

Approved: 3/8/94
Date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 7, 1994 in Room 123-S of the Capitol.

Members present: Senators Burke, Feleciano, Gooch, Harris, Hensley, 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

Consideration of confirmation of Bruce E. Peterman

Senator Kerr moved and Senator Ranson seconded to recommend confirmation of the appointment of Bruce E. Peterman to the Kansas Technology Enterprise Corporation Board of Directors, to serve a term to expire December 3, 1996. The motion carried on a roll call vote.

Staff briefing and committee discussion on Subcommittee report on SB 591-Limited deregulation of the telecommunication industry

Bob Nugent, Revisor of Statutes, reviewed Proposed Substitute for SB 591, 3 RS 2560, and Proposed Senate Concurrent Resolution, 3 RS 2555. The Commerce subcommittee recommended the substitute bill and the resolution. The substitute bill continues TeleKansas I for a period extending through March 1, 1997. The proposed legislation provides that the Kansas Corporation Commission, (KCC), shall not conduct any earnings audit prior to January 1, 1996. The KCC is not prevented from further relaxing regulation of telecommunications services or from complying with preemptive federal orders prior to March 1, 1997. The proposed Senate Concurrent Resolution, 3 RS 2555, directs the development of a state strategic plan for telecommunications, requesting the participation of Kansas, Inc. and the KCC, see attachment 1.

Senator Feleciano presented his proposed Senate concurrent resolution, 3 RS 2555(a), see attachment 2. He recommended the Department of Commerce and Housing be replaced with the Department of Administration on the Telecommunications Action Planning Committee. He also recommended the KCC make a report to the 1995 legislature regarding the promotion of universal service; promotion of the development of effective competition for all telecommunications services, including the removal of existing barriers to entry; establishment of a classification system for telecommunications services based on the degree of competition faced by providers of the particular service; and establishment of standards and procedures by which the rates, terms and conditions of telecommunications services are regulated in accordance with their classification. He further recommended KCC report its findings to the Senate Commerce Committee, House Economic Development Committee, the Joint Committee on Communications, Computers and Technology and the Telecommunications Action Planning Committee of Kansas, Inc. no later than March 1, 1995.

Senator Feleciano recommended that the KCC staff "or utilities members" serving on the committee should abstain from voting on issues which could be perceived to be a conflict of interest in a proceeding before the commission.

The Chairman questioned the KCC about resources sufficient to carry out the proposal. Don Low, Director of Utilities, Kansas Corporation Commission, stated staff and resources will be reallocated.

Senator Hensley distributed SB 819 which he had requested introduction by the Federal and State Affairs Committee. SB 819 requires each telecommunications public utility to ensure that a person initiating a

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on March 7, 1994.

live or mechanized operator-assisted call in this state may access a live operator, located in this state, through a method designed to be easily and clearly understandable and accessible to the caller.

Senator Burke moved and Senator Petty seconded to adopt the minutes of March 3, 1994. The motion carried on a voice vote.

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

The next meeting is scheduled for March 8, 1994.

GUEST LIST

COMMITTEE: SENATE COMMERCE COMMITTEE

DATE: 3/7/94

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Alan Steppat	Topeka	PETE McGill & Assoc.
Janet Stubbs	Topeka	Stubbs & Assoc.
Wayne Maichel	Ks AFL-CIO ^{TOP}	Ks. AFL-CIO
Larry Dimmitt	Topeka	SWBT
Alice Amstoss	Topeka	SWBT
SUSAN FOX	TOPEKA	SWBT
Jim Shelley	TOPEKA	SWBT
Rochel Lipman	Topeka	Kansas Corp Comm.
STEVE KEARNEY	TOPEKA	KINNET
Jack Alexander	Topeka	K. P. C.
Nelson Krueger	Lawrence	Kinnet
Quinn Nelson	TOPEKA	KCC
Lisa Powers	"	MCI
Rozyn Balen	"	KCPZ
Charles Wane	Topeka	Kansas Inc.
Rob Hodges	"	Ks Telecom Assn.
Martha Jenkins	Ks City	Sprint
Gay Sch	TOPEKA	CITIZEN
Brian Lippold	Topeka	SWBT
	WICHITA	MULTIMEDIA HYPERION TELECOMMUNICATIONS
Don Low	Topeka	KCC
David Wittenberg	Topeka	KCC
Eric Milstead	Topeka	Citizens' Utility Ratepayer Board
Mike Warner	Topeka	" "
Harriet Lange	Topeka	KAB

