

Approved: April 2, 2002 Carl Dean Holmes
Date

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:05 a.m. on February 18, 2002 in Room 526-S of the Capitol.

All members were present except: Representative Judy Morrison
Representative Jerry Williams

Committee staff present: Robert Chapman, Legislative Research
Dennis Hodgins, Legislative Research
Mary Torrence, Revisor of Statutes
Jo Cook, Administrative Assistant

Conferees appearing before the committee: Eva Powers, Kansas Corporation Commission
Richard Lawson, Sprint
Nelson Krueger, Western Wireless
Steve Kearney, Alltel
Jim Yonally, Verizon Wireless

Others attending: See Attached List

Chairman Holmes announced that the committee would be working bills on Thursday and would have a hearing on the open records bill Friday.

HB 2754 - Telecommunications; affordable rates; quality of service; standards

Chairman Holmes reconvened the hearing on **HB 2754**.

Eva Powers, Assistant General Counsel for the Kansas Corporation Commission, appeared before the committee in opposition to **HB 2754 (Attachment 1)**. Ms. Powers provided background information on the bill followed by a detailed analysis of the proposed legislation. Ms. Powers stated that it would have the effect of reversing many Commission decisions carrying out the 1996 Telecommunications Act. Additionally, Ms. Powers explained that a current docket on file with the Commission could effect the methodology used to determine affordable rates for residential service in rural areas. Ms. Powers concluded Staff's remarks by noting that the scope of the bill and the complex interrelationship between state and federal law and operations makes it difficult to predict all consequences from the proposed changes. Ms. Powers responded to questions from the committee.

Richard Lawson, State Executive for External Affairs in Kansas and Missouri for Sprint, spoke to the committee in opposition to **HB 2754 (Attachment 2)**. Mr. Lawson stated there were two items they believed would occur if this legislation passed. They are: deny consumers in rural Kansas the choice of wireless technology to meet their basic needs and that it will cause the Kansas Universal Service Fund to grow which could result in higher surcharges.

Nelson Krueger, appearing on behalf of Western Wireless Corporation, addressed the committee as an opponent to **HB 2754 (Attachment 3)**. Mr. Krueger listed four major issues they had concerns with: 1 - it creates hurdles intended to exclude entire classes of telecommunications carriers from participating in the KUSF; 2 - the cost of using the KUSF for high-speed data will be extraordinary; 3 - it would obliterate the progress the corporation commission has made in encouraging competition; and 4 - the restrictions are unlawful and preempted by federal law and regulation. Mr. Krueger responded to questions from the committee.

The hearing on **HB 2754** was recessed until February 19, 2002.

The meeting adjourned at 10:55 a.m.

The next meeting will be February 19, 2002.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 18, 2002

NAME	REPRESENTING
<i>Wilson Krueger</i>	<i>Western Wireless</i>
<i>George Barber</i>	<i>RTMC</i>
<i>Janet Buchanan</i>	<i>KCC</i>
<i>RICHARD LAWSON</i>	<i>SPRINT</i>
<i>MIKE MURRAY</i>	<i>"</i>
<i>WADE HARGOOD</i>	<i>"</i>
<i>CAROLIN GASTON</i>	<i>"</i>
<i>Eva Powers</i>	<i>KCC</i>
<i>TOM DAY</i>	<i>KCC</i>
<i>WALKER HENDRIX</i>	<i>CURB</i>
<i>Rob Haljes</i>	<i>KTIA</i>
<i>Tom Gleason</i>	<i>Independent Telecom Group</i>
<i>Mike Rees at</i>	<i>AT&T</i>
<i>Jim Youally</i>	<i>Verizon Wireless</i>
<i>Matt Buzinger</i>	<i>Pat Hubbell Assoc.</i>
<i>John J. Frederic</i>	<i>KCTA</i>
<i>Kathleen Harrrell</i>	<i>KCC</i>
<i>Anne Tymeson</i>	<i>KCC</i>
<i>Jim Garkner</i>	<i>SWB</i>
<i>Bob Jayroe</i>	<i>Connect Kansas</i>
<i>Sandy Baden</i>	<i>Cingular Wireless</i>



Kansas Corporation Commission

Bill Graves, Governor John Wine, Chair Cynthia L. Claus, Commissioner Brian J. Moline, Commissioner

Testimony of
Kansas Corporation Commission
Before the House Utilities Committee
Regarding HB 2754
February 18, 2002

Era Power

Chairman Holmes and Members of the Committee:

Thank you for allowing me to appear before you this morning on behalf of the Kansas Corporation Commission to express the Commission's and Staff's views regarding HB 2754. My name is Anne Tymeson and I am an Assistant General Counsel for the Commission. I am appearing in place of Janet Buchanan, the Commission's Chief of Telecommunications.

