Approved: 2/7/94
Date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on February 3, 1994 in Room 123-S of the Capitol.

Members present: Senators Burke, Downey, Feleciano, Gooch, Harris, Kerr, Ranson, Reynolds, Salisbury, Steffes and Vidricksen

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Ann Donaldson, Legislative Research Department
Jim Wilson, Revisor of Statutes
Bob Nugent, Revisor of Statutes
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee: Lynne Holt, Legislative Research Department

Others attending: See attached list

SB 591--Limited deregulation of the telecommunication industry

Lynne Holt, Principal Analyst, Kansas Legislative Research Department, presented to the Committee the background and an overview of SB 591 and regulation of telecommunications, see attachment 1.

Senator Feleciano moved and Senator Ranson seconded to adopt the minutes of February 2, 1994. The motion carried on a voice vote.

The Chairman announced that consideration of SB 183 would be postponed until next week, per Senator Gooch's request and the meeting on February 4 would be reserved for the subcommittee on privatization.

The Chairman adjourned the meeting at 9:00 a.m.

The next meeting is scheduled for February 7, 1994.

GUEST LIST

COMMITTEE: SENATE COMMERCE COMMITTEE DATE: 2/3/94

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Kathie Sparks	Topeka	
Alan Steppat	Topeka	Pete McGill & Assoc.
TREVA POTTER	TOPEKA	MIDWEST ENERGY
Roger Franzke	Topeka	Ks Govt Consulting
DENNY KOCH	TOPEKA	SWBT
Larry Dimmitt	Topeka	SWBT
Jim Shelley	TOPEKA	SWBT
Karen Matson-Flaming	Topeka	KCC
Mike Reecht	Topeka	AT&T
STEVE KEARNEY	TOPEKA	KINNET
Nelson Krueger	Lawrence	Kinnet
Lee Droegemueller	TOPEKA	KSBE
Rob Hodges	Topeka	Ks Telecom Assn.
Wayne Maichel	Top	Ks. AFL-CIO
TOM DAY	TOPEKA	KCC
RALPH SKOOG	TOPEKA	Ks CATV ASSN.
Martha Jenkins	Ks City MO	Sprint
Don Low	Topeka	KCC
Steve Powers	Topeka	MCI
Barbara Paschke	Topeka	Regents
Denise Moore	Topeka	KSBE
Anne Kimmel	Topeka	AARP
Ben Coates	Topeka	KPA
Beth Runnebaum	Topeka	CURB
Glenda Cafer	Topeka	none

GUEST LIST

COMMITTEE: SENATE COMMERCE COMMITTEE DATE: 2/3/94

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
VELERIE DUETTE	215 SE 7th	CITY COUNCIL
MIKE LURA	KANSAS CITY	AT&T
Harriet Lange	Topeka	Ks Assn Broadcasters
Jim Ludwig	"	Western Resources
[illegible] Price	"	"
Mark Doty	Ottawa	Thomas E Gleason Chtd
Roger G Baker	Topeka	KCPR
J.C. Long	Topeka	UtiliCorp United
[illegible]	Topeka	atty [illegible]
PHIL WOODBURY	EMPORIA	RETIRED
Brian Moline	KCC	
JEFF RUSSELL	TOPEKA	SPRINT/UNITED
Bion Ostrander	Topeka	Public
Mark Barcellina	Topeka	KDOC&H
Doug Smith	Topeka	SITA

MEMORANDUM

Kansas Legislative Research Department

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February 2, 1994

To: Senate Commerce Committee

From: Lynne Holt, Principal Analyst

Re: Background and Overview of S.B. 591 -- Regulation of Telecommunications

This memorandum attempts to accomplish three things:

1. explain the basic concepts of regulation of public utility companies in a very abbreviated manner;

2. explain in an equally abridged manner various federal and state efforts to decontrol pricing of certain local telephone company services; and

3. provide a framework for understanding S.B. 591.

This is obviously a rather ambitious undertaking for the time allotted to me. I will therefore focus on what, in my opinion, is essential information for understanding this bill at the risk of excluding other probably equally relevant information. I trust such information will be supplied at a later date by conferees.

