

Approved: February 2, 2000

Date

Carl Dean Holmes

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:12 a.m. on January 25, 2000 in Room 522-S of the Capitol.

All members were present.

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

Conferees appearing before the committee: Richard Veach, Pioneer Communication
Walker Hendrix, Citizens' Utility Ratepayer Board

Others attending: See Attached Guest List

Chairman Holmes called the committees attention to the minutes to be approved. Rep. Alldritt moved and Rep. Long seconded that the minutes be approved. Motion carried.

Chairman Holmes acknowledged Rep. McClure who requested a committee bill be introduced that deals with gas and oil that changes the percentage for unitization. Rep. McClure moved that the committee introduce this bill. Rep. Kuether seconded the motion. Motion carried.

Chairman Holmes announced that there would be a hearing on **HB 2635**. A Utilities sub-committee will be meeting with the Education sub-committee. Sub-committee members from the Utilities Committee are Rep. Holmes, Rep. Sloan, Rep. McClure, Rep. Krehbiel and Rep. Toelkes.

Chairman Holmes announced there would be a conference committee meeting tomorrow at 1:00 p.m. in the East Lounge to discuss **HB 2322**.

SB 86 **Telecommunications; enhanced universal service definition.**

Lynne Holt, Legislative Research, presented an overview on **SB 86** using the Bill Supplement.

Mike Reece, on behalf of A. T. & T, provided written testimony as a proponent of **SB 86** (Attachment 1). Mr. Reece's testimony stated that they support this bill in its current form as it incorporates recommendations that were proposed by the 1998 telecommunications summer working committee.

Richard Veach, General Manager of Pioneer Communications, testified in opposition to **SB 86** (Attachment 2). Mr. Veach expressed, among others, concerns about the changes in the definition of enhanced universal service.

Walker Hendrix, Consumer Counsel for the Citizens' Utility Ratepayer Board, provided neutral testimony on **SB 86** (Attachment 3). He outlined several recommendations that included leaving in the policy statement and the requirement that long distance carriers provide schedules that are geographically averaged; and removing sections that restrict the KCC's ability to respond to changes and do not allow the KCC to determine if revenue neutrality is necessary.

Conferees responded to questions from Rep. Myers, Rep. Long, Rep. McClure, Rep. Vining, Rep. O'Brien, Rep. Toelkes, Rep. Alldritt, Rep. Holmes, Rep. Sloan and Rep. Krehbiel.

Meeting was adjourned at 10:33 a.m.

Next meeting will be Wednesday, January 26, 2000, at 9:00 a.m.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: January 25, 2000

NAME	REPRESENTING
Joe Long	Utili Corp United Inc
Larry Hollaway	KCC
Anne Tymeson	KCC
Charles Cleeb	SWBT
Mike Moffet	"
Mark Caplinger	S+1nd Tel Assn
RICHARD VESCH	PIONEER COMMUNICATIONS
Doug Smith	SITA
Guy McDonald	KCC - Staff
Jean Babu	Rural Telephone Council
Eva Powers	KCC
Cynthia Smith	KCPL
Janice Crow	Jedrick Consulting
Tom Gleason	Independent Telecom Group.
Doug Lawrence	SWB

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: January 29, 2000

NAME	REPRESENTING
ED SCHAUB	WESTERN RESOURCES
Mike Murray	Sprint
WALKER HENDRIX	CURTIS
Janette Luehning	ICC
Dave	WKL

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WRITTEN TESTIMONY OF MIKE REECHT
ON BEHALF OF AT&T
TO THE HOUSE UTILITIES COMMITTEE
ON SB 86

January 25, 2000

Dear Mr. Chairman and members of the committee:

My name is Mike Reecht and I submit these comments to you today on behalf of AT&T in support of Senate Bill 86.

AT&T supports Senate Bill 86 in its current form. The bill incorporates recommendations that were proposed by the 1998 telecommunications summer working committee.

SB 86 expands the definition of enhanced universal service recognizing that newer technologies are on the horizon that will better meet the telecommunications needs of all Kansans. The definition parallels the federal definition of universal service.