BACKGROUND

Any analysis of this legislation must take into account not only the mix of federal and state law on the subject but also the degree to which state discretion has been pre-empted by federal law. This bill is inconsistent with federal law and has the potential to increase the KUSF because of the requirement to support incumbent local exchange carriers as carriers of last resort whether they have any customers or not while at the same time supporting the eligible telecommunications carrier (ETC) that is serving the customers. The automatic grant of supplemental funding, without review, provided the carriers submit correct documentation, is also likely to increase the KUSF.

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Consistent with its obligations under the 1996 Act, the Commission, in its proceedings, has been addressing numerous issues to facilitate an environment in the Kansas telecommunications market conducive to competition in all areas of the state. In addressing those issues, the preservation and advancement of universal service has been a paramount objective.

The Commission has increased local rates for SWBT and Sprint/United to comply with federal and state law, which requires that support of universal service be explicit, and to carry out the State Act objective of access charge parity in the inter- and intra-state jurisdictions. In order to reduce intrastate access charges and make the KUSF cost-based, local rates have been increased for SWBT and Sprint/United through revenue-neutral rebalancing which brings them closer to cost. This has the collateral effect of creating an environment more favorable to the development of competition both in local service and long distance.

The KUSF now provides explicit support to carriers to provide universal service. The Commission has determined¹ that federal and state law requires the KUSF to be cost-based and has determined cost-based support for SWBT and Sprint/United. The Commission is in the process of determining the methodology to establish cost-based support for rural carriers². In addition, the Commission has determined³ that federal and

¹ Docket Number 99-GIMT-326-GIT

² Docket Number 02-GIMT-068-KSF

³ Docket Number 99-GIMT-326-GIT

state law requires KUSF support to be fully portable to competitive ETCs.⁴ At the conclusion of an extensive proceeding, the Commission has granted designation of Sprint PCS and Western Wireless as competitive ETCs in the territories of Sprint/United and SWBT. Western Wireless also applied for, and the Commission approved, designation as a competitive ETC in the territories of several rural carriers. Designation as an ETC enables a carrier to receive universal service support from universal service funds at the federal and state level. Western Wireless has approximately 300 customers in Kansas for which it has requested universal service support. The Commission is currently considering⁵ whether it is feasible to limit support to one (primary) line at a residence or business.

ANALYSIS OF PROPOSED LEGISLATION

This legislation has the effect of reversing many Commission decisions carrying out the 1996 Act. The Commission carefully considered testimony filed by interested parties, receipt of evidence, and review of relevant state and federal law before reaching its decision in these cases.

AMENDING K.S.A. 66-2002 PAGE 5, LINE 11

The amendment would make current quality-of-service standards applicable to all ETCs. The existing quality-of-service standards were written with standard wireline carriers in

⁴ See *In the Matter of Western Wireless Corporation Petition for Preemption of Statutes and Rules Regarding the Kansas State Universal Service Fund Pursuant to Section 253 of the Communications Act of 1934*, Memorandum Opinion and Order, FCC 00-309, File No. CWD 98-0-, rel. Aug. 28, 2000, and *In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order* (rel. May 8, 1997). ¶47.

⁵ Docket Number 99-GIMT-326-GIT

mind. The standards do not contemplate wireless or other technologies. Because the existing standards are not technology-neutral, it would be difficult to apply them in an equitable manner to these other technologies. This provision could be acceptable if the quality-of-service rules are revised to be technology-neutral. The Commission would need to open an investigation to create such rules.

AMENDING K.S.A. 66-2003 PAGE 6, LINE 30

The definition of and requirements for designating a carrier as an ETC in this bill may not be technology-neutral because they focus on wireline capabilities. Favoring one technology over another by supporting one, but not the other, may be harmful to consumers because it may deprive them of some technologies, which, if given an equal chance, might provide new services at lower cost and is precluded by federal law. The FCC has stated that "competitive neutrality means that universal service support mechanisms and rules neither unfairly favor nor disfavor one technology over another."⁶. Proposed section 4(f) requires that all ETCs provide 1+intra LATA and inter LATA dialing parity. Commercial Mobile Radio Service (CMRS) providers (i.e. wireless) are not able to provide this service at this time without significant investment; therefore, such carriers could not be deemed ETCs. Section 332(c)(8) of the federal act exempts CMRS providers from the requirement to provide equal access to common carriers for the provision of toll service. The federal act does not require CMRS carriers to provide 1+dialing parity to long distance services. Given this provision, Sprint PCS and Western

⁶ Memorandum Opinion and Order, FCC 00-309, File No. CWD 98-0-, rel. Aug. 28, 2000, and *In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order* (rel. May 8, 1997). ¶47.

Wireless⁷ could no longer be considered ETCs for state purposes, although they would retain such designation for federal purposes

AMENDING K.S.A. 66-2004 PAGE 7, LINE 11

In Section 5(c), it is unclear to what the phrase “all applicable provisions of this act relating to ETCs” refers. Without more specificity, it is possible that there may be other requirements for competitive ETCs that are not technology-neutral and might deprive customers of these technologies.

