Group





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January 22, 1999

**To:** Senate Committee on Commerce  
**From:** Lynne Holt, Principal Analyst  
**Re:** Eligible Companies for Universal Service Support

At the meeting on January 21, 1999, Senator Barone asked for a list of all the companies that are eligible to receive universal service support. Attached is a list of the companies that may receive federal universal service support to serve high-cost areas. The same list of companies are also eligible to receive support from the Kansas Universal Service Fund. The only exception is Southwestern Bell of Kansas, which does not receive any high cost support from the federal fund but is eligible to receive funding from the Kansas Universal Service Fund to serve "high cost areas."

To receive support from both the federal and state funds, a company must be designated as an eligible telecommunications carrier pursuant to Section 214(e) of the Federal Telecommunications Act of 1996. Section 214(e) requires an eligible telecommunications carrier to offer the services supported by federal universal service support mechanisms either by using a combination of its own facilities or a combination of its own facilities and resale of another carrier's facilities (including the services offered by another eligible telecommunications carrier); and advertise the availability of such services and the charges therefor using media of general distribution.

The federal universal service funding formula currently consists of high cost loop support, local switching (DEM weighting) support and long term support. These components are explained in the *Report of the Kansas Universal Service Fund Working Committee to the 1999 Kansas Legislature* on pp. 34-35. Several Kansas telephone companies, such as Council Grove and Wamego, only receive support for the local switching or DEM weighting and long-term components of the federal fund. Their loop or wire costs are too low (less than or up to 115 percent of the national average) for them to qualify for the high cost loop support. Southwestern Bell-Kansas' loop costs also are on average less than the 115 percent threshold triggering high cost loop support. Moreover, Southwestern Bell is too big a company to qualify for DEM weighting which is provided to small companies with fewer than 50,000 access lines.

To receive funding from the Federal Universal Service Fund for the Lifeline Program, a company must be designated as an eligible telecommunications carrier. This designation is not required, however, for companies seeking reimbursement from the Kansas Universal Service Fund.

Finally, Western Wireless and Sprint PCS have applied for designation as eligible telecommunications carriers.

Enclosure  
LH/mkl  
#26312.01(1/25/99{12:22PM})

Senate Commerce Committee

Date: 1-26-99

Attachment # 1-1 thru 1-3

**KANSAS CORPORATION COMMISSION**  
**KUSF Net Payable to Companies**  
*(as of June 1, 1998)\**

Telecommunications Company	Gross Annual KUSF Support	Annual Assessment	Net Payable to Company	Estimated Supported Lines****	Gross Annual Support per Access Line	Monthly Support per Access Line
Bluestem	\$ 169,317	\$ 17,191	\$ 152,126	# 905	\$ 187.19	\$ 15.60
Blue Valley**	468,889	29,434	439,455	2,506	\$ 187.14	\$ 15.59
Cass County	31,433	6,508	24,925	282	\$ 111.58	\$ 9.30
Columbus**	67,999	-	67,999	2,135	\$ 31.85	\$ 2.65
Council Grove**	-	-	-	-	-	-
CrawKan	295,743	219,351	76,392	11,757	\$ 25.16	\$ 2.10
Cunningham	533,448	24,906	508,542	1,336	\$ 399.41	\$ 33.28
Elkhart	-	26,547	(26,547)	-	-	-
Golden Belt	883,514	104,177	779,337	5,625	\$ 157.07	\$ 13.09
Gorham	36,567	1,152	35,415	311	\$ 117.77	\$ 9.81
H & B Comm**	522,616	-	522,616	860	\$ 608.05	\$ 50.67
Haviland**	368,749	-	368,749	3,661	\$ 100.72	\$ 8.39
Home**	515,264	22,105	493,159	1,668	\$ 308.97	\$ 25.75
JBN	509,790	39,288	470,502	2,458	\$ 207.41	\$ 17.28
KanOkla**	643,230	35,411	607,819	2,097	\$ 306.74	\$ 25.56
LaHarpe**	31,184	4,004	27,180	353	\$ 88.39	\$ 7.37
Madison	269,088	13,198	255,890	738	\$ 364.62	\$ 30.38
MoKan Dial**	-	21,356	(21,356)	-	-	-
Moundridge	431,449	44,212	387,237	2,352	\$ 183.46	\$ 15.29
Mutual	23,693	7,648	16,045	422	\$ 56.13	\$ 4.68
Peoples Mutual	122,157	21,827	100,330	1,329	\$ 91.90	\$ 7.66
Pioneer**	629,490	-	629,490	13,891	\$ 45.32	\$ 3.78
Rainbow	135,562	31,082	104,480	1,732	\$ 78.29	\$ 6.52
Rural**	3,661,706	182,549	3,479,157	9,861	\$ 371.32	\$ 30.94
S & A**	548,409	11,032	537,377	792	\$ 692.44	\$ 57.70
S & T**	1,003,145	23,124	980,021	1,392	\$ 720.49	\$ 60.04
S & T of Dighton**	400,060	17,424	382,636	1,077	\$ 371.35	\$ 30.95
South Central**	342,089	-	342,089	927	\$ 369.03	\$ 30.75
So Cent of Kiowa	172,653	13,198	159,455	689	\$ 250.44	\$ 20.87
Southern KS**	-	29,272	(29,272)	-	-	-
SW Bell***	65,042,907	29,486,982	35,555,925	215,000	\$ 302.53	\$ 25.21
Sunflower**	1,257,238	9,072	1,248,166	3,893	\$ 322.99	\$ 26.92
Totah**	273,067	20,743	252,324	1,193	\$ 228.81	\$ 19.07
Tri-County	233,953	35,350	198,603	3,038	\$ 77.00	\$ 6.42
Twin Valley	701,928	39,407	662,521	2,087	\$ 336.32	\$ 28.03
United Telephone Assn**	201,435	-	201,435	5,059	\$ 39.82	\$ 3.32
United of KS***	14,235,296	2,209,135	12,026,161	101,966	\$ 139.61	\$ 11.63
Wamego	-	78,509	(78,509)	-	-	-
Wheat State	671,600	36,750	634,850	2,006	\$ 334.78	\$ 27.90
Wilson	833,350	37,122	796,228	1,983	\$ 420.31	\$ 35.03
Zenda	81,923	3,722	78,201	208	\$ 394.05	\$ 32.84
<b>Totals</b>	<b>\$ 96,349,941</b>	<b>\$ 32,902,788</b>	<b>\$ 63,447,153</b>	<b>407,587</b>	<b>\$ 236.39</b>	<b>\$ 19.70</b>

\*These amounts are based on support calculations as of June 1, 1998. The support payable and assessment amounts are subject to change as companies report changes in their number of access lines.

\*\*These companies signed the ILEC Stipulation and have experienced local service rate increases as part of the movement to the state-wide average. Due to the local service increase, the company's customers are assessed less than \$1.41 per access line. The combined assessment for all companies that signed the ILEC Stipulation covers the complete assessment amount for the ILECs.

\*\*\*SW Bell's & United of KS' assessments are for local service only. The assessment reported does not include assessments for long distance and private line services.

\*\*\*\*Estimated line count is 90% of the 1997 annual report data (10% removed as estimate for multiline business).

United of KS count removes exchanges over 10,000 access lines and excludes one company United of SE, which does not receive KUSF.

SWBT is sum of exchanges in each rate group for exchanges under 10,000.