SB 86 rightfully delegates to the KCC the discretion to insure the latest technology be funded as a part of Enhanced Universal Service. It is essential that any support for enhanced universal service be based on cost, and that the technology being supported in the long run be in the best interest of all Kansans. Technology is changing at an accelerating pace. It is important that deployment of infrastructure to serve rural Kansans reflect the latest technological innovations. The reference to any specific technology or provider in legislation would serve to limit the services available in rural Kansas.

AT&T requests your favorable consideration of the bill.

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DATE: 1-25-00

ATTACHMENT 1

TESTIMONY OF RICHARD VEACH OF PIONEER COMMUNICATIONS
BEFORE THE KANSAS HOUSE UTILITIES COMMITTEE
JANUARY 25, 2000

Good morning Mr. Chairman and members of the committee. I'm Richard Veach General Manager of Pioneer Communications, which is headquartered in Ulysses. Pioneer Communications provides local service to 17,000 telephone access lines in all or parts of nine counties in southwest Kansas. Our company also furnishes Internet service to more than 6,000 users and has 8,400 cable television customers. I am here speaking on behalf of the thirty-six telephone companies referred to in the Kansas Telecommunications Act of 1996 as "rural telephone companies". The definition of a rural telephone company in the Kansas Act is a telephone local exchange carrier with fewer than 20,000 access lines. This is every telephone company in the state with the exceptions of Sprint and Southwestern Bell. Rural telephone companies provide service as far east as Louisburg and Girard and as far west as Kanorado and Coolidge. Rural telephone companies serve nearly half the geographical area of the state but only about ten per cent of the telephone access lines in Kansas. We serve the most rural sparsely populated parts of Kansas.

I served as a member of the Kansas Telecommunications Strategic Planning Committee, commonly referred to as the TSPC, that was appointed by the legislature in 1994. The TSPC was charged with developing a statewide strategic plan for telecommunications. The seventeen-member committee was made up of six legislators and representatives from state government, the telecommunications industry, large and small business and the medical community. Many of the recommendations made by the TSPC committee were incorporated into the Kansas Telecommunications Act of 1996.

Because of concerns about some elements of the 1996 Act, the 1998 Legislature enacted House Substitute for Senate Bill 212. One of the provisions of this legislation was the establishment of the Kansas Universal Service Fund Working Committee. This committee was made up of eight legislators, members of the telecommunications industry and representatives from Internet service providers, CURB, a Regents institution, elementary and secondary schools, public libraries and large and small businesses. I represented rural telephone companies on this committee. The Kansas Corporation Commission staff facilitated the Working Committee's meetings, all of which were held at the KCC. Both the

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TSPC committee and the KUSF Working Committee were ably assisted by Lynn Holt.

The purpose of recounting my membership on these two committees is not to try to bolster my resume with you but to note that I am not a stranger to the process of the development of telecommunications legislation and policy in Kansas.

The purpose of my appearance here today is to speak about Senate Bill No. 86. Within the definition of "universal service", Senate Bill 86 proposes deleting the word "equal" from the phrase ". . . equal access to long distance services". The FCC has mandated equal access to long distance carriers for wireline telephone users for a number of years. My company has been providing equal access to a customer's choice of their long distance carrier for more than ten years. Removing equal access is an unnecessary regression.

Senate Bill 86 also proposes changes in the definition of enhanced universal service that is contained in the act. It is important that we remember that what we are really talking about is the deployment of enhanced universal service in rural Kansas. These services have probably already been deployed in the urban areas of the state. We also need to remember the mandate of the federal act that says that the services available in rural areas shall be comparable to those available in urban areas and that they be available at comparable rates.

Senate Bill 86 deletes Signaling System Seven capability from the definition of enhanced universal service. Signaling System Seven or SS7 as it is commonly referred to, is a telecommunications standard that is necessary if a company is to furnish certain enhanced calling features, such as caller number identification, calling name identification, etc . . . It is also necessary for toll free number portability and for local number portability which the FCC believes is essential for the development of local telephone service competition. According to information received by the Working Committee, "SS7 enjoys widespread deployment" in Kansas. The telecommunications industry moves forward rapidly and oftentimes something that was optional yesterday becomes mandatory today. Rather than deleting SS7 totally, it should more appropriately be moved out of enhanced universal service into the definition of universal service if we want all Kansans to have access to features of an advanced intelligent network.