While replacing dated references to technology is helpful, as in the substitution of “consumer broadband” for ISDN, this bill would allow an ETC to recover investment in consumer broadband services from the KUSF (Section 7(d)). Yet, to receive KUSF support, a carrier must first be designated as an ETC. Many providers of consumer broadband service do not provide all the services required of an ETC. This provision would place ETCs at a competitive advantage over other providers of consumer broadband service, even if those carriers could provide service more efficiently.

PAGE 9, LINE 20

The Commission supports the proposed balloon, which would restore the requirement of maintaining parity for rural carriers in intrastate access rates with interstate rates every other year.

⁷ The rural companies have filed a request for declaratory ruling from the FCC regarding whether Western Wireless' service is CMRS.

PAGE 10, LINE 3

Heavens Wood

In Section 6(d), this bill defines an affordable rate for local residential and business service. There is currently a proceeding before the Commission in which testimony has been filed by interested parties regarding the methodology to determine an affordable rate for residential service in rural areas⁸. An affordable rate needs to be determined so that the Commission can determine whether rural company local rates can be raised to more closely reflect the cost to provide service. If rural companies collect more revenue from their customers, they will need less KUSF support. This, in turn, will allow all customers to contribute less to the KUSF. The Federal Act requires that rural and urban rates be comparable.⁹ In general, Kansas rural company rates are significantly lower than urban rates. One of the purposes of this pending proceeding is to make a reasoned determination of an affordable rate in the rural areas. The bill would instead establish a non-weighted calculation for moving rural rates to comparability with non-rural rates. Staff calculates the residential rate to be approximately \$8.25 per month, using the proposed non-weighted calculation, but if that figure were weighted by the number of access lines per carrier, it would be around \$14.15 per month.

PAGE 15, LINE 39

If the proposed amendment is adopted, 66-2008(d) would eliminate the Commission's ability to review requests for supplemental funding, including funding of consumer broadband services. As the statute currently reads, the Commission has some authority to review these applications. An amendment has been proposed which states "The request

⁸ Docket Number 02-GIMT-068-KSF

⁹ 47 U.S.C. §254(b)(3).

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will be authorized by the commission if such procedures are met.” If accepted, the Commission would be required to rubber-stamp such applications. If the Commission has no authority to review the costs incurred by a carrier which give rise to requests for supplemental KUSF, it could effectively nullify the Commission’s statutory mandate to periodically review whether changes in the cost of providing service justify modification of the KUSF pursuant to K.S.A. 66-2008(d).

Additionally, if the request for supplemental KUSF involves support for consumer broadband services, this provision would allow the ETC to recover costs in both the state and federal jurisdiction. Most consumer broadband services provided by wireline carriers are offered over an xDSL technology. The FCC has stated that xDSL traffic is interstate in nature and thus all revenue of providing the service is allocated to the federal jurisdiction. Generally accepted accounting principles require that costs and revenues be matched. Thus, much of the cost associated with providing consumer broadband service is recovered in the federal jurisdiction. This provision does not accommodate the matching principle --- rather it allows full cost recovery of the investment in the intrastate jurisdiction without considering the off-setting revenues, which are in the interstate jurisdiction. The term “actual incurred cost” is used again. This is not a regulatory accounting term and it is not clear what is intended. It could mean that the recovery of support associated with the supplemental funding request would require the Commission to allow the full recovery of the investment all at once rather than the usual procedure of allowing recovery over the life of the investment.

PAGE 15, LINE 40

The Commission supports the proposed balloon at this line, to the extent it limits the requirement to use "actual costs incurred" to rate-of-return regulated carriers. However, it is unclear what is meant by the requirement to use "actual costs incurred" for these carriers. If this language means that a company can recover every dollar it spends, and not simply those costs prudently incurred to actually provide regulated service, the KUSF would increase. Further, the FCC has indicated it may, in the future, base rural company USF support on forward-looking cost. Forward-looking cost models can take into account costs of all technologies. If this amendment is adopted, the Commission could be precluded from determining support on a consistent basis with the FCC, which could further increase the KUSF and the assessment on customers.

AMENDING K.S.A. 66-2009, PAGE 16

The proposed changes in 66-2009(a) as to the distribution of KUSF support may not be competitively neutral as required by state and federal law. This section would designate the incumbent carrier as the provider of the primary line and allow the incumbent carrier to receive funding for all primary and secondary lines unless a competitive ETC wins the customer away from the incumbent entirely. In order to maintain competitive neutrality, the incumbent should not be allowed to receive support for the provision of a secondary line, when a competitor providing a secondary line is precluded from receiving such support.