UNIVERSAL SERVICE FUNDING  
High Cost Fund Support by Study Area  
Third Quarter 1998

State	SAC	Study Area Name	Type	High Cost Loop Fund		Long Term Support		Local Switching Support			Total High Cost Fund Support	
				USF Loops	Monthly	LTS	Monthly	LSS	Monthly	ETC	Monthly	Quarterly
KANSAS	411317	UNITED OF EASTERN KS	C	55,255	\$894,867	N	\$0	N	\$0	Y	\$894,867	\$2,684,601
KANSAS	411746	BLUE VALLEY TEL CO	C	2,755	\$47,126	Y	\$11,501	Y	\$50,041	Y	\$108,668	\$328,004
KANSAS	411756	COLUMBUS TELEPHONE	A	2,398	\$0	Y	\$4,003	Y	\$15,656	Y	\$19,659	\$58,977
KANSAS	411758	COUNCIL GROVE TEL CO	A	2,073	\$0	Y	\$4,463	Y	\$10,662	Y	\$15,125	\$45,375
KANSAS	411781	CUNNINGHAM TEL CO	C	1,508	\$23,600	Y	\$10,199	Y	\$16,320	Y	\$50,119	\$150,357
KANSAS	411784	ELKHART TEL CO INC	C	1,581	\$6,104	Y	\$6,520	X	\$40,854	Y	\$53,478	\$160,434
KANSAS	411777	GOLDEN BELT TEL ASSN	C	3,724	\$19,459	Y	\$19,010	Y	\$44,789	Y	\$83,238	\$249,714
KANSAS	411778	GORHAM TEL CO	A	341	\$3,308	Y	\$2,265	Y	\$3,358	Y	\$8,951	\$26,853
KANSAS	411780	HAVLAND TEL CO	A	3,964	\$14,986	Y	\$15,095	Y	\$30,341	Y	\$60,422	\$181,268
KANSAS	411781	H & B COMMUNICATIONS	C	1,080	\$13,446	Y	\$12,259	Y	\$11,397	Y	\$37,102	\$111,308
KANSAS	411782	HOME TEL CO	C	1,879	\$23,430	Y	\$15,153	Y	\$31,160	Y	\$69,743	\$209,229
KANSAS	411785	J. B. N. TEL CO INC	C	2,800	\$98,682	Y	\$33,828	Y	\$16,389	Y	\$148,897	\$446,691
KANSAS	411788	KANOKLA TEL ASSN-KS	C	2,388	\$26,137	Y	\$26,202	Y	\$34,675	Y	\$87,014	\$261,042
KANSAS	411791	LA HARPE TEL CO INC	A	402	\$892	Y	\$1,488	Y	\$2,465	Y	\$4,875	\$14,625
KANSAS	411801	MADISON TEL CO INC	C	797	\$17,402	Y	\$6,302	Y	\$7,958	Y	\$33,662	\$100,986
KANSAS	411807	MOKAN DIAL INC-KS	C	2,816	\$51,577	Y	\$15,660	X	\$42,857	Y	\$110,094	\$330,282
KANSAS	411808	MOUNDRIDGE TEL CO	C	2,668	\$38,366	Y	\$16,124	Y	\$26,186	Y	\$80,676	\$242,028
KANSAS	411809	MUTUAL TEL CO	C	468	\$2,910	Y	\$932	Y	\$5,375	Y	\$9,217	\$27,651
KANSAS	411814	PEOPLES MUTUAL TEL	C	1,434	\$38,335	Y	\$12,390	Y	\$9,388	Y	\$60,113	\$180,339
KANSAS	411817	PIONEER TEL ASSN INC	C	15,345	\$181,635	Y	\$79,977	Y	\$88,229	Y	\$349,841	\$1,049,523
KANSAS	411818	CRAW-KAN TEL COOP	C	13,566	\$0	Y	\$3,191	Y	\$61,898	Y	\$85,089	\$255,267
KANSAS	411820	RAINBOW TEL COOP	A	1,898	\$12,660	Y	\$8,455	Y	\$15,075	Y	\$36,190	\$108,570
KANSAS	411826	RURAL TEL SERVICE CO	C	8,372	\$251,838	Y	\$179,572	Y	\$88,483	Y	\$519,893	\$1,559,679
KANSAS	411827	S & T TEL COOP ASSN	C	1,938	\$150,523	Y	\$56,019	Y	\$43,907	Y	\$250,449	\$751,347
KANSAS	411829	S & A TEL CO INC	C	883	\$43,617	Y	\$13,714	Y	\$10,011	Y	\$67,342	\$202,026
KANSAS	411831	S. CENTRAL TEL - KS	C	1,884	\$93,202	Y	\$35,592	X	\$8,624	Y	\$137,418	\$412,254
KANSAS	411833	SOUTHERN KANSAS TEL	C	4,595	\$90,340	Y	\$26,852	X	\$69,117	Y	\$186,109	\$558,327
KANSAS	411835	SUNFLOWER TEL CO	C	4,950	\$107,199	Y	\$26,230	Y	\$49,645	Y	\$183,074	\$549,222
KANSAS	411839	TRI-COUNTY TEL ASSN	A	3,372	\$19,733	Y	\$17,326	Y	\$23,284	Y	\$60,343	\$181,029
KANSAS	411840	TWIN VALLEY TEL INC	C	2,345	\$19,388	Y	\$7,855	Y	\$28,879	Y	\$55,922	\$167,766
KANSAS	411841	UNITED TEL ASSN	C	5,598	\$72,283	Y	\$30,047	Y	\$42,811	Y	\$144,941	\$434,823
KANSAS	411842	UTC OF KANSAS	C	75,003	\$580,212	N	\$0	N	\$0	Y	\$580,212	\$1,740,636
KANSAS	411845	WAMEGO TEL CO INC	A	4,813	\$0	Y	\$10,957	Y	\$24,374	Y	\$35,331	\$105,993
KANSAS	411847	WHEAT STATE TEL, INC	C	2,237	\$24,910	Y	\$18,440	Y	\$29,357	Y	\$72,707	\$218,121
KANSAS	411849	WILSON TEL CO INC	C	2,235	\$33,042	Y	\$18,697	Y	\$23,336	Y	\$75,075	\$225,225
KANSAS	411852	ZENDA TEL COMPANY	C	227	\$4,219	Y	\$2,667	Y	\$6,646	Y	\$13,532	\$40,596
KANSAS	411957	UTC-MO DBA UTC-SE KS	C	6,122	\$0	N	\$0	X	\$39,812	Y	\$39,812	\$119,436
KANSAS	412030	TOTAH TELEPHONE CO	C	1,395	\$35,289	Y	\$15,746	Y	\$25,866	Y	\$77,001	\$231,003
KANSAS	415214	SOUTHWESTERN BELL-KS	C	1,276,266	\$0	N	\$0	N	\$0	Y	\$0	\$0
<b>KANSAS Total</b>					<b>\$3,040,717</b>		<b>\$766,349</b>		<b>\$1,099,135</b>		<b>\$4,906,201</b>	<b>\$14,718,603</b>

*Annualized*

*36M*

*9M*

*13M*

*58,874,412*

*59M*

*Loop + DEM weighting \$49M*

To: Members, Kansas Senate Committee on Commerce  
From: Rural Telephone Company State Affairs Committee  
Date: January 26, 1999

On Friday, January 22, 1999, Kansas rural independent telephone companies participated in testimony raising a question about the Committee's intent in the bills that propose to significantly change the statutory definition of "Enhanced Universal Service." We appreciate the reception you gave our input at that time.

One area of concern that we feel needs further examination by the Senate Commerce Committee is that neither SB 85 nor SB 86 addresses what seemed a strong consensus of the KUSF Working Committee. During that group's deliberations, there was broad consensus that those services contained in "Enhanced Universal Service," other than basic and primary rate ISDN, could be moved into the definition of basic universal service or "universal service" in K.S.A. 66-1,187.

The KUSF Working Committee recommendations included a request of the Kansas Corporation Commission to expedite its review of the definitions of "basic universal service" and "enhanced universal service," and to identify the appropriate date of deployment of additional services, and the cost implications of any modifications.

Kansas independent telephone companies are concerned that SB 86 would adopt only half of the KUSF working committee's recommendation (making the deletions from the enhanced universal service definition) without completing the KUSF committee's intent for the additions to the definition of universal service. Further, we are concerned that SB 85 does not address this proposal at all.

Independent local telephone companies also must express their concern with the proposal to give greater discretion to the KCC in identifying those services required to be provided to Kansas telecommunications customers.

