

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 9:10 a.m. on February 19, 2002 in Room 526-S of the Capitol.

All members were present.

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: Jim Yonally, Verizon Wireless

Others attending: See Attached List

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

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

Jim Yonally, on behalf of Verizon Wireless, appeared in opposition to **HB 2754** (Attachment 1). Mr. Yonally addressed several areas of concern, including the size of the subsidy, the standard for KUSF funding, differences between rural basic charges and urban basic charges and increasing the size of the KUSF.

Chairman Holmes opened the floor for questions from the committee to any of the conferees. Representative Krehbiel requested that a statement be distributed that rebutted several assertions made by conferees (Attachment 2). In response to questions from the committee to Corporation Commission Staff as to the definition of universal service as it addresses equal access and does the commission have the authority to impose 'quality of service standards', Eva Powers stated that it appears to the Commission that they are preempted on this issue by FCC rules.

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

The meeting adjourned at 10:48 am.

The next meeting will be February 20, 2002.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 19, 2002

| NAME           | REPRESENTING           |
|----------------|------------------------|
| George Barbee  | RTMC                   |
| Mark Caplinger | SITA                   |
| RICHARD VEACH  | PIONEER COMMUNICATIONS |
| TOM DAY        | KCC                    |
| RICHARD LAWSON | SPRINT                 |
| MIKE MORRIS    | "                      |
| WADE HARGOOD   | "                      |
| Rob Hodges     | KTIA                   |
| Eva Powers     | KCC                    |
| Nelson Krueger | Western Wireless       |
| Allen Harvill  | KCC                    |
| Matt Bergmann  | Pat Hubbell Assoc      |
| Jim Caplinger  | SITA                   |
| Janet Bathurst | S + A Tel              |
| Shirley Allen  | SITA                   |
| WALKER HENDRIX | CURB                   |
| Anne Tymeson   | KCC                    |
| Jim Garkner    | SWIFT                  |
| Jim Yonally    | Verizon Wireless       |
| Ally Hayes     | Federico Consulting    |

Kendall Mitchell

SOUTHERN KANSAS TELEPHONE

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 19, 2002

| NAME          | REPRESENTING              |
|---------------|---------------------------|
| Tom Gleason   | Independent Telecom Group |
| Michael White | AT&T                      |
| Chris Wilson  | KS Gov'tal Consulting     |
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## TESTIMONY BEFORE THE HOUSE COMMITTEE ON UTILITIES

Chairman Holmes, and members of the committee, my name is Jim Yonally, and I am appearing today on behalf of Verizon Wireless in opposition to HB 2754.

Up front, let me admit that I am not an expert in this field. This is only my second year to represent Verizon Wireless. However, there are a few things I think I am beginning to understand.

First, there are some companies that have chosen to accept the responsibility to provide universal service. That is, they will provide telephone service, with a certain level of quality (single party, two-way voice grade calling, access to operator services, etc.) to ANYONE who requests it. Obviously, in some instances the cost of providing this service, on an individual basis, could be huge. Therefore, we as a state have adopted the policy that the person requesting the service should not have to bear the total brunt of that cost, nor should the local telephone company. As public policy we have determined that everyone who has telephone service should help subsidize the payment of that cost through the KUSF, with a universal service fund tax.

It seems to me that the next logical question is: How much should the subsidy be? How much of the higher cost of providing service to remote locations should be paid by the local customer or the local telephone company, and how much should be paid, through the subsidy, by the rest of the Kansas telephone customers? In current law, (page 9, line 35), the amount of the subsidy should be influenced, in part by the local basic rate and it's relationship to the statewide average rate. In other words, the standard used is the statewide rural telephone company average rate, because the amount of KUSF that a rural telephone company receives is reduced by the amount that the company's rate is below, or above that standard. This seems, to me, to be a very low standard, and perhaps a more fair measure would be the average basic rate that ALL customers pay, would be more equitable.

