

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on January 18, 2000 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Ann Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Secretary

Conferees appearing before the committee:
Janette Luehring, Kansas Corporation Commission

Others attending: See attached list

Janette Luehring, Chief of Telecommunications, Kansas Corporation Commission, briefed the Committee on the "Activities Update of the Kansas Corporation Commission Utilities Division", (a copy is on file in the office of Legislative Research). Ms. Luehring testified the summary includes pending dockets and dockets completed during 1999, as follows:

Docket 99-241 is a proceeding opened to investigate and monitor all utilities' efforts to address potential Y2K problems, including certificated telecommunication providers. Monitoring for any Y2K problems will continue through March 30, 2000.

Docket 94-478 was initiated in 1994 to investigate competition in the telecommunications industry. In 1996, the initial Kansas Universal Service Fund (KUSF) was established in this proceeding. During 1999, the Commission finalized outstanding assessment issues for the second year of the KUSF and established the assessment percentage for the third year of the KUSF. Effective March 1, 1999, the assessment for cellular end user bills was set at 7.81% and the assessment for all other carrier end user bills was set at 8.26%. In December 1999, staff filed testimony regarding the assessment level to become effective March 1, 2000. A hearing was conducted January 13, 2000. Based on that testimony, it appears that due to the Commission decision in its proceeding to review the KUSF mechanism to make it cost based and the decision in the docket to review SWBT's cost to provide local service, the assessment and the size of the fund will be reduced.

Docket 96-230 is a general investigation initiated to review extended area service, optional community calling service and other issues related to toll plans. Due to provisions in the 1996 Telecommunications Act, the docket was held in abeyance for over two years. In April 1999, the Commission requested additional comments, the parties filed their comments which are under review. Due to the implementation of dialing parity for intraLATA toll and relinquishment of SWBT's designated toll carrier status, additional comments may be warranted.

Docket 96-670 was initiated by the Commission to address several issues related to the statutory provisions of the 1996 state and federal telecommunications acts. As an example, the state act required all local exchange companies to make reductions in intrastate access charges. Interexchange providers are required to flow these access charge reductions through basic toll rates. To facilitate the flow through, the Commission issued an order in this proceeding defining "basic intrastate toll services."

Docket 97-149 was initiated to establish Southwestern Bell's rates for interconnection, unbundled network elements and resale. In the first phase of this proceeding, the Commission adopted SWBT's cost model. The second phase of the proceeding addressed the appropriate inputs to be used in the cost model. The Commission issued an order adopting the inputs and directing SWBT to re-run the model. After submission of the cost model results and comments filed by the parties to the proceeding, the Commission established the recurring or monthly charges for interconnection and unbundled network elements. SWBT was also directed to re-run the cost model for the non-recurring charges, such as installation

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charges. SWBT submitted the results and the parties filed comments. Reply comments were filed January 10, 2000. In addition the Commission issued an order on August 31, 1999, establishing a procedural schedule to consider SWBT's wholesale discount for resale. The hearing is scheduled for March 28 and 29, 2000.

Docket 97-290 was initiated at AT&T's request for arbitration of disputed interconnection issues with SWBT. Due to disputed issues and intervening federal court decisions, AT&T and SWBT did not file their interconnection agreement until March 28, 1998. Additional disputed issues were identified; and after resolution of those issues, a new interconnection agreement was filed on October 27, 1999 which was approved by the Commission on November 29, 1999. AT&T and SWBT filed an amendment which was approved January 10, 2000. Any telecommunications provider may opt into this agreement rather than negotiate or arbitrate a separate agreement.

Docket 97-411 was initiated to investigate SWBT's compliance with section 271 of the Federal Telecommunications Act. SWBT must comply with the 14 point checklist to obtain FCC approval to offer in-region interLATA long distance. The Commission submitted an Interim Report stating SWBT did not comply with all of the 14 points. The Commission expressed concerns regarding the rates, terms and conditions for collocation, SWBT's operations support system, and the extent to which SWBT provides unbundled network element in a manner that is in parity with provisioning such elements to itself. The Commission stated that the establishment of performance measurements and the submission of comparative data would provide the Commission a means to evaluate SWBT's compliance with section 172 requirements. As a part of the Stipulation and Agreement in Docket 98-SWBT-677-GIT, SWBT agreed to file a collocation tariff which should address many, if not all, of the collocation concerns raised by competitive providers. A technical forum was conducted on December 10, 1999 to review SWBT's performance measurements adopted in Texas.