In a recent submission of comments on the definitions of universal and enhanced universal service, the KCC's staff made recommendations we find difficult to reconcile with the stated goal of avoiding greater demand on the KUSF. Staff indicated a preference to restrict support for advanced services and deletion of "equal access to long distance services" from the definition of *basic* universal service. Deleting that service requirement adopted in the Kansas Act would aid wireless carriers' eligibility to receive KUSF support. Such eligibility, if granted, either would increase dramatically the size of the KUSF, force an increase in rural companies' local rates, or impose both such results.

The Legislature has enacted a list of those minimum services which all customers should expect and which are eligible for support from the KUSF. Efforts to reduce the level of services already universally deployed and required are difficult to square with the public interest, as is any enactment facilitating such efforts.

Senate Commerce Committee

Date: 1-26-99

Attachment # 2



**Senate Committee on Commerce**

Tuesday, January 26, 1999

Rob Hodges

700 SW Jackson St., Suite 704

Topeka, Kansas 66603-3758

785-234-0307

Madam Chairwoman, members of the committee, I am Rob Hodges, President of the Kansas Telecommunications Industry Association (KTIA). I submit the attached language 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). This proposal is made in response to a request from the Committee to provide language to address the concerns I raised during last week's hearing.

According to the local telephone service providers with which I have been in contact, the best place to address our concerns is in K.S.A. 66-2008 (e). You will find our proposal for an amendment to that statute on page 2, lines 8 through 11, of the attachment.

Thank you for your attention to the concerns we have raised and for your consideration of the attached language.

Senate Commerce Committee

Date 1-26-99

Attachment # 3-1 thru 3-3

2

1 **K.S.A 66-2008. Kansas universal service fund; funding; authorized expenditures;**  
2 **supplemental funding.** On or before January 1, 1997, the commission shall establish the  
3 Kansas universal service fund, hereinafter referred to as the KUSF.  
4 (a) The initial amount of the KUSF shall be comprised of local exchange carrier revenues  
5 lost as a result of rate rebalancing pursuant to subsection (c) of K.S.A. 1998 Supp. 66-2005  
6 and amendments thereto and subsection (a) of K.S.A. 1998 Supp. 66-2007 and amendments  
7 thereto. Such revenues shall be recovered on a revenue neutral basis. The revenue neutral  
8 calculation shall be based on the volumes and revenues for the 12 months prior to  
9 September 30, 1996, adjusted for any rate changes.  
10 (b) The commission shall require every telecommunications carrier, telecommunications  
11 public utility and wireless telecommunications service provider that provides intrastate  
12 telecommunications services to contribute to the KUSF on an equitable and  
13 nondiscriminatory basis. Any telecommunications carrier, telecommunications public  
14 utility or wireless telecommunications service provider which contributes to the KUSF may  
15 collect from customers an amount equal to such carrier's, utility's or provider's contribution,  
16 except that before January 1, 2000, no such carrier, provider or utility shall collect from  
17 customers an amount in excess of 8.89% of its intrastate retail revenues as provided in  
18 commission docket no. 190-492-U but such carrier, provider or utility may collect a lesser  
19 amount from its customer.  
20 Prior to January 1, 2000, with respect to wireless telecommunications service providers, an  
21 equitable and nondiscriminatory rate shall be an amount equal to the rate of contributions  
22 of wireline telecommunications service providers, as determined by the commission,  
23 reduced by the percentage minutes of usage initiated and terminated entirely over the  
24 wireless network as determined by the commission. The commission shall establish such  
25 rate for wireless telecommunications service providers no later than December 31, 1998.  
26 Any contributions in excess of distributions collected in any reporting year shall be applied  
27 to reduce the estimated contribution that would otherwise be necessary for the following  
28 year.  
29 (c) Pursuant to the federal act, distributions from the KUSF shall be made in a  
30 competitively neutral manner to qualified telecommunications public utilities,  
31 telecommunications carriers and wireless telecommunications providers, that are deemed  
32 eligible both under subsection (e)(1) of section 214 of the federal act and by the commission.  
33 (d) The commission shall periodically review the KUSF to determine if the costs of qualified  
34 telecommunications public utilities, telecommunications carriers and wireless  
35 telecommunications service providers to provide local service justify modification of the  
36 KUSF. If the commission determines that any changes are needed, the commission shall  
37 modify the KUSF accordingly.  
38 (e) Any qualified telecommunications carrier, telecommunications public utility or wireless  
39 telecommunications service provider may request supplemental funding from the KUSF  
40 based upon a percentage increase in access lines over the 12-month period prior to the  
41 request. The supplemental funding shall be incurred for the purpose of providing services to  
42 and within the service area of the qualified telecommunications carrier,  
43 telecommunications public utility or wireless telecommunications service provider.  
44 Supplemental funding from the KUSF shall be used for infrastructure expenditures  
45 necessary to serve additional customers within the service area of such qualifying utility,  
46 provider or carrier. All affected parties shall be allowed to review and verify a request of  
47 such a qualified utility, carrier or provider for supplemental funding from the KUSF, and to  
48 intervene in any commission proceeding regarding such request. The commission shall

1 issue an order on the request within 120 days of filing. Additional funding also may be  
2 requested for: The recovery of shortfalls due to additional rebalancing of rates to continue  
3 maintenance of parity with interstate access rates; shortfalls due to changes to access  
4 revenue requirements resulting from changes in federal rules; additional investment  
5 required to provide universal service and enhanced universal service, deployed subject to  
6 subsection (a) of K.S.A. 66-2005, and amendments thereto; and for infrastructure  
7 expenditures in response to facility or service requirements established by any legislative,  
8 regulatory or judicial authority. A local exchange carrier shall continue to be eligible for  
9 recovery from the KUSF of investments for deployment and maintenance of facilities  
10 reasonable and necessary for provisions of any service defined as universal service or  
11 enhanced universal service at the time of such deployment. Such requests shall be subject to  
12 simplified filing procedures and the expedited review procedures, as outlined in the  
13 stipulation attached to the order of November 19, 1990 in docket no. 127,140-U (Phase IV).  
14 (f) Additional supplemental funding from the KUSF, other than as provided in subsection  
15 (e) of this section, may be authorized at the discretion of the commission. However, the  
16 commission may require approval of such funding to be based upon a general rate case  
17 filing. With respect to any request for additional supplemental funding from the KUSF, the  
18 commission shall act expeditiously, but shall not be subject to the 120 day deadline set forth  
19 in subsection (e).

Testimony before the Senate Committee on Commerce  
Tuesday, January 26, 1999  
Charles H. Cleek  
220 E. 6<sup>th</sup>, Room 500  
Topeka, Ks. 66603

Madam Chairwoman, members of the committee, I am Charlie Cleek, Executive Director – Regulatory Matters for Southwestern Bell Telephone Company (SWBT). I am appearing here today at the request of the Committee to discuss Attachments III and IV of the Report of the Kansas Universal Service Fund Working Committee to the 1999 Kansas Legislature.

Attachment III, was prepared by the KCC staff for the KUSF Working Committee. In looking at this attachment the three columns that immediately draw attention are those labeled Fund Amount, Relative Size Fund/Lines and the Assessment percent. SWBT is not taking issue with the staff's numbers on Attachment III. To the best of our knowledge they accurately reflect the status of funds in other states.

SWBT prepared Attachment IV because we believe that by looking at the staff's attachment in isolation, accurate or incomplete conclusions can be reached. In determining the correct size of a Universal Service Fund other factors must be taken into consideration. The two most critical factors are the cost of providing the local access line and the rates being charged for that line. In Attachment IV, SWBT has tried to show what the Revised Fund/Line would be in other states if they lowered their monthly local rates to the Kansas rate and recovered the difference through their respective Universal Service Funds.