Frank Caro
Roger Frawde
John Peterson
Mark Barcellina
Michael Emanuel
Rob Marshall
Ralph Sloop
J. Masser
Tom Day
Kandy Debenham
Mike DeLoat
Doug Smith
Phil Woodbury
Pat Hubbell
Denny Koch
Heather Eway

Topeka
"
"
Topeka
Mason
Lawrence
Topeka
TOPEKA
TOPEKA
Topeka
"
Topeka
Owens
Topeka
TOPEKA
Lawrence

SWBT
Ks Qoo Consulting
CGI
KD OCH
CGI
Mid-America
KCATV
SPRINGMOUNT
KCC
KCC
AT&T
SITA
RETIREES
SWB
SWB
Sen. Kerr

Proposed SUBSTITUTE for SENATE BILL NO. 591

By Committee on Commerce

AN ACT concerning the telecommunications public utilities;
relating to extension of current regulatory conditions.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The Kansas corporation commission, for a period extending through March 1, 1997, shall continue to regulate all telecommunications public utilities with more than 500,000 access lines in accordance with the terms and conditions set forth in TeleKansas I. The continuation shall include capital expenditures by such telecommunications public utilities in a manner and amount to be determined by the corporation commission. The commission shall not conduct any earnings audit prior to January 1, 1996.

(b) Nothing in this section shall prevent the corporation commission from further relaxing regulation of telecommunications services or from complying with preemptive federal orders prior to March 1, 1997. With the exception of subsection (a), this section does not otherwise alter the commission's statutory authority.

(c) For purposes of this section, "TeleKansas I" means the scheme of regulation set forth in the corporation commission's February 2, 1990 order in the case styled In the Matter of Southwestern Bell Telephone Company's Proposal for Network Modernization, Rate Stability and Pricing Regulation, a/k/a "TeleKansas", docket number 166,856-U.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Commerce
3/7/94

Attachment 1-1

PROPOSED SENATE CONCURRENT RESOLUTION NO. _____

By Committee on Commerce

A CONCURRENT RESOLUTION directing the development of a state strategic plan for telecommunications; requesting the participation of Kansas, Inc. and the Kansas corporation commission.

WHEREAS, The telecommunications industry has undergone tremendous change in recent years; and

WHEREAS, New levels of competition exist or may soon exist in the industry which will fundamentally alter the economic conditions in which telecommunications public utilities operate; and

WHEREAS, Greater competition in telecommunications services demands consideration of relaxed regulation of such services; and

WHEREAS, There should be broad representation from end users, state agencies, the Legislature, local government and telecommunications service providers in formulating any future regulatory policy governing telecommunications given the wide array of affected parties; and

WHEREAS, Movement toward relaxed regulation of telecommunications services is desirable if it is accomplished in a systematic and logical manner based on accurate information, public analysis and debate; and

WHEREAS, Kansas, Inc. is structured to oversee state strategic planning and thus is an appropriate venue for facilitating the development of a statewide strategic plan for telecommunications: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That Kansas, Inc., through its telecommunications action planning committee shall develop a statewide strategic plan for telecommunications. Such

plan shall contain suggestions for future action by the legislature, the corporation commission and telecommunications service providers; however, the committee's function shall be advisory in nature.

