

Approved: 2/16/94
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 14, 1994 in Room 123-S of the Capitol.

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

Committee staff present: Lynne Holt, Legislative Research Department
Bob Nugent, Revisor of Statutes
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

BILL REQUESTS:

The Chairman announced the Kansas Motor Carriers requested the Committee introduce a bill to amend the Workers Compensation Act.

Senator Kerr moved and Senator Reynolds seconded to introduce RS 2428 concerning the Workers Compensation Act; relating to subcontracting. The motion carried on a voice vote.

The Chairman announced a bill introduction was requested to amend the employment security statute relating to the determination of the weekly benefit amount when an individual is receiving severance pay.

Senator Steffes moved and Senator Kerr seconded to introduce RS 2400 concerning employment security law. The motion carried on a voice vote.

The Chairman announced a request has been made to introduce a bill to clarify enterprise zone law.

Senator Ranson moved and Senator Vidricksen seconded to introduce RS 2008 regarding enterprise zones. The motion carried on a voice vote.

COMMITTEE DISCUSSION OF SB 591-Limited deregulation of the telecommunication industry

The Committee questioned Susan Fox, President, Kansas Division, Southwestern Bell Telephone, regarding SB 591. Ms. Fox responded that in Kansas, Southwestern Bell is a division of Southwestern Bell Telephone Company, which is a subsidiary of Southwestern Bell Corporation. An annual financial report is provided to the Kansas Corporation Commission (KCC). The \$138 million capital investment is considered an incremental capital investment. Incremental capital investment means it is over and above normal construction spending. About \$67 million of the \$138 million is in the redundant fiber network. The redundant fiber network is their economic development piece of their infrastructure, and will not be a revenue producer. Southwestern Bell will provide a fiber network backup to all of the cities and towns served in their service territory. There will be a point in time when the other infrastructure pieces, notably the switching and fiber within the central offices, that would make telemedicine or distance learning available, will produce some revenues, however since they will be priced at incremental cost, total cost will not be recovered. Costs have not gone down overall. Total operating expenses have gone up over 19% excluding taxes. Property taxes have increased; income tax is higher; and the cost of providing post retirement health care benefits is a big part of increased costs.

Ms. Fox stated the current regulatory model is excessively burdensome, not very rapid and a disincentive. Revenues are set on a cost plus system, which means the cost of doing business plus a rate of

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on February 14, 1994.

disincentive. Revenues are set on a cost plus system, which means the cost of doing business plus a rate of return. TeleKansas I cost \$140 million. In TeleKansas II they would make available interactive video and telemedicine in every city and town Southwestern Bell serves in Kansas. She said she was not opposed to stating the outcomes in the law. They are not going into someone else's certificated territory. The entire state of Kansas will be further ahead of the rest of the country, especially in regard to the backup fiber network. Southwestern Bell believes that there is a future in the wired business and that the wireless business has a very positive future. The wired business will continue to provide a significant and expanding contribution of services and increasingly high quality services to the American consumer.

The 1984 cable communications act forbids them from providing cable within their five state region. The FCC has ordered co-location. Co-location means a competitor has the right to come into Southwestern Bell's physical plant and use part of it to interconnect with Southwestern Bell and run their own wire.

Ms. Fox stated SB 591 is not addressing a state plan. However, there has been an extensive study and analysis of the telecommunications industry in Kansas by the Regents Institution. Additionally, Ms. Fox chairs the telecommunications subcommittee of Kansas Inc. Cable companies, KCC, Southwestern Bell, Regents, Ft. Hays State University and independent telephone companies are represented on the subcommittee.

The biggest efficiency attempt Southwestern Bell has made is in the reduction of employees. Labor costs have remained flat by this reduction of employees. In Kansas 80% of their revenue stream is based on rates that are either capped or frozen. This means only 20% of the rates can increase, and in an increasingly competitive market they can't realistically increase either.

Brian Moline, General Counsel, Kansas Corporation Commission, responding to questions, replied he testified in opposition to TeleKansas I as a consumer. He was not a member of the Kansas Corporation Commission staff at that time. The reason he opposed the original TeleKansas I plan is because it was the same as this plan is now. The original plan was permanent elimination of rate base regulation, and he took the position that it was illegal. The Kansas statute requires the KCC to make sure the rates are reasonable. TeleKansas I was amended to replace permanent elimination of rate regulation with a five year experiment. The incentive regulation that exists now has been removed. The incentive in SB 591 would go to shareholders permanently. The incentive regulation should not be for all customers or all shareholders; it should benefit both.

Don Low, Director of Utilities, Kansas Corporation Commission, informed the Committee the staff recommended TeleKansas II should include an excess earnings sharing mechanism. Such a mechanism provides rewards to the company for improved efficiencies but also ensures that ratepayers share in the benefits of relaxed regulation. Such an excess earnings sharing mechanism is still a significant departure from traditional rate base regulation in which rates can always be adjusted to account for any and all earnings above reasonable levels.

Brain Moline said the only thing that is slow is the rate process. He offered to supply the committee with a list of response times on requests for approval of flexible pricing of the discretionary services. They met the current deadline in almost every case, except where there was reason for the Commission to suspend it for further investigation.