I. Regulatory Concepts

The regulation of public utilities (natural gas, electrical, and telephone prior to the AT&T divestiture) is considered a substitute for competition when it is determined that competition is not as effective as market control. The underlying assumption is that a public utility operates at a lower unit cost under a monopoly than under competition. In theory, the reasons for the lower unit costs in a monopolistic environment are that:

1. the costly duplication of facilities is eliminated;

2. public utilities achieve decreasing average unit costs as output increases (the cost structure is dominated by a proportionately heavier investment in fixed assets than is the case with other businesses); and

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Attachment 1-1

3. a single company requires less investment in reserve capacity than several competing companies to meet the diverse demands of customers (*e.g.*, all customers do not make telephone calls at the same time or use air conditioning at the same time, but utility companies need to respond to peak or maximum demand when the most customers use those services).

In the absence of a competitive market, regulators historically determined the costs of providing telephone service by taking an inventory of the regulated company's capital assets and auditing its expenses. Prices were set by determining the revenue requirements of the public utility to recover those costs plus the specified rate of return. (The "rate of return" is the amount a utility earns, over and above operating expenses, depreciation expense, and tax, expressed as a percentage of the legally established net valuation of utility property, the rate base.) The design of telephone rate schedules, prior to the dismantlement of AT&T, was based almost entirely on value of service (and not cost of service) considerations. Pricing based on "value of service" essentially responds to customer demand -- the capacity and willingness of customers to bear such costs. Prior to the AT&T divestiture, aligning costs properly to prices of most telecommunications services was not of paramount concern because there was only one telephone system comprised of long-distance and local service and separations of costs were at best arbitrary. The misalignment of costs to prices was particularly evident in regulators' decisions to overprice long distance service in their cost allocations and keep basic residential service rates artificially low -- a distortion that even after the AT&T divestiture has not been totally eliminated, although it certainly has been reduced. In an environment that is becoming increasingly competitive -- the environment in which regulated telephone companies operate -- there is a real need to ensure that services are competitively priced and that regulatory action responds adequately to that need. Therefore, the question confronting most state regulators is not whether to grant telephone companies (particularly, the Bell Operating Companies or BOCs) more flexibility in setting certain rates, but rather, under what circumstances, and to what extent, such decontrol should occur.

II. Federal and State Schemes for Price Decontrol

As we all know, technological change has been tremendous in the area of telecommunications and most regulators would agree that the regulatory scheme governing the predivestiture environment is no longer totally viable. As many regulators have discovered, traditional rate base/rate of return regulation did not provide telephone companies with adequate incentives for efficient management and cost containment. Moreover, because this type of regulation is based on historical analysis of a utility's performance, it places little emphasis on planning for the future. At this juncture, a brief description of federal and state activities with respect to alternative regulation may prove useful.

AT&T

We do know that there is some precedent for price decontrol at the federal level. In July, 1989, the Federal Communications Commission (FCC) adopted a price cap for AT&T. This meant that AT&T was freed on an interstate basis from rate of return restrictions and was allowed to change its prices for services between three and eight points below the official rate of inflation as determined by the GNP-PI. For AT&T, the FCC price cap plan created three service "baskets" or categories of services.

The intent of this rate design was to discourage cross-subsidization between the "baskets" while permitting pricing flexibility for more rationale rate structures for the services within each "basket."

Nebraska

On the state level, other experiments with decontrol began to surface. The most commonly cited experiment of this sort appears to be Nebraska's deregulation activities. In 1986, the Nebraska Legislature enacted LB 835 which moved the telecommunications industry in that state toward deregulation. It did not, however, totally deregulate the industry in that state. The salient features of the law are as follows: basic local telephone service is still maintained as a protected monopoly and local rates are capped by a 10 percent annual limit (for smaller companies, the percentage was 30 percent). Prior to changing rates, the telephone companies must provide notice and hold hearings. The Nebraska Public Service Commission can review a rate increase subject to consumer petition or if rates increase more than 10 percent per year. New services may be introduced and priced without a rate proceeding and tariffs of existing services may be changed independent of the size of the company's rate base or its rate of return. The Nebraska Legislature enacted a bill in 1991 that provided for, among other things, Commission review of a utility's windfall profits due to tax law changes.