For example, let's look at Wyoming. It is my understanding that earlier testimony before this committee suggested that the cost of providing phone service in Wyoming is one of the highest in the nation. Yet, their Universal Service Fund is only \$6.5 million compared to the Kansas fund at \$100 million. However, the average residential rate in Wyoming is \$24 a month compared to \$10 a month in Kansas. If the average rate for Wyoming were to be lowered to Kansas' levels with the remaining to be recovered through their fund, then the fund would increase from \$6.5 million to \$52 million. This revised Wyoming fund would generate \$192 per access line compared to the Kansas fund of \$66 per access line.

Many seem to attribute the size of the KUSF to the "revenue neutrality" provision of the Kansas act. But the fact that Kansas has a higher fund compared to other states cannot be blamed on "revenue neutrality". The differences in fund sizes are linked to other factors including the rates customers pay for local service. Wyoming has apparently adopted an approach that has traded higher average residential rates for a lower universal service fund. The KCC, on the other hand, has implemented a fund that has placed the emphasis on lower residential rates.

I hope this has clarified the purpose for Attachment IV. I will attempt to answer any questions that you might have.

Senate Commerce Committee

Date: 1-26-99

Attachment # 4, then 4-3

**ATTACHMENT III**

**Comparison of State Universal Service Funds and Access Rates—Prepared by the KCC Staff for the KUSF Working Committee  
October 16, 1998**

State	Time Period	Fund Amount	Relative Size Fund/Lines	Assessment	Based on	High Cost	RBOC In Fund	Access Rates	Services Covered
Kansas	Mar 1998-Feb 1999	\$100 M	\$66	7.33%	State Retail Revenue	Y	Y	Reduction: RBOC 060 to 025 ILECs 101 to 071 Sprint 081 to 046 Overall 50% reduction	Revenue Neutral Access Reduction Lifeline Credits, TRS, TAP
Colorado	July 1998-June 1999	\$3 M		0.20%	State Retail Revenue	Y	N	RBOC Orig 047, Term 067 rates will reduce to estimated	Rural LECs, revenue neutral access reduction
	Begin July 1999	\$60 M (est)	\$24	4.20%	State Retail Revenue	Y	Y	RBOC Orig 024, Term 034 About a 50% reduction	All LECs, including U S West, Revenue Neutral Access Reductions
Wyoming	July 1998-Jun 1999	\$6.5 M	\$24	6.00%	State Retail Revenue	Y	Y	RBOC 048 currently, may reduce to 0075 to 021 range	Companies with local rates that exceed 130% of state-wide average receive support
Oklahoma	Feb 1998-Jun 1999	\$24 M	\$13	0.456%	State Retail Revenue	Y	possible		Recovery of revenues lost as result of Fed/State Mandated Actions Provision of basic service Internet access to schools, libraries, hospitals, & local government Lifeline Credits Reimbursement for E-911 and Technology Training Funds
Nebraska	Planning Stage	\$45 M (est)	\$47	4.00% (proposed)	Retail End User Bill			Plan to reduce access rates so toll rates avg \$ 08/min	Companies file cost studies to support need for universal service
Arkansas	Sept 1998-Aug 1999	\$7.0 M	\$5	1.00%	State Retail Revenue	Y	N		All LECs, except SWBT & GTE, allowed revenue neutral recovery of revenues lost as a result of Fed/State mandated actions(CCL, Toll Pool Elimination, Interstate Access, Intrastate Access, Fed USF) Basic Service
Wisconsin	Started May 1996	\$6.2 M	\$2			2 cos	not now	RBOC Orig 0137, Term 008 plus fixed transport charges Mirror interstate w/o CCL Major reductions in 90 & 93	Lifeline, voicemail for homeless, special equipment needs High rate assistance Discounts for schools, libraries, & hospitals Telecom services at 4 universities
Missouri	Planning Stage							Present Rates: RBOC Orig 0262, term 0343 ILEC range from 032 to 134	
Texas	Starting Jan 99				State & Interstate Retail Revenues				

**Wyoming Bill Example:**

Monthly Local Service	\$45.00
Universal Service Support	\$20.00
Net after Support	\$25.00



**ATTACHMENT IV**

**COMPARISON OF SELECT WESTERN STATE RATES AND UNIVERSAL SERVICE FUNDS**  
**Source: Southwestern Bell Telephone Company—Kansas**

State	Current Fund Amount (in millions)	Fund/Line	Average Resident Rate	Additional Fund Needed at Kansas Local Res. Rate (in millions)	Total Estimated Fund at Kansas Local Res. Avg. Rate (in millions)	Revised Fund/Line
KANSAS	\$100.0	\$66	\$10.00@	\$0.00	\$100.00	\$66
Colorado	60.0	24	15.08	152.40	212.40	85
Wyoming	6.5	24	24.03	45.60	52.10	192
Nebraska	45.0	47	16.35*	72.96	117.96	123

@ Provided by KCC staff during 10/16/98 KUSF Working Committee Meeting.  
 \* Average USWest and Alltel Residence Rate (IBRA).

4-3

**Before the Senate Commerce Committee**  
**Comments by the**  
**Staff of the Kansas Corporation Commission**  
**January 26, 1999**  
**Senate Bills 84, 85, and 86**

Good morning, Madame Chair and Committee members. I am Anne Wickliffe, Chief Telecommunications Analyst for the Kansas Corporation Commission (KCC). I am speaking on behalf of the Staff of the Kansas Corporation Commission in regard to SB 84, 85, and 86.

**Senate Bill 84**

Senate Bill 84 was proposed by the Kansas Universal Service Working Committee (hereinafter Working Committee).<sup>1</sup> KCC Staff supports the more flexible proposed language of 66-2001 (b) that states the public policy to the state to be to ensure that *conditions exist* for consumers throughout the state to realize the benefits of competition through increased services and improved telecommunications facilities and infrastructure. For the same reason, to promote greater flexibility, Staff supports the addition of subparagraph (d) setting out a public policy of *foster[ing] conditions for continuous innovation in information networking and telecommunications*.

**Senate Bill 85 and Senate Bill 86**

Both Senate Bill 85 and 86 propose changes in the definition of enhanced universal service found at 66-1,187 (q). The KCC has the statutory authority to review and revise the definitions of universal service and enhanced universal service periodically, taking into account technological advances. K.S.A. 66-2002(k). The Working Committee requested by letter dated September 9,

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<sup>1</sup>See Recommendations of the Kansas Universal Service Fund Working Committee to the 1999 Legislature, December 21, 1998, "Recommendations".

Senate Comm Senate Commerce Committee

Date: 1-26-99

Attachment # 5-1 thru 5-22

1998, that the KCC undertake a review of these definitions and provide a report of its findings and revision to the Senate Commerce Committee and House Utilities Committee no later than February 15, 1999. The Working Committee later proposed the revisions set out in SB 85<sup>2</sup> and again recommended that the KCC expedite its review and make a report no later than February 15, 1999.<sup>3</sup>

The KCC has been working to meet this February 15 target date. The KCC directed interested parties to file initial comments by October 30, 1998, and reply comments by November 25, 1998. In a supplemental order, the KCC directed local exchange carriers to provide the best estimates of the cost to deploy the services included in the definition of enhanced universal service, and of the estimated annual draw on the KUSF to recoup those costs.

Because the KCC was working with a target date of February 15, 1999, in mind, the Commission has not yet prepared its recommendation to this Committee. In order to assist the Commission in its review and preparation of a recommendation, the KCC Staff filed a Report and Recommendation on the Definitions of Universal Service and Enhanced Universal Service on January 25, 1999, in Docket No. 94-GIMT-478-GIT. Because this is the best information available to the Commission at this time I have attached a copy for your review as you consider Senate Bills 85 and 86.

The Staff's Report and Recommendation includes two attachments: Attachment A summarizes all the filed comments regarding the definitions of universal service and enhanced universal service; Attachment B summarizes the cost and recovery information submitted by the parties regarding the economic impact of funding enhanced services from the KUSF.

Thank you.

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<sup>2</sup>Ibid., Attachment II.