Docket 98-030 establishes network infrastructure planning guidelines for use by local exchange carriers (LECs). The original Kansas Telecommunications Act of 1996 required all LECs to submit to the Commission by January 1, 1998, their proposed plans for providing basic and enhanced services throughout the state. The deadline for provisioning of services was July 1, 2001. The 1998 Legislature revised services, including ISDN and Broadband services, for advance Commission approval. The plans were to be filed only after a firm order had been received. The Commission was to accept the plans within 90 days, or reject a plan because it was not cost effective or, would represent an unreasonable burden on the KUSF. The Commission was to develop procedures for submitting the plans, and for accepting, or rejecting the plans. Permanent procedures were established in the Commission's order of September 17, 1999. The order stated that only plans for ISDN and Broadband services needed advance Commission approval, and only then if the order costs more than \$100,000 and the LEC was going to ask for reimbursement from the KUSF. Ordering the permanent procedures was the final step for the infrastructure docket.

Docket 98-380 was the application of SWBT for price cap regulation. The plan was approved in 1998. SWBT filed data to update its price cap index. The price cap adjustment will be implemented at the same time the Stipulation and Agreement in Docket No. 98-SWBT-677-GIT is implemented.

Docket 98-677 was initiated to review SWBT's cost to provide local service pursuant to KSA 66-2008(d) to determine if the costs justify modification of the KUSF. On reconsideration of the order initiating the docket, the Commission determined a separate proceeding should be opened to address the generic KUSF issues (Docket No. 99-GIMT-326-GIT). The primary issue remaining in this proceeding was how any change to SWBT's KUSF draw would be implemented. The Commission sent the Stipulation and Agreement to all telecommunications service providers for comment. A hearing was conducted on November 17, 1999; no objections were filed; and an Order dated January 6, 2000 was approved by the Commission. The Stipulation provides that SWBT will permanently forgo \$15 million of its current KUSF draw. The difference between SWBT's cost based draw as determined in the 326 Docket and SWBT's current draw, minus the \$15 million, will be rate rebalanced to Baskets 1 and 3. The amount rebalanced is to be phased in. In addition, the Stipulation and Agreement provides for deployment of DSL to 24 towns over three years, free 800 service for schools and county seats where approximately 10% of the constituents are required to make a toll call, the filing of an agreement to provide extended area service between Rossville and Topeka, the availability of \$250,000 to promote Lifeline service, the portability of SWBT's KUSF support, pricing flexibility for toll and WATS services, price deregulation of certain Basket 3 services, the filing of a collocation tariff, relinquishment of SWBT's designated toll carrier status and excess charge reductions. Staff, CURB and SWBT will file an

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implementation plan for the amounts to be phased in and rate rebalanced and an implementation plan for the free 800 service. SWBT will file the proposed collation tariff by February 5, 2000.

Docket 98-712 was opened to cost recovery and rules and requirements for implementation of dialing parity for intraLATA toll. The FCC required that companies with approved plans implement dialing parity by May 7, 1999 and all other companies implement intraLATA dialing parity by July 22, 1999. On November 3, 1999, staff, Sprint, the State Independent Alliance, the Independent Telecommunications Group and SWBT filed the First Amended Stipulation and Agreement. The agreement provided that Sprint and SWBT would no longer be required to be the carrier of designated toll carrier in the independent company exchanges. The agreement set forth a method for designating a default intraLATA toll carrier when necessary. A hearing was conducted on the cost recovery issues. The Commission issued an order approving the Stipulation and Agreement and allowing the carriers to recover the costs of implementing dialing parity through an additive to the carrier common line charge.

Dockets 99-156 and 99-173 are applications filed by Western Wireless and Sprint PCS respectively, requesting eligible telecommunications carriers (ETC) designation to receive federal and state universal service support. The Commission issued an order January 14, 2000 designating Western Wireless and Sprint PCS as eligible telecommunications carriers for federal purposes in SWBT exchanges. The Commission is considering the establishment of quality of service standards for all eligible telecommunications carriers in Docket No. 00-GIMT-584-GIT before granting ETC status for state purposes. The next step will be to consider whether it is in the public interest to designate additional eligible telecommunications carriers in rural areas.

Docket 99-266 was the result of SWBT's intraLATA dialing parity plan, which had been approved by the Commission but not implemented because the FCC's authority to establish those rules was challenged. AT&T filed a petition requiring the Commission to order SWBT to implement intraLATA dialing parity no later than February 8, 1999. On January 28, 1999, the US Supreme Court issued an order affirming the FCC's authority to promulgate rules requiring implementation of intraLATA dialing parity. The Commission issued an order on February 17, 1999, requiring SWBT to implement intraLATA dialing parity immediately. Subsequently, the FCC amended its rules to require implementation of dialing parity by May 7, 1999. On reconsideration, the Commission ordered SWBT to implement dialing parity by May 7, 1999.