Senate Bill 86 would remove CLASS service capability from the definition of enhanced universal service. CLASS is an acronym that encompasses the various advanced calling services that, among others, include calling name delivery, long distance calling control, automatic call return and emergency direct connect service. CLASS is a service that, in the twenty-first century, belongs in the definition of universal service.

Senate Bill 86 would also delete from enhanced universal service the requirement of "full fiber interconnectivity, or the technological equivalent,

between central offices". Again, the Working Committee concluded that there was "widespread deployment in Kansas of full fiber connectivity between offices". The central offices that are referred to are the locations of switching and transmission equipment for individual telephone exchanges and/or wire centers. This requirement of the 1996 Act required telephone companies to install the fiber optic cable necessary to have large capacity high-speed facilities in order to meet the increasing demands for bandwidth by Kansas residents and businesses. Since there is already "widespread deployment" of interoffice fiber and we believe that it is an essential feature, then it follows that this is an item that belongs in the definition of universal service.

Senate Bill 86 would delete from enhanced universal service the requirement for broadband capable facilities to schools, libraries and state and local government installations that request broadband services. Once again, in this day and age this is a requirement that should be contained within universal service.

Finally, as Senate Bill No. 86 would do, the Working Committee recommended that ISDN, an acronym that means integrated services digital network, be removed from the definition of enhanced universal service. The inclusion of ISDN was a creature of the TSPC committee that met in 1994 and 1995. At that time, ISDN was the standard for switched high-speed data but as was stated before, telecommunications moves forward rapidly and while it is a useful and relatively widespread technology, it is no longer the epitome of a switched high-speed telecommunications service. Senate Bill 86 correctly addresses this with additional broadband definition language that does not specify a particular technology.

With the possible exception of ISDN, there is nothing wrong with the definition of enhanced universal service as defined in the 1996 legislation. Time and circumstances have combined to make SS7, full fiber interconnectivity and broadband capable facilities to schools, libraries and state and local governments services that should be available everywhere in Kansas as a part of universal service. Leave the requirement for equal access in the definition of universal service. Move Signaling System Seven, CLASS, full fiber connectivity and broadband services for schools, libraries and state and local government facilities into universal service, remove ISDN and include a new definition of enhanced universal service. Now is not the time to lower the telecommunications bar in Kansas.

Thank you for the opportunity to visit with you today. I would be happy to try to answer any questions you might have.



BILL GRAVES
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GENE MERRY
FRANK WEIMER
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SENATE BILL NO. 86
Testimony of the Citizens' Utility Ratepayer Board
By Walker Hendrix

During this legislative session we are once again addressing the telecommunications statutes. Including 1996, when the original bill was passed, this is the fifth consecutive year that changes and/or additions have been suggested. Why are all the changes needed? Because this bill, and the others before it, attempt to regulate an industry that is changing so rapidly, and is becoming so diverse, that a statute frozen in time quickly becomes outdated.

Look at the changes that have occurred since the bill was originally passed. In 1996, telephone companies were generally classified as local exchange carriers, or long distance carriers. Competition to provide basic local telephone service had not yet started. The state-of-the-art broadband service in 1996 was ISDN and few people imagined the growth of the internet. Today, instead of just local exchange carriers and telecommunications carriers we have CLECs (competitive local exchange carriers), ISPs (internet service providers), ASPs (application service providers), and DLECs (DSL service providers). Today we have intraLATA equal access and at least two companies that have requested permission from the Corporation Commission to provide fixed wireless local service in Kansas. The state-of-the-art broadband service is DSL (digital subscriber line) and the internet is widely deployed and growing at a phenomenal rate.

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AT&T is a major provider of cable television service and SBC has applied to the FCC for interLATA authority in Texas. The results of these changes are significant from a technological perspective, a financial perspective, and a regulatory perspective.

