

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

REGULATORY REFORM REVIEW COMMISSION

Tuesday, October 7, 1997
BEK Communications Business Office
Steele, North Dakota
and
Harvest Room, State Capitol
Bismarck, North Dakota

Representative Mick Grosz, Chairman, called the meeting to order at 9:30 a.m. at the BEK Communications business office, Steele, North Dakota.

Members present: Representatives Mick Grosz, Eliot Glassheim; Senators John M. Andrist, Joel C. Heitkamp; Public Service Commissioner Bruce Hagen

Others present: See attached appendix

At the request of Chairman Grosz, Mr. Jerome Tishmack, General Manager, BEK Communications, provided information on and a tour of BEK Communications.

In response to a question from Senator Andrist, Mr. Tishmack said access charges may be divided into three parts--a termination charge, minutes of use, and distance. He said access charges pay for the federal universal service fund, which is administered by the National Exchange Carrier Association. He said the Public Service Commission has jurisdiction over intrastate access charges.

In response to a question from Commissioner Hagen, Mr. Tishmack said he approved of a universal service system that is equal and nationwide because everyone benefits from phone lines in and to North Dakota.

Mr. Tishmack said resale competition does not work in rural cooperative areas. He said for the sake of competition the customers who own the cooperative would have to lease services to another company at a lower cost so that the other company could sell them back to the same customer.

In response to a question from Representative Glassheim, Mr. Tishmack said if the Legislative Assembly were to force one giant telephone cooperative, there would be a savings in the number of directors; however, there would be no great savings in staff. He said the main component of cost is geographic area, not the number of companies and employees.

In response to a question by Senator Heitkamp, Mr. Tishmack said he would not recommend the

purchase of U S West exchanges if he had to make the decision today. He said he would overbuild the population centers.

In response to a question from Senator Heitkamp, Mr. Tishmack said telephone cooperatives make a more efficient use of personnel and provide better customer service than U S West in areas purchased from U S West.

In response to a question from Representative Grosz, Mr. Tishmack said the purchase of U S West exchanges provided economy of scale. He said switch capacity is wasted because of the great distance between small towns.

In response to a question from Representative Glassheim, Mr. Tishmack said wireless has affected cooperatives by providing no-toll calls in areas where there was previously a long-distance toll.

In response to a question from Senator Andrist, Mr. Tishmack said the charge for changing long-distance toll carriers is \$20. He said this is the cost to the cooperative for recordkeeping and paperwork. Senator Andrist said U S West charges \$5.

It was moved by Representative Glassheim, seconded by Commissioner Hagen, and carried that minutes of the previous meeting be approved as mailed.

At the request of Chairman Grosz, Ms. Illona Jeffcoat-Sacco, Director, Public Utilities Division, Public Service Commission, presented information on the pending cases and recent developments in telecommunications in North Dakota, extended area service, the first significant Section 253 preemption action of a state decision by the Federal Communications Commission, and a response to the comments made by AT&T and the subsequent written response to those comments by U S West. A copy of her handout is on file in the Legislative Council office.

At the request of Chairman Grosz, Mr. Warren Hight, General Manager, Souris River Telecommunications, presented information on extended area

service. Mr. Hight said there are numerous extended area service routes. He said there have been many proposals to expand extended area service. He said there are many issues that make expansion difficult.

Mr. Hight said extended area service replaces the shorthaul toll with a flat rate. He said the determination of whether to provide extended area service is determined by looking at the community of interest. He said extended area service is a two-way street that allows no-toll calling between two areas on a mandatory basis.

Mr. Hight said the newest extended area service route is between Minot and the Minot Air Force Base. He said most people are for extended area service in theory; however, many are against it on a cost-benefit analysis. He said a minority of the customers make the majority of calls under extended area service. He said extended area service produces a change in the revenue stream. He said it shifts economic burdens. He said extended area service affects interexchange carriers because they have less business. He said extended area service also affects competition.

In response to a question from Representative Grosz, Mr. Hight said extended area service to and from the Minot Air Force Base did not result in an increase in the number of telephone calls; however, the time per call increased. He said increased time required some increase in capacity.

In response to a question from Senator Andrist, Mr. Hight said measured service is an option; however, measured service requires the addition of special computers to measure costs and provide switching capability.

In response to a question from Senator Heitkamp, Mr. Hight said the development of existing extended area service routes mainly happened 30 to 50 years ago. He said this is why the route may not match current community of interest standards.

In response to a question from Senator Heitkamp, Mr. Hight said extended area service is not a gold mine but the shifting of gold from one mine to the next.

In response to a question from Senator Andrist, Mr. Hight said people may want to support their local company through extended area service; however, access is a major source of income for local exchange carriers.

In response to a question from Commissioner Hagen, Mr. Hight said a flat rate was offered to the Minot Air Force Base for calls made to Minot. He said people did not like that option. He said people wanted to call "free."