<sup>3</sup>Ibid., Recommendations

**BEFORE THE STATE CORPORATION COMMISSION**  
**OF THE STATE OF KANSAS**

**JAN 25 1999**

**In the Matter of a General Investigation )  
Into Competition Within the )  
Telecommunications Industry in the )  
State of Kansas )**

**Docket No. 190,492-U  
94-GIMT-478-GIT**

*David J. [Signature]*  
Docket Room

**STAFF'S REPORT AND RECOMMENDATION ON THE DEFINITIONS OF  
UNIVERSAL SERVICE AND ENHANCED UNIVERSAL SERVICE**

The Telecommunications Staff of the Kansas Corporation Commission (Commission) submits this Report and Recommendation regarding the definition of enhanced universal service.

1. The Commission must review and, if necessary, revise the statutory definitions pursuant to K.S.A. 1997 Supp 66-2002(k), taking into account advances in telecommunications technology and services.

2. In addition the Kansas Universal Service Fund Working Committee asked the Commission to expedite its review of the definitions of basic universal service and enhanced universal service and advise the Senate Commerce Committee and House Utilities Committee of its findings and revision by February 15, 1999. (*See* Report to the 1999 Kansas Legislature, December, 1998.)

3. The Commission issued an order on September 29, 1998, permitting interested parties to file comments on the definitions of universal service and enhanced universal service found at K.S.A. 1997 Supp 66-1,187 (p) and (q). Initial comments were filed on October 30, 1998, and reply comments on November 25, 1998. The purpose of the comments was to assist the Commission in fulfilling its statutory duty.

4. Staff has prepared a summary of the initial and reply comments submitted by interested parties which is included as Attachment A to this report and recommendation. Attachment A includes a summary of Staff's Reply Comments filed on November 25, 1998, containing Staff's

recommendations to the Commission regarding modification of the definitions of basic and enhanced universal service.

5. The Commission issued a supplemental order on November 17, 1998, directing the parties to provide the Commission with their best estimates of the cost to have the currently defined "enhanced universal services" made available in their service areas and their anticipated support requirements from the Kansas Universal Service Fund (KUSF) by December 4, 1998.

6. Some parties were unable to meet the December 4 deadline but all have now submitted the requested information. Staff has summarized the estimated cost and KUSF requirements information for the Commission's convenience which is included as Attachment B to this report and recommendation. Staff has provided two versions of the summarized information: Summary 1 makes use of all the cost data presented; Summary 2 makes use of all the cost data except that presented on behalf of the Columbus Group which consists of 12 local exchange carriers.

7. Council Grove, Tri-County Telephone, Gorham Telephone, LaHarpe Telephone, and all companies in the Columbus Group submitted the same costs and KUSF support requirements that were submitted in February, 1998, for the infrastructure cost study, Docket No. 98-GIMT-030-GIT. All other companies submitted fresh data.

8. Columbus Group stated in its response filed on January 4, 1999, that none of its member companies have any "differing or better" cost estimates for providing enhanced services than were available in February of 1998. Columbus Group further stated that:

The early 1998 estimates themselves were less than reliable, and it would be inappropriate and unreasonable to use those estimates (either as to any individual company or collectively) as a basis for establishment of telecommunications policy, or to aggregate or communicate such costs estimates without explicitly noting their extreme uncertainty and unreliability. Columbus member companies will endeavor to provide additional and more reliable information as it becomes available.



9. Because of Columbus Group's reservations about this data Staff is presenting the Commission with two summaries. However, Staff believes the Columbus Group data is in line with that submitted by other companies and, since it was used for the infrastructure cost analysis, it is acceptable for this project as well.

10. In addition, Staff has filed under seal two tables setting out the figures submitted by the individual companies. This type of data was originally submitted in 98-GIMT-030-GIT in February of 1998 as highly confidential as Staff believes the individual company data should continue to be treated as highly confidential.

Respectfully Submitted,

*Eva Powers*

Eva Powers # 09300  
1500 SW Arrowhead  
Topeka KS 66604  
(785) 271 3173  
Counsel for Staff

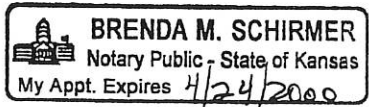
VERIFICATION


STATE OF KANSAS            )  
  ) ss:  
COUNTY OF SHAWNEE    )

L. Anne Wickliffe, being duly sworn upon her oath deposes and says that she is the chief telecommunications analyst of the Kansas Corporation Commission; that she is familiar with the foregoing Comments; and that the statements therein are true to the best of her knowledge, information and belief.

  
L. Anne Wickliffe

SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of January, 1999.



  
\_\_\_\_\_  
Notary Public

My Appointment Expires: 4/24/2000

**Summary of Comments: Definitions of Universal Service and Enhanced Universal Service:**

**A. Comments by State Senator Karen Brownlee, 23rd District**

1. Toll blocking should be added to the Kansas definition of universal service to make it closer to the federal definition.
2. The reference to ISDN service should be deleted from the definition of enhanced universal service as continuing to include it could double the draw on the KUSF.
3. The statutes should not specify particular technologies because the KUSF might have to reimburse companies for stranded costs when those become outdated. For instance, ISDN is no longer the latest technology for the delivery of advanced services.
4. The Kansas definition should be more open-ended as is the FCC's definition which includes the language "without regard to any transmission media or technology."
5. Subsidization by means of the KUSF is not resulting in increased competition.
6. The KCC should move to forward looking cost studies and make the KUSF a cost based fund.

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**B. Comments by AT&T**

**Basic Universal Service**

1. The FCC decided not to include equal access in its definition of universal service because that would require CMRS (commercial mobile radio service) providers to provide equal access contrary to 47 U.S.C. 332(c)(8). The Kansas definition should also be revised to eliminate the equal access requirement.
2. AT&T does not oppose including toll limitation in the definition of basic universal service, as long as the definition of toll limitation is not more broad than the FCC's definition, i.e. it should allow toll blocking or toll control. AT&T stated in Reply Comments that toll blocking is not required to be made available to all Lifeline customers but that the FCC permits either toll blocking or toll limitation to satisfy its definition of toll limitation.
3. The basic universal service definition should be modified to include the policy of KUSF high cost support for residential lines only.

4. AT&T proposes that the definition be modified to read as follows:

“Universal service” means telecommunications services and facilities which include: only residential lines with single party, two-way voice grade calling, stored program controlled switching with vertical service capability; E911 capability; tone dialing; access to operator services; access to directory assistance; access to interexchange services; and toll limitation services for qualifying low income consumers.

#### Enhanced Universal Service

5. AT&T stated that, because of the speed of technological change, specific identified services quickly become standard rather than advanced.

6. The definition of enhanced universal service should be modified to eliminate specific service requirements and mirror the FTA (Federal Telecommunications Act of 1996) definition of advanced telecommunications capability found at 47 U.S.C. 706(c)(1).

7. In Reply Comments AT&T agreed with Sprint and KCTA that the best option for deployment of enhanced universal services is to allow the market to dictate deployment. AT&T stated that these services are currently being deployed through private funding sources.

8. AT&T took issue in Reply Comments with Columbus and SIA’s proposal to retain everything presently in the definition of enhanced universal service to avoid creating telecommunications “haves and have-nots.” AT&T stated that inefficient, uneconomic, or obsolete specific technologies should not be imposed and funded by Kansas ratepayers in order to maintain consistency across all providers of service.

#### KUSF Funding Issues

9. AT&T argued that, if enhanced universal service becomes the standard, the costs to the KUSF will balloon. AT&T stated the KCC must consider the reasonableness of requiring enhanced services deployment and closely examine claims upon the fund.

10. Regardless of the definition used, there should be no deployment of advanced technologies without evaluation of the economic consequences on end users.