How has this law affected the economic performance of telephone companies in Nebraska? According to one source, "Rate deregulation did not magically transform the industry for good or ill. Changes in pricing were mostly minor and gradual, with one exception. This fact is inconvenient for those who champion continued rate regulation, as well as for those who view regulation as a fundamental impediment to progress. . . . The pattern of change in Nebraska corresponds closely to the presence or absence of competition. In a geographically dispersed metropolitan and suburban area such as Lincoln, competition in intraLATA[1] toll markets eroded Lincoln's telephone's revenues and created strong pressures for a general restructuring. In Omaha, a telemarketing center and business hub, rate reductions concentrated on large-user access charges and toll services. In both areas profits have not reached abnormal levels and there are no signs of abuse in the less competitive markets. Rate deregulation thus provided an accurate reflection not of the actual cost of services as such, but of which services were subject to alternative supply and which were not."[2]

State Alternative Regulation Schemes

As of June, 1993, 26 states had adopted incentive plans based on revenue sharing or profit sharing, price caps, or some combination of sharing and price caps. Twenty-three states have deregulated, partially regulated or streamlined regulation for some or all of the telephone companies

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[1]The restructuring of AT&T obligated AT&T on January 1, 1984 to relinquish all interests in local traffic services -- at that time, the 22 Bell Operating Companies. These BOCs were grouped into seven independent regional holding companies, one of which is Southwestern Bell. The territory of each BOC was itself subdivided into local access and transport areas (LATAs). The BOCs were only allowed to carry those communications located within a single LATA (intraLATA). In Kansas, the local exchange carrier is the predominant carrier of long distance intraLATA services, although one may access the services of other operators (AT&T, GTE Sprint, or MCI) through use of an access number.

[2]Milton L. Mueller, *Telephone Companies in Paradise: A Case Study in Telecommunications Deregulation*, New Brunswick (U.S.A.): Transaction Publishers (1993), p. 173.

operating in their jurisdictions; and 12 states were considering some form of alternative regulation.[3] With respect to state alternative regulation schemes that might address components of incentive plans and regulatory decontrol, states have engaged in what could be classified as three types of reform: (1) service-by-service reform; (2) incentive regulation; and (3) social contract regulation.[4]

Service-by-Service Reform. Service-by-service reform attempts to segregate the telephone company's products and processes into different categories and regulate each category differently. This categorization is generally based on the amount of competition believed to exist in each service. Newer and highly competitive services, such as paging, voice mail, and cellular telephony, may be deregulated, detariffed, and removed from the rate base. However, basic monopoly services, such as local exchange access, would generally be subject to rate of return regulation. Another category of partially competitive services might also be included. The AT&T pricing structure, discussed above, might be considered under this rubric.

Incentive Regulation. Incentive regulation allows the regulated telephone company to retain some of its extra profits when it makes more than the allowed rate of return. Whereas in the past a company would have been required to refund excess earnings to ratepayers, this type of regulation divides earnings between the company and its customers in accordance with a predetermined formula. The incentive is designed to give the telephone company an opportunity to earn more if it improves its productivity or attains a certain quality of service.

Social Contract Regulation. Social contract regulation is the product of an agreement between the state's regulators and the telephone company. The two parties arrive at a bargain which is supposed to be mutually beneficial to the state's consumers and the telephone company. Generally, the telephone company commits itself to certain social goals deemed desirable by the regulators, such as network upgrades or basic local service rate stability (or both) in exchange for the elimination of rate of return regulation. Social contracts generally divide themselves into two categories, one exempt from all pricing regulation and the other (usually basic local service) subject to some kind of constraint. For example, Nebraska's regulation scheme is a form of social contract. TeleKansas I and proposed TeleKansas II also could be classified under this category. In the four other states served by Southwestern Bell (the BOC service provider in Kansas), two states (Arkansas and Oklahoma) have no alternative regulation plans and are presently subject to traditional rate base/rate of return regulation. The other two states (Missouri and Texas) have a combination of social contract and incentive regulation which has involved a cap on their local rates in exchange for multi-year upgrade investment, and has provided for a sharing arrangement of profits (beyond a certain amount) between the company and its customers.[5]

What generally enables telephone companies to enter into social contract agreements or combination social contract/incentive regulation arrangements is that, given changes in telecommunications technology, the cost of providing service has declined. Therefore, telephone companies may realize considerable earnings, even with caps on local rates for several years, and can afford to make modernization investments in lieu of reducing local rates. The rationale is that ratepayers, as well as the

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[3]*National Regulatory Research Institute Update to the Maine and Missouri Reports on Alternative Regulation Plans in Telecommunications*, June 1993, p. i.

[4]Ibid., pp. 44-47.

[5]Provided by Southwestern Bell, January, 1994.

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company, in terms of its long-term earnings, can be expected to benefit from such improvements. In the states of Missouri and Texas, the BOCs participate in plans to return a portion of their profits to ratepayers, even though they have also committed a portion of their earnings to modernization programs. (The purpose here is not to suggest that such an arrangement should necessarily apply to the BOC in Kansas; this is a matter for others to decide based on an analysis of a variety of factors.)