The Kansas, Inc., board of directors may reconfigure the telecommunications action planning committee to include, but not be limited to, the following: Representatives of local telephone companies, interexchange carriers and cable companies. The board may also include representatives of the Board of Regents and its institutions, the Kansas Corporation Commission, the Department of Education, the Department of Commerce and Housing, a public library, a city, a school cluster, a local chamber of commerce, a medical center, a large company, a small company, a residential consumer and the private sector membership of Kansas, Inc. Additionally, the Kansas, Inc. board of directors shall appoint six legislators to the committee. The legislative members must consist of three Republicans and three Democrats. Three of the legislators must be members of the Senate and three must be members of the House of Representatives. Additionally, the board of directors should ensure that the action planning committee contains adequate representation from non-metropolitan counties; and

Be it further resolved: That legislative members shall receive compensation and mileage as authorized by the Legislative Coordinating Council; that nonlegislative members shall receive no remuneration, except, subject to appropriations, travel and other expenses as shall be allowed by the president of Kansas, Inc.; and

Be it further resolved: That the committee may commence formulation of the strategy July 1, 1994. The committee shall provide two written reports to the Legislature. An interim report shall be made to the 1995 session of the Legislature. The final report shall be made to the 1996 session of the Legislature. The committee report to the 1995 Legislature should

include, but not be limited to, the following:

(a) A definition of the term "telecommunications infrastructure" and a procedure for possible modification of that definition;

(b) a statewide inventory of the existing telecommunications infrastructure and an assessment of the telecommunications needs of end users;

(c) identification of applications for telecommunications of importance to the state and a method of setting priorities for their development. This analysis should include a plan for informing prospective end users about the use and availability of new technologies associated with such applications. Outcomes to be considered include: Improving the competitiveness of Kansas businesses; improving the quality, affordability and availability of health care; improving the quality of and accessibility to primary, secondary and postsecondary education; increasing the efficiency, effectiveness and responsiveness of state and local government; and affording citizens greater exposure to cultural and recreational amenities; and

(d) based on generic docket findings of the corporation commission, a recommendation to the legislature concerning the form of regulation that would be appropriate for services which remain regulated.

(e) development of a procedure for ensuring the quality of telecommunications services; and

(f) formulation of recommendations to the Governor, the Legislature and Corporation Commission on key concepts and changes to be incorporated into state regulatory policies and policies adopted by the division of information services and communication within the department of administration for the state information network; and

Furthermore, the following issues should be given first priority by the committee and, to the extent possible, included in the 1995 interim report:

(a) A definition of "universal service" and the extent to which it has been achieved in every region of the state;

(b) a definition of criteria for provision of "basic telephone service" and the availability and provision of such service in a competitive environment;

(c) a definition of "lifeline telephone service" and specification as to the appropriate means of funding the provision of such service;

Be it further resolved: That subject to appropriations, Kansas, Inc. shall contract for the development of a report to identify present and anticipated trends in telecommunications technologies and services and their economic impact on the citizens and businesses of the state, including, but not limited to, low and moderate income households, small businesses and high technology businesses. This report shall address regional differences in economic impact and shall be presented to the 1995 session of the legislature; and

Be it further resolved: That Kansas, Inc. and the Kansas Legislative Research Department shall provide committee staff as needed. Furthermore, subject to appropriations, the private-sector chairman of Kansas, Inc., Board of Directors, after consultation with the Corporation Commission, may contract with a consultant for the duration of the development of the strategy. Such consultant would be authorized to provide technical assistance, frame policy issues and draft necessary committee reports. The consultant should work directly with the committee and such subcommittees as may be created; and

Be it further resolved: That the board of directors of Kansas, Inc. may appoint such subcommittees as may be necessary to examine in greater detail various issues raised in formulation of the strategic plan. The subcommittees should reflect a broad representation of public sector members, legislators and telecommunication service providers. However, at least one legislator must be assigned to each subcommittee; and

add utilities
Be it further resolved: That Corporation Commission staff members serving on the committee should abstain from voting on issues which could be perceived to be a conflict of interest in a proceeding before the commission; and

Be it further resolved: That the Corporation Commission shall open one or more generic dockets to investigate the level of competition for each regulated or flexibly regulated telecommunications service under its jurisdiction. In addition the commission should formulate procedures to:

(a) Periodically assess the level of competitiveness of such services and emerging services and develop standards for competitive services;

(b) relax regulation of those services which are deemed competitive pursuant to the periodic assessments undertaken in (a); and

(c) ensure that regulated services will not subsidize competitive or unregulated services.