Additionally, the changes to this section would require that support to a carrier be based on its own costs rather than on a fixed amount of funding for that area, regardless of the carrier or technology. This proposed approach would remove any incentive for a new entrant to be more cost effective than the incumbent, and also for the incumbent to effect efficiencies. In the long run this will result in higher cost for consumers. Finally, this section may allow the incumbent provider to receive full funding even if it serves no customers in the state. This provision alone could potentially cause the size of the KUSF to more than double because it would have to support both the eligible telecommunications carrier that provides service and the one that the State Act has designated "carrier of last resort." Since the bill would require the use of the carrier's "actual incurred cost," and it would lose federal support, the KUSF would also have to make up for lost federal support for the incumbent while providing the existing state support to two carriers.

This concludes Staff's initial analysis of this bill. It should be noted that the scope of this bill and the complex interrelationship between state and federal law and operations make it difficult to predict all consequences of the proposed changes. I would be happy to answer any questions you may have.



House Bill 2754

Before the Kansas House Utilities Committee

February 14, 2002

Remarks of Richard Lawson

Sprint State Executive - Kansas and Missouri

Chairman Holmes and members of the committee, my name is Richard Lawson. I am Sprint's state executive for external affairs in Kansas and Missouri. I help manage Sprint's regulatory, legislative and community affairs activities in these two states. My job today is to explain why Sprint's local telephone, long distance, and wireless companies oppose House Bill 2754.

Our opposition is based on two things we believe are likely to occur if this legislative proposal becomes law.

First, we believe the proposed legislation will, for all practical purposes, deny consumers in rural Kansas the choice of wireless technology, and perhaps others technologies, to meet their basic local service needs.

Second, we fear that this proposal will cause the Kansas Universal Service Fund to grow and result in higher surcharges that Kansans pay through their local, long distance and wireless telephone bills.

With your patience, I will attempt to explain why the Sprint companies believe these things are likely to occur.

How will House Bill 2754 discourage companies like Sprint from developing a wireless alternative for basic local service in rural Kansas? Let me try to answer this question by first saying that the cost of providing local service in rural Kansas is high. I can attest to that because Sprint's wireline local

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telephone companies provide service to about 140,000 residences and businesses in the state, and, like the companies that support this bill, most of our service area is rural. Sprint serves 150 communities. Outside the Gardner area and Junction City, our largest community has about 3,700 telephone lines and our smallest community has 63 telephone lines. In fact, nearly half of our communities have less than 500 telephone lines.

On average, Sprint's cost to provide local service is about \$55 a month per telephone line, but our highest residential rate is \$16. In other words, the price does not cover our costs. Without some kind of support or subsidy from somewhere, our basic residential rate would have to rise significantly. Some rural Kansans may not be able to afford basic service if this were to occur. Today, a significant portion of the support that keeps prices below actual cost comes from the Kansas Universal Service Fund.

A wireless alternative for basic local service in rural Kansas will also be expensive. Rural Kansas is sparsely populated. Sprint's local service territory covers 16,300 square miles, which means we serve about eight customer lines per square mile, and a mile of network costs basically the same whether it serves eight customers or a hundred customers. The point is that a wireless option, or any other option, to existing basic service will likely require support from the universal service fund or some other source. If Sprint or any other company develops an alternative for basic local service and rural Kansans want that alternative, they should not be denied the choice because state universal service fund money is not available to the alternative provider. After all, it is Kansans, not telephone companies, who pay into the fund.

The proposal you are considering says that support will be available to alternative providers if they are required to abide by the same rules that apply to existing local telephone companies. Intended or not, this part of the proposal could close the door to rural Kansans for companies like Sprint PCS as an alternative to existing local service. It sounds simple and fair that wireless companies eligible to receive state universal service fund support should be subject to the corporation commission's quality of service rules, for example. The problem, however, is that these rules were developed for a different technology. As a result, wireless providers, and perhaps providers using other technologies, may not be able to comply with the rules even if there were a need to do so.

One of the problems is that the proposal would require the creation, maintenance and operation of monitoring and reporting systems that are not demanded by wireless customers today. So what is wrong with that, you might ask? The existing local telephone companies have had to do it, right? That is true, but the proposal ignores the reality of competitive choice. We are discussing an alternative to today's service; we are talking about a competitive market. And in a competitive market, consumers determine what levels of service are acceptable through their buying choices. If consumers aren't satisfied with the quality of service they are receiving, they will choose a different provider. Just as importantly, the Kansas Corporation Commission has already decided this issue. In a May 5, 2000, Order, the Commission had this to say: "Does the requirement that distribution (from the Kansas Universal Service Fund) be competitively neutral require that all ETCs (eligible carriers) be subject to quality of service standards? We think not. . . . It seems clear . . .

that different classes of carriers eligible for support need not be subject to all the same requirements in order to meet the test for competitive neutrality."