Missouri

A 1987 law requires regulators to classify telecommunications companies as noncompetitive, transitionally competitive, or fully competitive. Regulators must also separately classify services in accordance with those categories. The nature and scope of deregulation depends on what company offers which services. Tariffs must be filed regardless of classification. Southwestern Bell began operating a three-year experimental regulatory framework, known as TeleFuture 2000, on January 1, 1990. This experiment allowed for ratepayer sharing of excess earnings, as noted above. Other provisions included Company investments in electromechanical switch replacement, party-line elimination, and M-Carrier replacement, in addition to frozen local and switched access rates and reductions in rates for touch tone, intraLATA long distance, switched access, WATS and 800 service, service connection charges, and mileage charges.

An order issued by the Missouri Public Service Commission on December 17, 1993 concluded that the Company must file tariffs to implement a revenue reduction of over $84.6 million. While the Commission agreed in its order that the three-year experiment was a success, it also noted that "over the three-plus years since those rates were set, financial conditions and SWB's operations have changed. The Commission finds that those changes necessitate a consideration of SWB's revenue requirement under traditional ratemaking before any consideration of an alternative regulation plan can be made."[6] The Commission also noted that it would agree to a modified Accelerated Modernization Plan, as outlined in the order.

Southwestern Bell responded to the Commission's order on December 23, 1993 with respect to various provisions addressed in the order. Concerning the issue of incentive regulation (exemplified by TeleFuture 2000), the company countered that the Commission focused narrowly on earnings rather than on the provision of quality services at affordable rates. The company also rejoined that it makes no sense to participate in a regulatory framework that involves large rate reductions every few years in between which the company is asked to freeze nearly all rates, share revenues, and make significant investments.

A bill (H.B. 1477) with similar provisions to S.B. 591 has just been introduced at Southwestern Bell's request in the Missouri Legislature for its consideration.

TeleKansas I

A modified version of TeleKansas I was approved in February of 1990 by an order of the Kansas Corporation Commission (Docket No. 166,856-U). The order issued by the Commission agreed, overall, to a change from rate base regulation to pricing regulation. For its part, Southwestern Bell

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[6]Missouri Public Service Commission report and order, Case No. TO-93-192, p.6.

agreed to embark in network modernization that was estimated to cost the company $160 million over a five-year period. Other provisions were included as well: a permanent reduction of $17 million in Bell's long distance rates; a reduction of $2 million in access charges for long distance (instrastate interLATA); elimination of all basic 911 service charges; a reduction in service connection charges; a reduction in Touchtone rates; an establishment of a fund to help pay for basic local service in qualifying low-income households; and increases in directory assistance rates and rotary hunt business service. The order stipulated that the plan would last five years (to terminate in March, 1995), during which time neither the staff nor Southwestern Bell would file or support a general rate case proceeding to alter rates. A stipulation between the Company and Commission staff (Appendix A of the February, 1990 order) notes that: "This modified TeleKansas proposal presented in this Stipulation recommends an alternative regulatory approach but is not intended to deregulate SWBT's telecommunications services in Kansas." (No. 3, p. 2.) In that same stipulation, it was also agreed that during the five-year period, the TeleKansas impact and prices would be monitored. The intent was for staff and Southwestern Bell, depending upon the results of such evaluation, to jointly recommend to the Commission by the end of 1993 this or some other alternative regulatory plan. The same provision of the stipulation noted that "it is the intent of the parties not to merely return to rate base regulation at the end of five years." (No. 25, p. 9.) There appears to be a lack of consensus between the Commission staff and Company on "all aspects of the TeleKansas results," which explains why no joint recommendation has been submitted to the Commission for extending the TeleKansas I plan.[7] This is also the reason why each party to the stipulation submitted its own set of recommendations (and not a joint set) for a TeleKansas I successor plan. Each set of recommendations is outlined below.