#### **C. Comments of the Independents -- Independent Telecommunications Group (Columbus) and the State Independent Alliance (SIA)**

1. The independents are concerned about the provisions for frequent review and possible modification of the services ILECS (incumbent local exchange companies) are required to provide, stating that:

- It is too hard for independents to adjust to these changes.
  - Some independents already have the capability to provide all components of universal service and enhanced universal service and those costs are already reflected in a rate component to customers and in KUSF support.
  - Changes in service requirements would deny customers in some companies' service areas access to comparable services and result in telecommunications "haves" and "have-nots."
  - The KCC is not the appropriate body to modify these definitions. It is the province of the legislature.
2. The KCC should recommend expanding the definition of universal service as follows:
- a. SS7, fiber connectivity, and broadband facilities to public entities should be transferred from the definition of enhanced to basic universal service because:
    - these facilities are already available in most of the state; and
    - adding these requirements to basic universal service would add little cost in relation to public benefit.
  - b. instead of "ISDN technology or its functional equivalent" the definition should refer more generally to capacity for high-speed data transmission
3. Rather than conform to FCC definitions now, the KCC should wait for the outcome of FCC investigation into the availability of advanced services.
4. The KCC should at least permit regulated rural companies to provide higher capacity service on an unregulated basis in order to increase the availability of some services.

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**D. Southwestern Bell Telephone Company's Comments**

Basic Universal Service Definition

1. The requirement of switching with vertical services capability is different from the federal definition, but consistent with Kansas legislative intent to provide access to "a first class telecommunications infrastructure that provides excellent services at an affordable price."
2. The definition of basic universal service should not be amended to include any additional services now. All the LECs (local exchange companies) now provide the listed services and there will be no additional draw on the KUSF above the December, 1996 level.



3. It is unnecessary to expand the definition to include toll limitation; toll limitation is not necessary to maintain universal service. Methods currently used by SWBT and other LECs to keep customers on the network are adequate. SWBT filed corrections to its comments on November 23, 1998, reflecting the fact that the FCC has modified its definition of toll limitation to permit either toll blocking or toll control. However, SWBT restated in Reply Comments its position that adding a reference to toll limitation is unnecessary.

4. SWBT argued in Reply Comments that the definition of universal service should not be changed to require "access to interexchange services" instead of the current "equal access to long distances services." Although states may not impose additional requirements on eligibility for federal universal service funding, states are permitted to make the requirements for state universal service funding more stringent than federal funding requirements. SWBT suggested that if the word "equal" were deleted a CLEC (competitive local exchange company) could satisfy the "access to long distance services" requirement merely by providing 1+ access to a single long distance carrier and argued that Kansas customers should continue to be assured of equal access to long distance services.

5. SWBT stated in Reply Comments that the specific service requirements for basic universal service, such as stored program controlled switching, should not be changed to match the federal definition without investigating whether the requirements are too costly, or not demanded by end users.

6. SWBT argued in Reply Comments that any change must be on a going-forward basis and not adversely affect companies that have already made investments in these services based upon the current statutory language. SWBT stated these companies could be at a competitive disadvantage if they were unable to obtain KUSF funding and were required to set rates high enough to recover the costs of providing these services to high cost areas of the state.

7. SWBT objected in Reply Comments to AT&T's proposal that the definition of universal service be modified to apply to residential lines only, stating that business services in high cost areas require support also.

8. SWBT agreed with CURB's proposal to add access to relay services to the definition of basic universal service since these services are already being funded by the KUSF.

#### Enhanced Universal Service Definition

9. The definition of CLASS services should be modified to exclude selective call acceptance. SW BT offered this service and there was such a low level of demand that it does not justify incurring the additional costs of making the service available (several million dollars for SWBT alone).

10. SWBT stated in Reply Comments that changing the definition of enhanced universal service will put at a competitive disadvantage the companies that have already filed infrastructure plans to comply with the current requirements. New entrants would not be held to the same standard. SWBT stated that it would not be opposed to changing the definition if some economic evaluation were done prior to deployment of facilities as suggested by AT&T.

11. SWBT objected in Reply Comments to KCTA's proposal to expand the definition of enhanced universal service to make broadband capabilities available to society as a whole. SWBT stated that the legislature found a need to support such services only for schools, hospitals, libraries, and government facilities and the definition should not be expanded without investigation.

12. SWBT objected in Reply Comments to KCTA's proposal that all providers of enhanced universal service be eligible for funding. SWBT argued that providers that do not meet all the criteria for eligible telecommunications carriers should not receive KUSF support.

#### Impact to the KUSF

13. Because the current support requirements are nearing the legislative cap, the definition of universal service should only be amended if it will not require additional demands on the KUSF.

14. SWBT pointed out in Reply Comments that deployment of advanced services need not be funded exclusively by the KUSF and encouraged the KCC to rebalance rates in order to reduce fund requirements and reduce the current burden on telecommunications providers.

15. SWBT argued in Reply Comments that, since KCTA asserts that the cable industry is positioning itself to be a major telecommunications provider in future, cable providers should be required to participate in funding the KUSF.

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#### **E. Kansas Cable Television Association's (KCTA) Comments**

1. KCTA supports the Committee recommendation to add language to the public policy statement in 66-2001 to reflect recognition of the State's role in fostering conditions for "continuous innovation and information networking and telecommunications."

2. KCTA supports the Committee recommendation to delete ISDN from the definition of enhanced universal service, and requests that the KCC review the definitions of basic and enhanced.

3. KCTA urges the legislature to adopt the federal definition of enhanced universal service found at 47 U.S.C. 706(c)(1) and argued that funding enhanced services would be premature at this time.

4. The federal definition of enhanced universal service, 47 U.S.C. 706(c)(1) should be adopted because:
  - the federal version applies to society as a whole, not just medical facilities, schools, and libraries;
  - the federal version relates better to the Committee's suggested addition to the public policy statement; and
  - the federal version makes it clear we want advanced capabilities without regard to any one form of technology.
  
5. Reference to ISDN should be deleted. ISDN is a particular transmission medium that probably will have limited application in the future. Kansas should not spend millions funding a technology that may have outlived its usefulness
  
6. The cable industry is positioning itself to be a major component of telecommunications in the future and is investing in cable infrastructure. Wireless and existing telecommunications carriers also working on advanced services. Advanced services will become available in smaller communities as well as urban areas.
  
7. Using the KUSF to fund enhanced service capabilities is premature because:
  - most of these services are not ready for implementation or KUSF funding is not necessary now;
  - these services are being developed competitively through private funding sources; and
  - the FCC determined that the enhanced services market was competitive.
  
8. KCTA proposed that all providers of enhanced universal service should be eligible for funding.

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**F. Citizen Utility Ratepayer Board (CURB) Comments**

Basic Universal Service

1. Both Texas and Oklahoma have chosen definitions very similar to the FCC definition for universal service. But neither of them includes "stored program controlled switching with vertical service capability" as in the Kansas act.
  
2. CURB recommends the following be incorporated in KS definition:
  - a focus on services that provide for direct health and safety of consumers (emergency services, operator services, relay);

- a competitively neutral approach:
  - a. the definition should not say “dial tone” because wireless carriers don’t provide dial tone;
  - b. the definition should not say “white pages listings” because wireless carriers don’t provide these listings;
  - c. rather than “touch-tone” CURB recommends “multi-frequency signaling” instead;
  - d. the phrase “stored . . . vertical service capability” should be deleted because it is not carrier or technology neutral
  
- 3. The Kansas definition should be consistent with the FCC’s definition and include toll limitation:
  - toll limitation is effective in increasing subscribership;
  - toll limitation is fully funded at the federal level and will make no draw on the KUSF.
  
- 4. The definition should result in affordable rates:
  - requiring the KUSF to fund advanced technologies is unreasonable ;
  - funding advanced technologies will increase the draw on the fund;
  - all customers should not have to fund technologies that many of them don’t want and won’t use;
  - advanced technologies are unrelated to universal service; and
  - a state of the art network is great but it should be funded by the customers who use the services;
  
- 5. CURB’s proposed definition of **universal service** =  
  
Universal service is defined as voice grade access to the public switched network, with the ability to place and receive calls; touch-tone or dual-tone multi-frequency signaling (DTMF) or its functional equivalent; single-party service; access to emergency services; access to operator services; access to interexchange services; access to directory assistance access to relay services for handicapped consumers; and the provision of toll blocking and limitation services for low income consumers.
  