Docket 99-326 was initiated by the Commission in response to generic issues raised in Docket No. 98-SWBT-677-GIT. The purpose of the proceeding is to investigate the KUSF mechanism to determine what modifications, if any, are necessary to ensure the KUSF support for local service is based on the cost to provide such service, and is consistent with the requirements set out in state and federal statutory provisions. After a hearing, the Commission determined that the FCC Synthesis Proxy Model would be used to determine the cost to provide universal service. A second hearing was conducted on November 30, 1999 to address the inputs to the cost model, the benchmark and methods for distribution of the KUSF support. The hearing primarily addressed support for SWBT and Sprint. The Commission delayed review of the support provided to rural telephone companies until the FCC issues its order on federal universal service support for rural companies. The Commission issued its order on December 29, 1999 establishing the input for the cost model, the benchmark, the zones for distribution of support, the percentage of costs recovered from access charges and the portability of support. All local exchange companies, interexchange companies and wireless providers are parties to this proceeding.

Docket 99-706 was initiated to investigate the effect of long term contracts on the development of competition in Kansas. The Commission requested comments regarding the implementation of a fresh look period, contract termination liability and the resale of long term contracts. A fresh look period provides customers with long term contracts the ability to negotiate a new contract with a competitive provider with limited or no termination liabilities imposed for early termination of the contract. The Commission granted the parties an opportunity to respond to staff's summary and recommendations. The matter is pending.

Docket 99-710 was initiated by a petition for arbitration filed by Sprint. The issues involve the provisioning of interconnection and unbundled elements for xDSL service. A hearing was conducted on December 9, 1999, and the parties are to file briefs later in the month of January.

Docket 99-784 was initiated to address access charge reductions for rural companies, limiting access charges for competitive local exchange companies, operational structure for incumbent local

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exchange companies that also operate as competitive local exchange companies, modification of the per-line KUSF flow-through mechanism, whether non-rural companies should make additional access charge reductions and other issues. The Commission determined that reductions in access charges for non-rural companies should be addressed in the SWBT and Sprint company specific dockets.

Docket 00-053 was included in this presentation as an example of the type of complaints the Commission is dealing with as a result of the introduction of competition. The customer's service was terminated as the result of billing disputes. The customer attempted to have its telephone numbers ported so it could obtain service from another carrier. At the prehearing conference, Advanced Communications agreed to port the Southwestern Bell. A hearing is scheduled for January 25, 2000, on the billing dispute.

Docket 00-159, relates to slamming. Although the Attorney General's office now enforces slamming complaints for individual consumers, the Attorney General does not have jurisdiction over slamming complaints filed by corporation and other organizations. Staff is investigating the complaint and working with the parties to resolve the dispute.

Docket 00-236 was initiated to determine the assessment for year four of the KUSF. The Commission must determine the funds necessary for distributions in the fourth year and establish the assessment rate necessary to collect that amount.

Docket 00-401. The numbering plan administrator notified the Commission the 316 area code would be exhausted in the second quarter of 2002. The Commission has retained authority to approve the area relief plan. The industry's report and recommendation should be submitted in March 2000.

Docket 00-448. Council Grove Telephone Company, Inc., was purchased in early 1999. Pursuant to the memorandum of understanding entered into between the parties, the network is to be upgraded. Council Grove filed this application requesting supplemental funding from the KUSF for the cost of the network upgrade. The application is being reviewed.

Docket 00-455 was initiated to review Sprint's cost to provide local service. Sprint's KUSF draw will be modified as a result of the Commission's decision in the Docket 99-326. The Commission will consider whether rate rebalancing or transitional support is justified as a result of the decrease in Sprint's KUSF draw.

Docket 00-584 was initiated by the Commission to consider adopting quality of service standards for eligible telecommunications carriers. The Commission has established quality of service standards for wireline carriers and will consider in this proceeding the extension of those standards or adoption of new standards for wireless and fixed wireless providers that are designated as eligible telecommunications carriers.

Ms. Luehring briefed the Committee on the Western Wireless petition filed with the FCC. Ms. Luehring stated Western Wireless argues that the Kansas Act and Commission decisions related to the Act are barriers to entry into the Kansas telecommunications market. Western Wireless asserts the portions of the Act and Commission decisions that allow incumbent local exchange carriers to receive distributions from the KUSF on a revenue neutral basis to compensate the carriers for reductions in intrastate access charges but permit competitive providers to receive only the amounts designated for high cost support are in violation of the State and Federal Acts that high cost support be distributed on a competitively neutral basis. The matter is currently pending before the FCC.

Senator Umbarger moved, seconded by Senator Steffes, that the Minutes of January 14, 2000, be approved. The vote was unanimous in favor of the motion.

The meeting was adjourned at 9:00 a.m.

The next meeting is scheduled for January 19, 2000.