Then, I noticed that, on page 10, beginning on line 3, it appears to change the standard for KUSF funding. It's not very clear because I could find no connection between "affordable local residential and business rate" and KUSF funding. Presumably, raising the affordable rate would reduce the amount of KUSF funding that would go to all eligible carriers, lowering it would increase the size of the subsidy, and therefore the size of the fund. This new standard would change the definition from "rural" rates to "local exchange carrier average rates" which would include all of us and make the average the same as what all customers pay. Or at least that's what I thought until reading it a little more closely. The new standard would be the average of the COMPANY'S lowest flat rate as of January 1, 2002. Which means, for example, if company A, a small rural company, has 100 customers and a basic flat rate of \$8 per month, and company B, a larger company, with 1,000 customers, has a flat rate of \$16 per month, the average would be \$12. However, if we look at the average of what the customers actually pay, the average, in this example would be \$15.27. I believe there is one additional problem

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ATTACHMENT 1

with the definition in the bill. It defines "affordable rate" as the HIGHER of the current rate, or the statewide rate. What happens if technology makes it possible to provide basic service for half the cost of the current charge? Would this be a fair situation for all parties if the "affordable rate" were still based on "current" charges?

Now let me address the notion that rural basic charges below "urban" basic charges can be justified. I grew up on a farm, near a small town, and as is the case today, in most instances, our basic telephone charge was about half what it was in larger cities. True, our "phone book" only listed about 150 people that we could call without a long distance charge. But, the truth of the matter is, I usually only called about 10 of the numbers that were in the book, anyway. I now live in Overland Park, and to my knowledge I can call anyone in the Kansas City directory without a long distance charge, which I estimate to be over 500,000. And, how many of those do I typically call, in a month, about 10.

The final area I would like to address is the claim by the proponents that passage of this bill will NOT increase the KUSF. On the other hand, we have the regulatory agency, the Kansas Corporation Commission, saying yesterday, in their testimony that passage of this bill would, in their opinion, increase the size of the fund. When those who would be benefited by passage of this bill are on one side, and the neutral regulatory agency is on the other, which does logic dictate would be more likely to be correct?

Thank you for your time, and I would try to answer any questions you might have.

Sprint's Assertions

- 1) Regarding Sprint's assertions about quality of service standards in a May 5, 2000 order. The very same order also stated "The commission finds that both state and federal law allow it to impose conditions for distributions from the KUSF in order to ensure competitive neutrality, and also to impose additional conditions for ETC designation, but we will not do so at this time." Order, in the Matter of A General Investigation Into Quality of Service Standards to Determine Whether a Uniform Set of Standards can be Applied to all Eligible Telecommunications Carriers, at p. 10, para. 25.
- 2) Sprint's assertions that the KCC has clearly said that the federal telecom act "specifically prohibits CMRS (wireless) providers to provide equal access to toll services as a condition to becoming ETCs" is a misstatement and mischaracterization. The referenced KCC order is Order No. 7 in 99-GCCZ-156-ETC, i.e., the Western Wireless application docket, dated February 29, 2000. The KCC, on April 17, 2000, in the same docket, retracted that finding, and stated that the KCC did not have sufficient information about Western Wireless' service to decide if the exemption of 47 U.S.C. Sec. 332(c)(8) applied. The KCC, to this date, has never decided this issue.
- 3) In regards to the Nebraska situation, it is our understanding that the Nebraska PSC did in fact order Western Wireless to provide equal access. Since that order, the Nebraska PSC has established various dockets to carry out the equal access requirement. Currently, the Nebraska PSC is considering making the equal access requirement applicable to any and all ETCs, not just Western Wireless. One of those proceedings is a rule and regulation proceeding, which is still awaiting a final order.

Western Wireless Assertions

- 1) Western Wireless' own federal cite supports the fact that Kansas can require a carrier to provide consumers with their choice of long distance provider if that carrier wants to receive funding from the state. 47 U.S.C. Sec. 332(c)(3)(A) states "... this paragraph shall not prohibit a state from regulating the other terms and conditions of commercial mobile service." Terms and conditions usually refer to rate regulation and tariffing matters.
- 2) Regarding Wyoming, we are not yet familiar with the order, but would point out it is a Wyoming PSC decision. The order has no precedential effect. It is not a federal court nor FCC decision.

Prepared by SITA/RTMC

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ATTACHMENT 2