TeleKansas II

Southwestern Bell submitted a proposal to the Kansas Corporation Commission for TeleKansas II on January 3, 1994. The proposed plan would: commit the Company to a five-year network modernization program costing $138 million for distance learning and telemedicine applications, public switched video service networks for educational video clusters, and backup fiber routing for all Company offices; a continued cap on basic local service rate schedules for residential and single line business for five years; a continuation of flexible pricing procedures, with the addition of new discretionary services as introduced; and several other provisions. With respect to continued price regulation, the Company proposed: a continued moratorium on rate base/rate of return regulation for at least the next five years; "specific exogenous language to the TeleKansas plan to allow relief for both the Commission and SWBT for a change in SWBT's cost structure that is at the direction and control of governmental authorities, such as tax rate, accounting, and separations changes"; and automatic annual renewal of TeleKansas II without an earnings review at the end of the five-year period provided that the Company commits to a continued cap on residential and single line business rate schedules. The Company also proposed "that should the Commission determine that the same or a similar service as that provided by SWBT is being offered by another provider in Kansas, that the SWBT service be subject to the same regulatory requirements as apply to such other competitive providers." Finally, the Company requested flexibility to change depreciation rates to FCC levels, and adopt FCC depreciation ratemaking simplification processes.

The staff of the Commission, for its part, submitted its own set of recommendations to the Commission. In that submittal, staff observed that the Company's rates are unreasonable and result in

[7]"TeleKansas Status Update and Proposal," submitted to the Kansas Corporation Commission by Southwestern Bell on January 3, 1994.

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revenues which exceed the Company's revenue requirements by some $22.6 million. Given that excess, staff recommended that the Company be required to adjust its rates to reasonable levels at the expiration of TeleKansas and as a precondition for any successor alternative regulatory plan and that a hearing be ordered on those rates. Staff recommended at that same hearing that details be considered for a successor alternative regulatory plan for the Company. Staff further noted that TeleKansas I was acceptable and could be continued until January 1, 1999, with (using staff's terminology) one "major" modification and two "minor" ones. The major modification recommended in staff's submittal is an earnings sharing mechanism which would allow ratepayers "to benefit from declining costs of providing service." An alternative would be for a shorter duration for the successor plan (to terminate after two years on January 1, 1997 instead of after four years on January 1, 1999) subject to serious evaluation of a sharing mechanism at that time. The other proposed modifications refer to procedural matters.

At this juncture, it should be noted that, comparable to the situation in Missouri, no agreement between the Kansas Corporation Commission and the Company exists as to the specific provisions to be included in the successor to the first alternative regulation program (TeleKansas I). The deliberation process is, however, somewhat more advanced in Missouri than in Kansas, in that the Missouri Public Service Commission has already issued an order, discussed above, taking a position on the proposed successor to the initial alternative regulation plan in that state (TeleFuture 2000). No order has been issued to date by the Kansas Corporation Commission articulating a position on the proposed TeleKansas II plan. The most recent Commission action on this issue is the staff submittal containing recommendations for a successor plan, addressed above.

III. Senate Bill No. 591

There is no consensus among the potentially affected parties as to what S.B. 591 actually would do, if enacted. Perhaps a few observations might be in order on those conceptual provisions about which there appears to be consensus. First, it appears that the deregulation provisions of Section 1 would apply to all telecommunications public utilities, under Commission jurisdiction, that agree to a cap on basic local rates that are in effect on December 31, 1993, and that a capital expenditure commitment would have to be made by Southwestern Bell, as well as the commitment not to increase local rates.[8] Second, it appears that in Section 1 (b), certain conditions might arise that could cause a telephone company that is party to this agreement to increase its local rates. Third, it appears that in Section 3, the Commission would be required to exempt the services of a telephone company from regulation under certain conditions.

From my review of the bill and the contents of the Commission's TeleKansas I order and the Company's proposed TeleKansas II plan, additional observations might be useful. Questions will be raised to assist Committee members in requesting clarification.

Duration Period. Both TeleKansas I and proposed TeleKansas II have five-year duration periods. S.B. 591 has no expiration dates for any of the provisions included therein. Arguably, an expiration date might not have been intended for the provision that appears to correspond to Section 3, included in proposed TeleKansas II.

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[8]Neither TeleKansas I, nor the proposed TeleKansas II plan contains any provisions concerning local telephone companies other than, of course, Southwestern Bell.

Apportionment of $138 Million. In general, the content of S.B. 591 appears to correspond to proposed TeleKansas II with respect to the capital expenditure commitment of $138 million, although in the proposed plan, it is worded as "a five year commitment to a further network modernization program costing approximately $138 million; in the bill, capital expenditures of $138 million would be spread over a period of not less than five years." In neither case is it clear to the lay person reader exactly when that money would be apportioned.