The proposed legislation also says that a provider deemed eligible to receive either state or federal universal service support must provide 1+ dialing to the consumer's choice of long distance carriers. The problem here is that this provision ignores federal law. The Kansas Corporation Commission has clearly said that the Federal Telecommunications Act "specifically prohibits CMRS (wireless) providers to provide equal access to toll services as a condition to becoming ETCs (eligible for universal service fund support)."

The fact is that Sprint PCS, our wireless company, has been designated by the commission as being eligible to seek support from the state universal service fund. The fact is that Sprint PCS has not done so. What this proposal would do, however, is force Sprint PCS to comply with rules and regulations designed for existing telephone companies, using very different technology, just to keep its eligibility status. If Sprint PCS did not comply, it would be subject to hefty fines and face the likelihood of having its eligibility status taken away. The effect of this legislative proposal would be to force Sprint PCS to drop its eligibility status and to close the door to even the possibility of Sprint PCS being a competitive choice for basic local service in rural Kansas.

The second thing we fear will occur is growth of the Kansas Universal Service Fund. I explained earlier that prices for basic local service do not cover the cost of providing the service, and I said that the difference is made up in part from the state fund. That has not always been the case. Before the state fund was created at the legislature's direction, rates for local service were below

cost because rates for long distance service were set well above costs. In other words, long distance customers subsidized local service.

Consistent with federal law and following this legislature's directions, the Kansas Corporation Commission reduced long distance subsidies to encourage competition. The initial reduction occurred in 1997, and the state universal service fund was created to make up for the lost support. However, the commission later examined the costs of Sprint local and Southwestern Bell and allowed us to increase our local rates over a number of years and took other steps to reduce the size of the state fund by about \$60 million. The customer surcharge for the fund fell from a high of more than 10 percent to less than four percent. And for those of you who were around at that time, you will recall the hue and cry raised by your constituents and our customers until that reduction occurred. Our fear is that we could hear that hue and cry again if this proposal becomes law and results in a larger fund and an increase in the customer surcharge. Here is how that could happen.

First, the proposal would change and dictate the method the commission uses to determine local telephone company costs, which has a big impact on the size of the fund. The proposed change in the method could produce higher costs, a larger fund and higher surcharges for customers.

Second, the proposal takes away the commission's authority to determine what are affordable rates in rural Kansas. Again, the effect is to limit the commission's ability to control the size of the fund.

Third, this proposal would require the commission to increase the size of the fund to make up for competitive losses that existing companies might incur in the future.

And fourth, this proposal calls for the deployment of high-speed internet access where there likely will not be enough demand for the service to recover the costs of deployment. According to the proposal, in such cases the costs could be recovered from the state fund.

This last point is especially troubling for Sprint. The proposal would have local telephone companies deploy the service where only one customer makes a request for it. We have always believed that customer demand should drive investment decisions. Sprint estimates that it will cost as much as \$100,000 to deploy high-speed internet access in one of our 150 switching facilities. Nationwide, only about two percent of our customers who have broadband service available to them have actually purchased the service. The uneconomic costs of this mandate could be enormous.

I apologize if I have worn your patience with my remarks. But I wanted you to have a full understanding of why Sprint local, long distance, and wireless companies oppose House Bill 2754. In short, Sprint believes the proposed legislation limits the tools the commission has to manage the size of the state universal service fund and takes away the commission's ability to use its judgment to balance the twin goals of the state telecommunications act - encouraging competition and at the same time preserving and advancing the universal availability of basic service at reasonable prices.

I want to conclude by saying that I know, respect and admire those from other parts of the industry who have testified in support of this proposal. Sprint's views should not be thought of as any reflection on their integrity and convictions. We simply have a very different view of what is good public policy

and the roles that competition, regulation and the legislative process should play in shaping that policy.

I thank you.

**TESTIMONY OF WESTERN WIRELESS CORPORATION
BEFORE THE UTILITIES COMMITTEE
OF THE KANSAS STATE HOUSE**

February 14, 2002

House Bill 2754—regarding telecommunications services

Mr. Chairman, Members of the Committee:

My name is Nelson Krueger, a registered lobbyist for Western Wireless Corporation, a Bellevue, Washington company with over 4,000 employees nationwide.

Western Wireless is a cellular carrier specializing in providing high-quality, affordable, and reliable wireless services to subscribers in rural, high-cost areas. Western Wireless currently provides service to more than 1,000,000 subscribers under licenses in Kansas and 18 other states. Western Wireless provides cellular service in the state of Kansas under the Cellular One brand name.

Western Wireless has significant experience providing high-quality wireless telecommunications services in high-cost areas across the U.S. over both wireless local loops and conventional mobile cellular technologies. In five states, Western Wireless provides basic local telephone service to residential consumers using wireless local loops.