Based on all of these changes, Senate Bill No. 86 contains provisions that are productive and provisions that are not productive. Clearly the deleted language referencing Hill City and the provision of ISDN is needed. However, a change such as Section 2(b) that removes the policy of providing services at "reduced rates", and substitutes at "reasonable rates", is not pro-consumer and does not reflect the original purpose of the statutes. Increased competition and improved technology should be providing downward pressure on rates. For instance, SBC is beginning to offer a broadband service called ADSL, Asymmetrical Digital Subscriber Line. Without getting too technical, ADSL uses the upper frequency portion of the local loop to provide broadband service, without affecting the normal use of the loop. Consumers that today have basic local service can subscribe to ADSL, and SBC can provide the service without installing additional, expensive local loops using what is known as "line sharing". There are technical constraints such as loop length and loop conditioning that must be met. However, for subscribers that do meet the requirements, ADSL can be provided by only adding some electronics at the customer's premise and at the central office. Once in place, SBC's current rates are approximately \$49.00 per month for the service. This is a significant revenue source that should be used to offset the cost of the local loop and provide the downward pressure on rates in a competitive market that I referenced above. I therefore urge you to keep the existing policy statement that calls for reduced rates.

Senate Bill No. 86 also leaves in place provisions that no longer reflect the telecommunications environment in Kansas. For instance, the provisions that guaranteed revenue neutrality to the local exchange carriers (Section 4(c)) caused the Kansas Universal Service Fund to become the largest such fund in the United States. Revenue neutrality with no requirement to show need was inappropriate in 1996, and based on the experience with the KUSF since then, surely should be eliminated or modified now. Negotiations at the Commission have produced stipulations that have reduced the funding requirements from the KUSF. However, those same negotiations have clearly shown that if the State Act did not contain revenue neutrality provisions further reductions are possible.

Other provisions of Senate Bill No. 86 need to be reinforced. Section 4(c) already states that all local exchange carriers shall reduce intrastate access charges to interstate levels. However, because there is no fixed schedule shown for Southwestern Bell and Sprint/United, they have argued there is no requirement for them to maintain interstate parity. The Act needs to be clarified as to what exactly is meant. In my opinion, the ACT should clearly state that all local exchange carriers must go to and remain at interstate access parity for all usage sensitive access charges. This clarification will ensure local exchange carriers recover the appropriate costs and will reduce the call some long distance carriers are making to geographically deaverage basic long distance rates.

Which brings me to Section 4(v). The original 1996 State Act, in recognition of the competitiveness of the long distance market, price deregulated long distance carriers. The only pricing conditions imposed were that access reductions must be flowed through to consumers, and basic toll prices must remain geographically averaged. We are now

hearing from long distance companies, and the Commission, that basic long distance rates should be allowed to be deaveraged because access rates in some rural exchanges do not allow the long distance companies to make money on calls from or to those exchanges. What is missing from their arguments is that the basic long distance service itself is profitable. Long distance companies, and other industries, have always averaged their costs and continue to do so today. Because access rates include a distance sensitive component (transport) access rates often vary from customer to customer. Yet even with this cost variance most if not all long distance companies have increasingly gone to flat rate per minute pricing plans which by definition are based on averaged costs. These plans are generally targeted at the long distance carrier's higher usage customers. To now say that is fine for those customers, but averaged costs are not okay for low volume customers using the basic long distance schedule is disingenuous at best. The long distance carriers have tremendous pricing freedom, including the ability to raise their basic long distance schedule if they are not covering their total costs, and I recommend they continue to be required to provide a basic long distance plan that is geographically averaged.

So what recommendations do I make? First, leave in the policy statement that a goal of the Act is to reduce prices for consumers. Second, remove the sections that restrict the Commission's ability to respond to the rapidly changing telecommunications market. Do not leave in place provisions for revenue neutrality that do not allow the Commission to determine whether revenue neutrality is necessary. And finally, leave in place the requirement that long distance carriers must provide a basic long distance schedule that is geographically averaged.