Such analysis need not be performed on telecommunications services previously examined in this manner. The commission shall report its findings to the Senate Commerce Committee, House Economic Development Committee, the Joint Committee on Communications, Computers and Technology and the Telecommunications Action Planning Committee of Kansas, Inc. no later than the end of the 1995 session of the legislature; and

Be it further resolved: That based on findings of the Corporation Commission and the Action Planning Committee report, the Commission shall formulate a successor alternative regulation plan to take effect after March 1, 1997; and

Be it further resolved: That copies of this resolution be transmitted to the President of the Senate, the Speaker of the House of Representatives, the Governor and the Chairman of the Kansas Corporation Commission.

1-6

PROPOSED SENATE CONCURRENT RESOLUTION NO. ____

By Senator Feleciano

A CONCURRENT RESOLUTION directing the development of a state strategic plan for telecommunications; requesting the participation of Kansas, Inc. and the Kansas corporation commission.

WHEREAS, The telecommunications industry has undergone tremendous change in recent years; and

WHEREAS, New levels of competition exist or may soon exist in the industry which will fundamentally alter the economic conditions in which telecommunications public utilities operate; and

WHEREAS, Greater competition in telecommunications services demands consideration of relaxed regulation of such services; and

WHEREAS, There should be broad representation from end users, state agencies, the Legislature, local government and telecommunications service providers in formulating any future regulatory policy governing telecommunications given the wide array of affected parties; and

WHEREAS, Movement toward relaxed regulation of telecommunications services is desirable if it is accomplished in a systematic and logical manner based on accurate information, public analysis and debate; and

WHEREAS, Kansas, Inc. is structured to oversee state strategic planning and thus is an appropriate venue for facilitating the development of a statewide strategic plan for telecommunications: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That Kansas, Inc., through its telecommunications action planning committee shall develop a statewide strategic plan for telecommunications. Such

Commerce
3/7/94

Attachment 2-1

plan shall contain suggestions for future action by the legislature, the corporation commission and telecommunications service providers; however, the committee's function shall be advisory in nature.

The Kansas, Inc., board of directors may reconfigure the telecommunications action planning committee to include, but not be limited to, the following: Representatives of local telephone companies, interexchange carriers and cable companies. The board may also include representatives of the Board of Regents and its institutions, the Kansas Corporation Commission, the Department of Education, the Department of ~~Commerce~~---and---Housing Administration, a public library, a city, a school cluster, a local chamber of commerce, a medical center, a large company, a small company, a residential consumer and the private sector membership of Kansas, Inc. Additionally, the Kansas, Inc. board of directors shall appoint six legislators to the committee. The legislative members must consist of three Republicans and three Democrats. Three of the legislators must be members of the Senate and three must be members of the House of Representatives. Additionally, the board of directors should ensure that the action planning committee contains adequate representation from non-metropolitan counties; and

Be it further resolved: That legislative members shall receive compensation and mileage as authorized by the Legislative Coordinating Council; that nonlegislative members shall receive no remuneration, except, subject to appropriations, travel and other expenses as shall be allowed by the president of Kansas, Inc.; and

Be it further resolved: That the committee may commence formulation of the strategy July 1, 1994. The committee shall provide two written reports to the Legislature. An interim report shall be made to the 1995 session of the Legislature. The final report shall be made to the 1996 session of the Legislature. The committee report to the 1995 Legislature should

include, but not be limited to, the following:

(a) A definition of the term "telecommunications infrastructure" and a procedure for possible modification of that definition;

(b) a statewide inventory of the existing telecommunications infrastructure and an assessment of the telecommunications needs of end users;

(c) identification of applications for telecommunications of importance to the state and a method of setting priorities for their development. This analysis should include a plan for informing prospective end users about the use and availability of new technologies associated with such applications. Outcomes to be considered include: Improving the competitiveness of Kansas businesses; improving the quality, affordability and availability of health care; improving the quality of and accessibility to primary, secondary and postsecondary education; increasing the efficiency, effectiveness and responsiveness of state and local government; and affording citizens greater exposure to cultural and recreational amenities; and

(d) based on generic docket findings of the corporation commission, a recommendation to the legislature concerning the form of regulation that would be appropriate for services which remain regulated.