Western Wireless is opposed to HB2754. My opposition will be focusing and expanding on four major issues.

1. The proposed legislation creates hurdles and requirements that are intended to exclude entire classes of telecommunications carriers, especially wireless carriers, from participating in the KUSF and, ultimately, providing competitive choices for Kansans in rural parts of the state.

HB2754 ignores federal law by requiring wireless companies eligible for universal service fund support to provide 1+ equal access for all long distance calling. This legislation also requires wireless companies that are eligible for universal service fund support to create service monitoring and reporting systems that are not in place today.

2. The cost of using the KUSF to support high-speed data and the other services sought to be supported in HB 2754, will be extraordinary. Kansans don't need another tax increase to support services that will be brought to the market naturally, without a dime of tax money, through competition.

3. The Kansas Corporation Commission has spent three years encouraging competition for rural Kansas' consumers and has made some very difficult decisions.

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House Bill 2754 would, in a single stroke, obliterate all of that progress and set the state back into the dark ages of competitive telecommunications.

Competitors make the decision to either enter a market or not, based on their assessment of the regulatory burdens. If a competitor decides to enter the market, they are accountable to the consumer to provide a high level of customer satisfaction. A competitor also has to break into a market dominated by years of service by an incumbent. The competitor has an extremely high threshold of consumer preference to break through. The incumbent has remarkable market power and regulators should be extremely reluctant to pile on additional restrictions that will prevent the competitor from breaking into consumer preferences and ultimately, prevent success.

4. The hurdles and restrictions that the small rural telephone monopolies attempt to impose through HB 2754 are unlawful and preempted by federal law and regulation, as concluded by both the FCC and at least one other state commission. .

These proposed restrictions would be a violation of Section 332(c)(3)(A) of the federal Communications Act. That section provides in relevant part:

[N]o State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile service....47 U.S.C. § 332(c)(3)(A).

Federal policy makers view Section 332(c)(3)(A) as a broad prohibition on state-by-state regulation of CMRS networks and services. Congress specifically concluded that broad federal preemption was necessary to establish a uniform, federal regulatory framework intended “[t]o foster the growth and development off mobile services that, by their nature, operate without regard to state lines as an integral part of the national telecommunications infrastructure.”

Recently, the Wyoming Public Service Commission, proposed the adoption of rules relating to the implementation of cellular telecommunication service quality standards. In a decision rendered January 22, 2002, the Commission issued an order closing the rule, concluding that the proposed rules are preempted by the federal telecommunications Act and FCC rules.

In closing, Western Wireless believes that consumers should be empowered to decide between carriers, not the government. Consumers are the best regulators. When government decides what is best for consumers, consumers lose out and the choices are diminished not strengthened. Therefore, we respectfully ask that you defeat HB2754.

Thank you for your time Mr. Chairman and I would be happy to answer any questions that you or the Committee may have.

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KANSAS CORPORATION COMMISSION
KUSF Net Payable to Companies
(as of March 1, 2002) (a)

Telecommunications Company	Gross Year 6 KUSF Support	Estimated Annual Assessment	Year 6 Net Payable to Company
Bluestem	\$ 46,622	\$ 6,250	\$ 40,371
Blue Valley	\$ 1,097,881	\$ 17,875	\$ 1,080,006
Cass County	\$ 58,019	\$ 5,438	\$ 52,580
Columbus	\$ 158,997	\$ 16,047	\$ 142,950
Council Grove	\$ 74,284	\$ 14,094	\$ 60,190
CrawKan	\$ 1,459,347	\$ 84,960	\$ 1,374,387
Cunningham	\$ 708,202	\$ 9,332	\$ 698,871
Elkhart	\$ 350,868	\$ 9,461	\$ 341,407
Golden Belt	\$ 1,245,665	\$ 38,244	\$ 1,207,422
Gorham	\$ 57,217	\$ 2,064	\$ 55,154
Haviland	\$ 571,514	\$ 5,345	\$ 566,169
H & B Comm	\$ 585,620	\$ 22,938	\$ 562,682
Home	\$ 689,583	\$ 12,671	\$ 676,911
JBN	\$ 826,791	\$ 16,223	\$ 810,569
KanOkla	\$ 767,665	\$ 14,618	\$ 753,047
LaHarpe	\$ 73,325	\$ 2,440	\$ 70,884
Madison	\$ 346,511	\$ 4,786	\$ 341,724
MoKan Dial	\$ 909,633	\$ 22,168	\$ 887,465
Moundridge	\$ 779,830	\$ 16,564	\$ 763,266
Mutual	\$ 80,677	\$ 2,822	\$ 77,854
Peoples Mutual	\$ 283,429	\$ 10,508	\$ 272,922
Pioneer	\$ 2,878,119	\$ 99,831	\$ 2,778,288
Rainbow	\$ 252,460	\$ 11,960	\$ 240,500
Rural	\$ 4,071,355	\$ 70,595	\$ 4,000,760
S & A	\$ 623,319	\$ 5,498	\$ 617,821
S & T	\$ 1,678,342	\$ 18,763	\$ 1,659,579
South Central	\$ 361,454	\$ 6,497	\$ 354,956
So Cent of Kiowa	\$ 180,152	\$ 4,804	\$ 175,348
Southern KS	\$ 3,680,343	\$ 31,164	\$ 3,649,179
Sunflower	\$ 6,648	\$ 29,071	\$ (22,422)
Total	\$ 352,609	\$ 8,338	\$ 344,272
Tri-County	\$ 427,758	\$ 18,235	\$ 409,523
Twin Valley	\$ 920,040	\$ 13,800	\$ 906,240
United Telephone Assn	\$ 760,680	\$ 36,338	\$ 724,341
Wamego	\$ 290,051	\$ 33,304	\$ 256,747
Wheat State	\$ 928,574	\$ 15,006	\$ 913,568
Wilson	\$ 1,009,158	\$ 14,477	\$ 994,682
Zenda	\$ 104,830	\$ 1,423	\$ 103,407
Subtotal	\$ 29,697,572	\$ 753,951	\$ 29,024,408
SW Bell	(b) \$ 10,500,596	16,873,248	\$ (6,372,652)
Sprint/United of KS	(b) \$ 11,436,996	1,672,272	\$ 9,730,238
Western Wireless	(c) \$ 26,094	2,400	\$ 23,694
Total	\$ 51,661,258	\$ 19,301,871	\$ 32,405,688