- 6. CURB reiterated in Reply Comments its proposal that adoption of the federal definition of basic universal service would provide the most cost effective manner of delivering services that provide for the health and safety of Kansas consumers.

Enhanced Universal Service

- 7. CURB does not recommend inclusion of enhanced universal services in services supported by the KUSF because it does not meet the criteria of the Federal Act, such as “essential to public safety”, or “subscribed to by a majority of residential customers”.

8. The KCC shouldn't dictate technology by means of the definition as it is not competitively neutral
9. Competition and the marketplace should drive technological development; it should not be paid for by the general population.
10. Including advanced services in the definition of enhanced universal service because:
  - it would drive up the amount of the fund;
  - it is not necessary because SS7 signaling and fiber are already widely deployed; and
  - rapid changes in technology would require constant review.
11. CURB recommends that any specific definition of enhanced universal service developed be used as a benchmark for telecommunications companies and that funding for compliance with the benchmark not be included in the KUSF.

#### Cost Issues

12. The broader the definition of universal service, the higher the cost to consumers. In its Reply Comments CURB reiterated its position that imposing additional costs on Kansas consumers, without considering their ability to pay, does not further the goal of achieving universal service or comply with the Federal definition of universal service. CURB recommended that enhanced universal service requirements, funded from the KUSF, be stricken from the State Act.
13. Current state policies re: low income support, relay, support for rural and high cost areas, schools, libraries and health care providers should be continued.

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#### **G. Comments by Hays Medical Center (Hays)**

1. Hays is currently using ISDN for telemedicine applications and wants to insure its use and future plans for use are protected.
2. The enhanced universal service definition should include a delivery system option with bandwidth greater than POTS (plain old telephone service) because it is needed for Home Health Care applications.
3. The definition must continue to include broadband capability to hospitals.
4. The requirement that advanced services be deployed only where there is sufficient market demand is contrary to the public policy of the Telecommunications Act.

5. Any extension of the year 2001 deadline is unacceptable.
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**H. Comments of Sprint Communications Company, L.P., United Telephone Company of Kansas d/b/a Sprint, United Telephone Company of South Central Kansas d/b/a Sprint, United Telephone Company of Eastern Kansas d/b/a Sprint, and United Telephone Company of Southeast Kansas d/b/a Sprint (Sprint)**

Basic Universal Service Definition

1. Toll limitation — the FCC has changed its definition of universal service to provide that toll blocking or toll control will satisfy the definition; both are no longer required.
2. The Kansas definition of basic universal service should be the same as the FCC's because the support mechanisms are interrelated. Kansas should adopt the FCC definition.
3. Sprint reiterated in its Reply Comments its recommendation that the Kansas definition be identical to, or consistent with, the federal definition. Sprint also stated that the Commission should not include SS7, interoffice fiber, and broadband facilities to public entities in the definition of universal service.
4. The portion of the definition that calls for "stored program controlled switching with vertical service capability" should be deleted because it is not consistent with the FCC defn. Sprint does not currently have this capability in all of its exchanges.

Enhanced Universal Service Definition

5. The definition of enhanced universal service, and its deployment requirements, should be eliminated from the statute because:
  - the definition is inconsistent with the FCC's definition;
  - it is short-sighted to require specific services for customers that aren't demanding them; and
  - the KCC should be allowed to periodically review the definition to determine if any service has reached a market-demand level high enough to warrant its inclusion in the definition for universal service
6. The costs to Sprint of implementing advanced services will be upwards of 80 million, most of which would have to be recovered through the KUSF
7. Including enhanced universal service in the services supported by the KUSF would increase the size of the fund and legislature would have to increase the 8.89% cap on the fund. In Reply



Comments Sprint stated that the existing requirements for deployment of enhanced universal service will undoubtedly result in additional funding requirements from the KUSF but the 8.89% cap leaves little room for increasing the fund size to accommodate additional disbursements.

8. The market should be allowed to dictate deployment of advanced services, and cost recovery should be from the subscribers to those services.

9. Sprint's Reply Comments pointed out that services which are considered advanced services today may transition into basic services in the future. Sprint argued that customers should be able to choose the advanced services they want rather than be forced to fund a particular set of enhanced services that may soon be outdated.

10. In Reply Comments Sprint stated that requiring deployment of the advanced technologies proposed by Columbus and SIA would result in premature investment by Sprint and that KUSF funding for that investment might not become available because of the 8.89% cap. Sprint also argued that inclusion of these services is inconsistent with 47 U.S.C. 254(c)(1)(A-D).

11. Sprint disagreed with AT&T's proposal of limiting universal service to residential telephone lines as inconsistent with the Commission's February 3, 1997 Order on Reconsideration which stated "The \$36.88 subsidy amount is a yearly figure, per residential loop and single line business line." Sprint believes single line business lines should be included in the definition of universal service.

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**I. Comments of CMT Partners, Airtouch Cellular of Kansas, Inc., and Topeka Cellular Telephone Company (CMT)**

1. The KCC should recommend that 66-1187(p) be amended to be consistent with § 254(c)(1) of the FTA and with FCC orders.

2. The two inconsistencies between the federal and KCC definitions of universal service should be eliminated:

- the Kansas definition includes "equal access to long distance services" and "stored program controlled switching with vertical service capability."
- 47 U.S.C. 214(e) does not permit states to adopt additional criteria for ETC (eligible telecommunications carrier) designation;
- eligibility requirements for state universal service funds must be consistent with federal criteria, per 47 U.S.C. 254(f);
- the KCC shouldn't maintain criteria that impede the ability of non-wireline carriers to be designated ETCs;
- the FCC specifically excluded requirement of "equal access" and used "access to long distance services" instead because wireless carriers can't be required to offer



- equal access by federal law, 47 U.S.C. §332(c)(8); KCC's requiring equal access discriminates against wireless carriers and the word "equal" should be eliminated; the requirement for switching that supports vertical services doesn't satisfy the criteria of 47 U.S.C. 254(c)(1)(A-D).

3. The KCC should recommend that the statutory definition of "enhanced universal service" be stricken (66-1187(q)) because:

- requiring LECs to submit plans is a reversion to historic regulation and a competitive disadvantage;
- customer demand and the market place should dictate the level of technology deployed rather than a regulatory agency;
- competitive carriers who deploy advanced technologies would have to pay into the KUSF to support their competitors' investments in advanced technologies, and at the same time invest in their own network in order to compete without receiving KUSF subsidization;
- the current definition imposes too much of a burden on the KUSF; the surcharge will deter usage of telecommunications services;
- there are other sources of funding for some upgrades, e.g. SS7, because they are required for LNP (local number portability) or E911, and are funded by RUS; and rural LECs don't need it because of the Infrastructure Sharing order by the FCC (Report and Order FCC 97-036, CC Docket No. 96-237, February 7, 1997).

4. In the alternative, the KCC should recommend that 66-1187(q) be amended to eliminate the mandate of specific technologies:

- the definition should be technologically neutral;
- the FCC's definition of advanced telecommunications capability is different from the Kansas definition and focuses on services, not on transmission media or technology; and
- the Kansas definition should be focused more on services like the FCC's and not list specific technologies.

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**J. Comments by MCI Telecommunications Corporation**

No changes are needed to the definitions of universal service and enhanced universal service. If the KCC makes any change, it should be to make the definitions consistent with the federal definitions of universal service and enhanced universal service.