A letter from Attorney General Robert T. Stephan opposing the provision of 1994 SB 591 was distributed to the Committee, see attachment 1.

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

The next meeting is scheduled for February 15, 1994.

GUEST LIST

COMMITTEE: SENATE COMMERCE COMMITTEE

DATE: 2/14/94

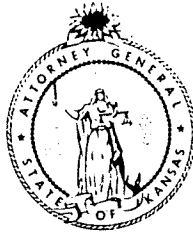
| NAME (PLEASE PRINT) | ADDRESS | COMPANY/ORGANIZATION |
|----------------------|-----------------|---|
| Denny Koch | Topeka | SW Bell |
| Hagriet Lange | Topeka | KAB |
| KEAVIS GIBB | Topeka | DOUGLAS CABLE Comm. |
| BRIAN LIPPOLD | WICHITA | MULTIMEDIA HYPERION TELECOMMUNICATIONS |
| Ron Marnell | Wichita | Multimedia Cablevision |
| BEN SCIORTINO | WICHITA | Multimedia Cable |
| MIKE LURA | K.C., Mo. | AT&T |
| Mike Reecht | Topeka | AT&T |
| Erin Molino | " | KCC |
| Nelson Krueger | Lawrence | KINT |
| CLARKE GARNETT | SALINA | KINI- KINNET |
| RJ | Topeka | SWBT |
| Charles Warren | Topeka | Kansas Inc. |
| Michael Ensmid | Manhattan | CHZ |
| Rob Hodges | Topeka | Ks Telecom Assn. |
| TOM DAY | TOPEKA | KCC |
| Randy Debenham | " | KCC |
| Janet Schalansky | Topeka | SRS |
| DAVID HOLLYBUSHWORTH | PRAIRIE VILLAGE | KANSAS CITY FIBERNET |
| Tom Gleason, Jr. | Lawrence/Ottawa | Indep. Telecom. Group. |
| Michelle Clum | Topeka | att'y. Jon Small |
| RICHARD SCHARFENBERG | ST. LOUIS | SWBT |
| Alice Amstutz | Topeka | SWBT |
| Jim Shelley | Topeka | SWBT |
| Ann Diggs | Topeka | KCC |

GUEST LIST

COMMITTEE: SENATE COMMERCE COMMITTEE

DATE: 2/14/94

| NAME (PLEASE PRINT) | ADDRESS | COMPANY/ORGANIZATION |
|----------------------|----------|------------------------|
| P. McCorvey | Wichita | Running |
| Mark Barcellino | Topeka | KDOT |
| Karen Matsen-Flaming | Topeka | KCC |
| Wayne C. W. Bate | K.C. Mo. | S.W. Bell |
| Alma Moore | Topeka | KSBE |
| Russ Phelps | Topeka | SW Bell |
| Gudy Schauf | Topeka | Dept of Admin |
| Tom Whitaker | TOPEKA | Ks Motor Carriers Assn |
| J.C. Lott | Topeka | WhiCorp United Inc. |
| John Pinggoff | Topeka | State Ind. Tele. Assn. |
| Chad Woodbury | Topeka | Answer Topeka |
| Martha Jenkins | Ks. City | Sprint |
| Shelby Smith | Wichita | |
| Don Low | Topeka | KCC |
| Eva Powers | Topeka | MCI |
| Ralph Strog | Topeka | KCATV/Comm |
| Dana Bradbury | Topeka | KCC |
| Frank Carr, Jr. | Topeka | Southwestern Bell |
| Roger Trauthe | " | Ks Govt Consultants |
| Glenda Chum | " | None |
| Larry Dimmitt | Topeka | SWBT |
| | | |
| | | |
| | | |
| | | |
| | | |



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

February 10, 1994

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

The Senate Committee on Commerce

RE: 1994 Senate Bill No. 591

Dear Chairperson Salisbury and Committee Members:

I wish to add my voice to those opposing the provisions of 1994 Senate Bill No. 591.

While the Office of Attorney General does not regulate the telecommunication industry, my office does take an active part in the protection of consumers who suffer at the hands of suppliers. Meaningful competition is an important component in establishing a fair price for any service or product. Any legislation which essentially allows a monopoly to exist without some government over-sight or control results in a detrimental impact upon consumers. Such an injustice and hardship should be avoided.

For over a hundred years Kansas has exercised public over sight of monopoly industries through the regulatory process. While the telecommunications industry appears to be gradually changing from a total monopoly to a more competitive industry, it is also true that a monopoly exists within Kansas as to the provision of basic telephone service. As long as the state sanctions a single supplier provider of such essential services as telecommunications, it is essential that the state also retain over sight of the pricing and distribution of those services. It has been my experience that the regulatory process, with its procedural and due process provisions, is the appropriate means of assuring public accountability for state sanctioned monopolies.

I urge the defeat of 1994 Senate Bill No. 591.

Very truly yours,

ATTORNEY GENERAL
ROBERT T. STEPHAN

Robert T. Stephan
Robert T. Stephan

2/14/94
Commerce

Attachment 1