(a) These amounts are based on support calculations as of January, 2002. The support payable and assessment amounts are subject to change due to line count changes or Commission decisions in pending or future dockets.

(b) SW Bell's & Sprint/United of KS' assessments are for local service only. The assessment reported does not include assessments for long distance and private line services.

(c) The Kansas Corporation Commission has designated Western Wireless as an ETC for State and Federal Funding purposes. The Commission recently opened Docket No. 02-GIMT-439-KSF to review and determine the actual KUSF support Western will receive. The amounts listed here are estimates, based on preliminary information received at this time and are subject to change, based on the Commission's decisions in Docket No. 02-GIMT-439-KSF.

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KANSAS CORPORATION COMMISSION				To Ruth Scott	
2000 ANNUAL REPORT REVENUES				on 7/12/2001	
CO.	TELEPHONE COMPANIES	DATE		00 INTRA.	99 INTRA.
CODE		REC'D	CONFID?	OP. REV.	OP. REV.
	LEC (Local Exchange Carriers)				
BSTT	Bluestem Telephone Co., Inc.	4/19		\$1,045,846	\$1,000,591
BLVT	Blue Valley Telephone Co.	5/3		\$5,089,190	\$4,085,732
CCOT	Cass Co. Telephone Co.	5/1		\$267,485	\$247,034
CBST	Columbus Telephone Co., Inc.	4/27		\$927,653	\$850,444
CGTT	Council Grove Telephone Co.	5/1		\$855,838	\$797,628
CWKT	Craw-Kan Telephone Coop., Inc.	5/1		\$7,407,952	\$6,358,500
CNHT	Cunningham Telephone Co., Inc.	4/24		\$1,904,785	\$1,917,899
ELKT	Elkhart Telephone Co., Inc.	4/30		\$949,577	\$1,165,773
GNBT	Golden Belt Telephone Co.	4/30		\$6,238,578	\$4,658,638
GRHT	Gorham Telephone Co., Inc.	3/15		\$239,595	\$250,456
H&BT	H&B Communications, Inc.	4/27		\$1,191,987	\$1,273,078
HVDT	Haviland Telephone Co., Inc.	5/1		\$2,307,818	\$2,717,803
HOMT	Home Telephone Co., Inc.	4/5		\$1,415,947	\$1,667,240
JBNT	JBN Telephone Co., Inc.	4/30		\$2,319,768	\$1,890,049
KOKT	Kan-Okla Telephone Assn., Inc.	4/13		\$3,229,617	\$2,548,220
LHPT	LaHarpe Telephone Co., Inc.	4/27		\$219,835	\$267,905
MDST	Madison Telephone Co., Inc.	4/4		\$728,981	\$693,760
MKNT	Mo-Kan Dial Co., Inc.	5/21		\$2,128,439	\$2,949,301
MRGT	Moundridge Telephone Co.	4/3		\$2,218,420	\$2,417,749
MTLT	Mutual Telephone C+B434o.	4/9		\$292,869	\$283,790
PMTC	Peoples Telecommunications, Inc (also PTCT)	4/26		\$1,494,639	\$1,342,043
PNRT	Pioneer Telephone Assn., Inc.	5/3		\$12,183,749	\$13,089,083
RNBT	Rainbow Telephone Coop. Assn., Inc.	5/15		\$1,907,378	\$1,162,194
RRLT	Rural Telephone Service Co., Inc.	5/3	Yes	CONF	CONF
S&AT	S&A Telephone Co., Inc.	5/1		\$1,565,538	\$1,654,648
S&TT	S&T Telephone Coop. Assn., Inc.	4/27		\$2,945,121	\$3,354,679
STCT	S&T Communications of Dighton, Inc.	*****		w/ S&T in '00	w/ S&T in '99
SCNT	South Central Telephone Assn., Inc.	4/26		\$932,769	\$871,480
SCKT	So. Central Telecom. of Kiowa, Inc.	4/26		\$510,842	\$485,679
SNKT	Southern Kansas Telephone Co., Inc.	4/27		\$7,845,151	\$9,377,903
SWBT	Southwestern Bell Telephone Co.	5/1	Yes	CONF	CONF
SFLT	Sunflower Telephone Co., Inc.	4/19		\$4,508,021	\$4,144,463
TTHT	Totah Telephone Co., Inc.	3/26		\$1,140,551	\$1,178,104
TRCT	Tri-County Telephone Assn., Inc.	4/23		\$1,637,434	\$1,563,766
TWVT	Twin Valley Telephone, Inc.	4/30		\$2,172,047	\$2,178,075
UTAT	United Telephone Association, Inc.	4/30		\$2,639,974	\$2,895,217
UTDT	United Telephone Co. of Kansas, Inc.	4/30		\$44,188,494	\$45,391,283
UTET	United Telephone Co. of Ea. KS (IOWA)	4/30		\$37,614,363	\$38,826,216
USCT	United Telephone Co. of So. Ctrl. KS (AR)	4/30		\$7,270,316	\$7,278,211
USET	United Telephone Co. of SE KS (MO)	4/30		\$3,130,881	\$3,257,912
WMGT	Wamego Telecommunications Company, Inc.	3/27		\$2,555,337	\$2,672,304
WHST	Wheat State Telephone Co., Inc.	5/1		\$3,075,748	\$2,854,962
WLST	Wilson Telephone Co., Inc.	5/2		\$2,687,861	\$2,819,680
ZNDT	Zenda Telephone Co., Inc.	4/9		\$303,502	