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**K. Comments of Edward H. Hammond, President, Fort Hays State University**

1. ISDN or its technological equivalent should be retained in the definition of enhanced universal service. Although it may not be the most advanced method of accessing the Internet it is the only method available in many areas of Kansas. If ISDN were not available businesses would not be able to operate in some rural areas
  2. The provision for technological equivalent to ISDN is adequate.
  3. Many ILECs have already invested in enhanced universal services to meet the statutory standard and retreating from this level would be a breach of faith with these companies.
  4. Enhanced universal services requirements should not be funded in SWBT service areas.
  5. By not funding enhanced universal services in SWBT service areas, the demands on the KUSF would not be excessive.
  6. Provision of broadband facilities to schools, hospitals, and governmental entities is necessary.
  7. Until local Internet access is available in every telephone exchange in Kansas, there must be a mechanism to provide flat-rate dialing at a speed that is competitive with industry standards.
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**L. Reply Comments of the KCC Staff**

Basic Universal Service

1. Staff recommended that the word "equal" be deleted from the phrase "equal access to long distance services" because:
  - many Kansas ILECS do not currently have the capability to offer intraLATA equal access; and
  - retaining this requirement is not competitively neutral since wireless carriers do not, and may not be required to, provide equal access.
2. Staff agreed with CURB that toll limitation, either toll blocking or toll control, be included in the definition of basic universal service. Although toll limitation is available for Lifeline customers, there may be other customers who would benefit from toll limitation even though they would not meet Lifeline eligibility requirements.
3. Staff proposed that 66-1,187(p) be modified as follows:

p) "Universal service" means telecommunications services and facilities which include: single party, two-way voice grade calling; stored program controlled switching with vertical service capability; E911 capability; tone dialing; access to operator services; access to directory assistance; ~~and equal~~ access to long distance services; **and toll blocking or toll control.**

#### Enhanced Universal Service

4. Staff stated that a definition of enhanced universal service that is tied to specific technologies runs the risk of being unable to keep pace with technological changes. If the KUSF continues to fund technologies that become obsolete, the goal of providing advanced services to Kansas citizens is defeated.
5. Staff stated that requiring deployment of advanced services, funded by the KUSF, would greatly expand the size of the fund. Staff proposed that the competitive market may be the best driver of technological advances, and the best means of achieving affordable prices for advanced services.
6. Staff proposed that, if it is determined that a definition of enhanced universal service must be maintained, it should be a more open-ended definition, consistent with the 47 U.S.C. 706, and not technology specific.
7. In the alternative, Staff proposed that the definition of enhanced universal service be eliminated.

SUMMARY 1

**Estimates of Capital Costs and Support Required From the KUSF  
for Enhanced Universal Services.**

Total estimated capital costs for all enhanced services is \$177 Million.

Total support required on an annual basis from the KUSF to help pay for the enhanced services is \$11 Million.

A detailed representation for each company, for each enhanced service has been prepared as Attachment C and filed as highly confidential. Some of the data on Attachment C was gleaned from information furnished in February, 1998, for the infrastructure cost project, 98-GIMT-030-GIT. Since some of this data was designated as confidential in February, Staff believes individual company data should be treated as confidential.

Council Grove, Tri-County Telephone, Gorham Telephone, LaHarpe Telephone, and all companies in the Columbus Group of 12 Local Exchange Carriers (LECs) used the same capital costs and KUSF support requirements that were submitted in February, 1998, for the infrastructure cost study. All other companies submitted fresh data. Most companies wished to reserve the right to ask for additional KUSF monies in the future, if circumstances warrant.

The cost data from the Columbus Group is included in this analysis in spite of the Columbus Group's assertion that the data is unreliable. In the aggregate, this group would experience \$79 Million in capital costs, and require \$5.6 Million in support payments from the KUSF.

**SUMMARY 2**  
**Estimates of Capital Costs and Support Required From the KUSF  
for Enhanced Universal Services.**

Total estimated capital costs for all enhanced services is **\$97.7 Million**.

Total support required on an annual basis from the KUSF to help pay for the enhanced services is **\$5.4 Million**.

A detailed representation for each company, for each enhanced service has been prepared as Attachment D and filed as highly confidential. Some of the data on Attachment D was gleaned from information furnished in February, 1998, for the infrastructure cost project, 98-GIMT-030-GIT. Since some of this data was designated as confidential in February, Staff believes individual company data should be treated as confidential.

The cost data submitted by the Columbus Group has been excluded from this report because of Columbus Group's reservations about the reliability of the information.

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Commission Chairman John Wine  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027

October 30, 1998

Re.: Docket No. 190,492-U 94-GIMT-478-GIT

Dear Chairman Wine,

Thank you for the opportunity to comment on the Kansas statutory definitions of universal service and enhanced universal service. I commend the Commission for re-opening this important issue. I am hopeful that definitive action will ensue in a timely manner so as to provide guidance to the 1999 session of the Kansas Legislature.

As we proceed in this debate in Kansas, it is important to keep in mind the intent of the Federal Telecommunications Act (FTA) of 1996 as communicated in the preamble to the enrolled text of S.652 (which became the FTA of 1996).

"To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."

In light of this, we must evaluate our state statutes and regulations in light of whether or not they meet the guidelines set forth in this preamble.

First, the Kansas definition of universal service is closer to the federal definition than the definition for "advanced telecommunications capability" which is analogous to the Kansas enhanced universal service definition. The above-mentioned docket indicates that toll limitation services in the form of toll blocking are provided by all incumbent local exchange companies (ILEC's). As this requirement is in the federal definition and currently available from ILEC's, it would be reasonable to add it to the Kansas definition.

As I have studied this issue for legislative changes, I have found the enhanced universal definition currently in our statutes could involve much greater KUSF expenditures. During this last session, the information from the KCC staff indicated the demand on the fund could possibly double should we leave the ISDN requirement in the statute with the July 1, 2001 deployment requirement. As you are aware, this date was changed to July 1, 2003 with exceptions for a firm customer order for such service.

Additionally, the available information indicates that ISDN is not considered the latest technology for delivery of enhanced services. My personal concern is that Kansas could continually struggle to provide updated telecommunications infrastructure should we continue to prescribe certain technologies in our statutes. To do so opens the possibility of financial responsibility for the stranded costs that telecommunications (telco) companies may have in meeting these requirements. We do not want to continually pay for old technology with KUSF funds and lessen the possibility of utilizing current technology. Would our dependence on a subsidy fund such as the KUSF in addition to prescriptive statutes cause this to happen?

Senate Commerce Committee

Date: 1-26-99

Attachment # 6-1 thru 6-2

Universal service definition, p.2

Conversely, the federal definition does not name specific technology. To quote from the above-mentioned docket: "...without regard to any transmission media or technology...using any technology." I would highly recommend this more open-ended type of language. As technologies such as xDSL become more available and more affordable, telco companies could pursue this technology and others in an effort to provide advanced capabilities. Business decisions could then be based on current technology, customer demand and other parameters rather than just what meets the letter of the law and can be paid for via the subsidy.

Many philosophical questions come to mind as I study this issue. Do subsidy funds encourage competition? I do not believe our experience in Kansas could allow us to answer that question affirmatively. Competition seems to be a distant dream with the primary ILEC in the state having 98% of the market. When consumers in the metro areas are paying about \$20/month in KUSF fees as the Brownlee family does, can we say we have lowered consumer prices? Apparently the long distance rates have declined, but can we say Kansas consumers are spending less on their telecommunications and experiencing greater choice in who provides that service?

The KCC KUSF Working Group discussed information on the size of universal funds in other states. Although we did not have information from every state, the size of the fund in Kansas far exceeded those in other states. Unique features in our statutes are those of revenue neutrality and no cost basis for our fund. These features seem to be the cost drivers in our fund. Although the definitions of concern in this docket also affect the size of the fund, they cannot be debated separately from these two issues. While we are examining whether or not we are in line with the 1996 FTA, I hope the commission will also pursue compliance with the FCC's recommended forward-looking economic cost studies to determine the cost of providing service. Without these cost studies, Kansas may be deterring competition and thus the benefit intended for consumers by the 1996 FTA.

It is apparent to me that the commission and the Legislature must work together to meet the objectives of competition, reduced regulation and lower prices in the telecommunications industry for Kansas consumers. I look forward to the results of your work being available to the legislators in the 1999 session. Additionally, I am available to work with you in meeting these objectives.

Respectfully submitted,



State Senator Karin Brownlee

cc: Commissioners Claus and Seltsam  
State Senator Alicia Salisbury