Amount of Capital Expenditures and Intended Use. As I indicated to Southwestern Bell staff, the words "above normal construction investment" raises the question as to who determines that amount. Moreover, proposed TeleKansas II refers to certain modernization activities involving education, health, and economic development. Are these the items in the bill to which the words "application in the areas of education, health care, or economic development" refer? Is the intent to finance "applications" or actual entities, such as DS-1 connections, fiber optics linkages, etc.? Moreover, who determines what applications will fit under the rubric of education, health, and economic development?

Intent of Section 1 (b). In proposed TeleKansas II, as previously noted, there is the statement: "SWBT proposes to add specific exogenous language to the TeleKansas plan to allow relief for both the Commission and SWBT for a change in SWBT's cost structure that is at the direction and control of governmental authorities, such as tax rate, accounting, and separations changes." Is the language in Section 1 (b) intended to encapsulate this proposal? If so, the language in the bill appears to be more general. Moreover, upon what basis could a determination be made to categorically ascribe any particular Commission action to a reduction in utility revenues given that more than one factor could conceivably result in such reduction?

Flexibility to Increase and Decrease Prices. In TeleKansas I, the Company was authorized to flexibly price certain non-basic and/or discretionary services subject to a 20-day effective date. In proposed TeleKansas II, the Company proposed to continue the flexible pricing procedures in place in TeleKansas I, in addition to adding new discretionary services as they are introduced. In the bill, this flexibility appears to apply to all services (not just services assigned for flexible pricing) other than basic local rates subject to a 15-day effective date. Moreover, in the bill there is no provision to allow the Commission to suspend filings as there is in TeleKansas I. Is this analysis correct?

Intent of Section 3. Section 3 appears to correspond to a provision proposed in TeleKansas II (not included in TeleKansas I). However, in proposed TeleKansas II, it is stated, as previously noted: "SWBT proposes that should the Commission determine that the same or a similar service as that provided by SWBT is being offered by another provider in Kansas, that the SWBT service be subject to the same regulatory requirements as apply to such other competitive providers." In the bill, it appears that the competing provider need not be regulated and, moreover, that the services confronted with competition could be exempted from regulation (which is different from being accorded the same regulatory treatment, as provided in proposed TeleKansas II). Other questions arise: Which services will be subject to the provisions of this section? Is the "geographic market" the same as the telephone company's service area? What is a "similar" service? Moreover, the intent, according to Southwestern Bell staff, was to have the cap on local rates pertain, even if the service provided by an unregulated entity is a local telephone service. Does the language in the bill reflect that intention? The words "more favorable terms and conditions" seem subjective. How will such determinations be made?

As should be apparent from the questions posed above, the language in the bill is sometimes vague which might have contributed to the lack of consensus about intent and which might also create problems for implementation.

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Finally, there are two major policy questions that the Committee and conferees might wish to address in their remarks during the hearings.

First, TeleKansas I was established in an order issued by the Commission. S.B. 591 proposes to enact in statute a successor plan, in addition to other provisions. What are the advantages, if any, and the disadvantages, if any, of codifying such provisions in statute?

Second, on the one hand, regulators are often considered an impediment for telephone companies that are faced with daunting competition by less regulated or nonregulated providers for the same services. Regulators may be criticized for not responding expeditiously to allow the regulated company to price its services competitively in the rapidly changing market of communications services. On the other hand, regulators are expected to balance various, often conflicting needs:

1. the need for the regulated telephone company to be ensured the opportunity to realize a reasonable return on investment so that it can provide high quality and up-to-date services to all groups of ratepayers;

2. the need to ensure that basic local telecommunications service is affordable and accessible to all ratepayers, and that ratepayers also are not subsidizing through their rates the costs associated with deregulated services, and that ratepayers have recourse to remedies if regulated basic local telecommunications service is of substandard quality (as they would have no choice but to use such services); and

3. the need to ensure that any state regulatory actions taken do not adversely affect the emerging competition among all providers of communications services.

This observation raises the question of how telecommunications are regulated by the Kansas Corporation Commission. Are there services that are currently regulated but should be deregulated because sufficient competition exists? Is there a more effective way to make the transition from partial deregulation to greater deregulation than through the alternative regulation schemes currently under consideration by the Commission and Southwestern Bell? Does S.B. 591 provide a viable alternative framework for the transition to greater deregulation while balancing the three needs identified above? Finally, should S.B. 591 specifically address the distribution of services and the kinds and levels of services to be provided to ratepayers throughout the state? These questions, in my view, get to the heart of the matter.

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