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Access Lines 2000

Kansas Telephone Company's Exchange Access Lines
By Numerous Categories

Source: 2000 Annual Report

Co Name	Bus with Pay	Res	Total	
Bluestem	94	979	1,073	0.06%
Blue Valley	600	2,349	2,949	0.18%
Cass County	46	355	401	0.02%
Columbus	1,100	1,669	2,769	0.17%
Council Grove	693	1,695	2,388	0.14%
CrawKan	2,604	11,171	13,775	0.83%
Cunningham	250	1,340	1,590	0.10%
Elkhart	551	1,071	1,622	0.10%
Golden Belt	1,666	4,971	6,637	0.40%
Gorham	70	283	353	0.02%
H & B Comm	253	682	935	0.06%
Haviland	738	3,402	4,140	0.25%
Home	350	1,801	2,151	0.13%
JBN	472	2,318	2,790	0.17%
KanOkla	509	1,913	2,427	0.15%
LaHarpe	54	387	441	0.03%
Madison	194	615	809	0.05%
MoKan Dial	795	2,826	3,621	0.22%
Moundridge	693	2,106	2,799	0.17%
Mutual	113	365	478	0.03%
Peoples Mutual	351	1,354	1,705	0.10%
Pioneer	5,781	11,208	16,989	1.02%
Rainbow	280	1,766	2,046	0.12%
Rural	3,272	8,762	12,034	0.72%
S & A	105	851	956	0.06%
S & T	769	2,416	3,185	0.19%
South Central	186	896	1,082	0.07%
So Cent of Kiow	222	594	816	0.05%
Southern KS	917	4,387	5,304	0.32%
Sunflower	1,545	3,389	4,934	0.30%
Totah	139	1,271	1,410	0.08%
Tri-County	576	3,046	3,622	0.22%
Twin Valley	388	1,974	2,362	0.14%
United Assn	1,726	4,421	6,147	0.37%
Wamego	1,475	4,240	5,715	0.34%
Wheat State	295	2,162	2,457	0.15%
Wilson	484	1,864	2,348	0.14%
Zenda	42	183	225	0.01%
ILEC w/o Unitec	30,398	97,087	127,485	7.68%
United Tele(sun	31,812	110,963	142,775	8.60%
S W Bell	452,805	936,937	1,389,742	83.72% Armis Data
State Total	515,015	1,144,987	1,660,002	100.00%

United by Co:

of Kansas	19,784	57,301	77,085
Eastern	8,793	41,411	50,204
South Central	1,975	7,273	9,248
Southeast	1,260	4,978	6,238

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