(e) development of a procedure for ensuring the quality of telecommunications services; and

(f) formulation of recommendations to the Governor, the Legislature and Corporation Commission on key concepts and changes to be incorporated into state regulatory policies and policies adopted by the division of information services and communication within the department of administration for the state information network; and

Furthermore, the following issues should be given first priority by the committee and, to the extent possible, included in the 1995 interim report:

~~(a)--A-definition-of-"universal-service"--and--the--extent--to which-it-has-been-achieved-in-every-region-of-the-state;~~

~~(b)--a---definition--of--criteria--for--provision--of--"basic telephone-service"--and-the-availability--and--provision--of--such service-in-a-competitive-environment;~~

~~(c)--a---definition---of---"lifeline--telephone--service"--and specification--as--to--the--appropriate--means--of--funding---the provision-of-such-service;~~

Be it further resolved: That subject to appropriations, Kansas, Inc. shall contract for the development of a report to identify present and anticipated trends in telecommunications technologies and services and their economic impact on the citizens and businesses of the state, including, but not limited to, low and moderate income households, small businesses and high technology businesses. This report shall address regional differences in economic impact and shall be presented to the 1995 session of the legislature; and

Be it further resolved: That Kansas, Inc. and the Kansas Legislative Research Department shall provide committee staff as needed. Furthermore, subject to appropriations, the private-sector chairman of Kansas, Inc., Board of Directors, after consultation with the Corporation Commission, may contract with a consultant for the duration of the development of the strategy. Such consultant would be authorized to provide technical assistance, frame policy issues and draft necessary committee reports. The consultant should work directly with the committee and such subcommittees as may be created; and

Be it further resolved: That the board of directors of Kansas, Inc. may appoint such subcommittees as may be necessary to examine in greater detail various issues raised in formulation of the strategic plan. The subcommittees should reflect a broad representation of public sector members, legislators and telecommunication service providers. However, at least one legislator must be assigned to each subcommittee; and

Be it further resolved: That Corporation Commission staff members serving on the committee should abstain from voting on issues which could be perceived to be a conflict of interest in a proceeding before the commission; and

Be it further resolved: That the Corporation Commission shall upon passage of this resolution open one or more generic dockets to investigate the level of competition for each regulated or flexibly regulated telecommunications service under its jurisdiction. In addition the commission should formulate procedures to:

(a) Periodically assess the level of competitiveness of such services and emerging services and develop standards for competitive services;

(b) relax regulation of those services which are deemed competitive pursuant to the periodic assessments undertaken in (a); and

(c) ensure that regulated services will not subsidize competitive or unregulated services;

(d) promote universal service;

(e) promote the development of effective competition for all telecommunications services, including the removal of existing barriers to entry;

(f) establish a classification system for telecommunications services based on the degree of competition faced by providers of the particular service;

(g) establish standards and procedures by which the rates, terms and conditions of telecommunications services are regulated in accordance with their classification as in clause (f) above; however, to the fullest extent consistent with the public interest, the Kansas Corporation Commission shall permit competitive market forces to substitute for regulation of services deemed to be subject to effective competition;

(h) define criteria for provision of "basic telephone service" and the availability and provision of such service in a

competitive environment; and

(i) define "lifeline telephone service" and specification as to the appropriate means of funding the provision of such service.

Such analysis need not be performed on telecommunications services previously examined in this manner. The commission shall report its findings to the Senate Commerce Committee, House Economic Development Committee, the Joint Committee on Communications, Computers and Technology and the Telecommunications Action Planning Committee of Kansas, Inc. no later than the ~~end--of--the~~ March 1, 1995 session of the legislature; and

Be it further resolved: That based on findings of the Corporation Commission and the Action Planning Committee report, the Commission shall formulate a successor alternative regulation plan to take effect after March 1, 1997; and

Be it further resolved: That copies of this resolution be transmitted to the President of the Senate, the Speaker of the House of Representatives, the Governor and the Chairman of the Kansas Corporation Commission.