In response to a question from Representative Glasheim, Mr. Hight said the process of providing an extended area service route arouses many passions. He said everyone wants extended area service to the

city closest to them, which may be different cities for different people in the same exchange.

At the request of Chairman Grosz, Mr. Robert Haga, National Exchange Carrier Association, provided information on universal service. A copy of the information used as a basis for his testimony is on file in the Legislative Council office.

In response to a question from Commissioner Hagen, Mr. Haga said the National Exchange Carrier Association administers seven state programs which are administered similarly to the federal program. He said the administrative charge for administration of a universal fund depends on complexity of the fund. He said the goal is to keep administrative charges less than one percent. He said no one has terminated the use of the National Exchange Carrier Association for the administration of a universal service fund after using the administrative services.

In response to a question from Representative Glasheim, Mr. Haga said states can tax telephone services like any other businesses.

In response to a question from Representative Grosz, Mr. Haga said the Kansas fund is similar to a federal high cost fund. He said access rates should go down in the same amount as is raised for universal service. He said in a totally explicit world, universal service would require \$11.5 billion. He said states would have to come up with \$7 billion nationwide.

In response to a question from Commissioner Hagen, Mr. Haga said there is some pressure on Congress to change the Federal Communications Commission's determination that the intrastate portion of high cost universal service is 75 percent.

In response to a question from Representative Grosz, Mr. Haga said an eligible communications carrier only gets paid per customer. He said a state-wide extended area service charge would not interfere with intrastate universal funding.

At the request of Chairman Grosz, Mr. William P. Heaston, Senior Attorney, U S West Communications, Inc., commented briefly on extended area service and universal service. He said he would be in favor of extended area service only if it was within a local exchange area.

In response to a question from Representative Grosz, Mr. Heaston said an extended area service adder is not a stagnant amount.

In response to a question from Senator Heitkamp, Mr. Heaston said extended area service routes were determined based on customer demand and calling demand. He said U S West has not created an extended area service in recent years because there has not been the community of interest.

In response to a question from Representative Grosz, Mr. Heaston said U S West owns some small exchanges with no extended area service to a large community.

At the request of Chairman Grosz, Mr. Gary Witt, AT&T, provided information on extended area service, universal service, and depreciation. A copy of his testimony is on file in the Legislative Council office.

In response to a question from Representative Grosz, Mr. Witt said if U S West gets accelerated recovery for its depreciation reserve deficiency, then there will be higher prices for customers. He said prices would drop when the reserve deficiency was recovered. He said accelerated recovery would provide U S West with a windfall and it would have the funds to make it a fierce competitor in the future. He said U S West is presently a monopoly.

In response to a question from Representative Grosz, Mr. Witt said there are existing procedures to determine fair return on investments for incumbents.

In response to a question from Representative Grosz, Mr. Witt said AT&T was catching up to the competition when it asked for accelerated recovery. He said accelerated recovery was not in response to anticipated competition.

In response to a question from Senator Andrist, Mr. Witt said AT&T is interested in competing in the rural market. He said the first competition will be resale. He said if there is no resale there will be no competition for 20 or 25 years until there are duplicate facilities. He said resale requires payment for services at cost. He said this is why AT&T and U S West are arguing about how to determine cost.

In response to a question from Representative Grosz, Mr. Witt said universal service has to kick in simultaneously with the introduction of explicit subsidies. He said cherry picking is not an issue if universal service will pick up the gap. Representative Grosz said the issue is a balancing act of not killing the incumbent and allowing competition.

In response to a question from Representative Grosz, Mr. Witt said an ubiquitous monopoly provider with top of the line technology will not have any competitors. He said there should not be accelerated recovery until there is competition, otherwise this handicaps the competitors.

In response to a question from Senator Heitkamp, Mr. Witt said the subsidies given to rural areas from urban areas for universal service should be easy to justify in an agricultural state.

In response to a question from Representative Grosz, Mr. Witt said he thinks a substantial portion of access charges come from inside the state and not from termination charges.

Mr. Heaston said a facilities-based carrier caused AT&T to update its equipment. He said every local exchange in North Dakota is updated and was updated because it was the right thing to do, not

because of competition. He said there should not be any disincentives to state of the art networks. He said the Federal Communications Commission's cost model is forward-looking. He said arbitrators have not allowed recovery of deficiency reserves. He said competition will occur without networks, legislation, or discounts. He said McLeod is reselling Centrex that it purchases at retail rates.

In response to a question from Representative Grosz, Mr. Heaston said he has no complaint with resale with a wholesale discount. He said wholesale price is determined by subtracting avoided cost from the retail price. He said the Legislative Assembly may determine what are avoided costs. Representative Grosz said cost recovery is an important issue. He said state of the art networks may be as important as low rates.

In response to a question from Representative Grosz, Mr. Heaston said forward-looking costs are not based on actual costs but are based on "what if" costs.

In response to a question from Representative Grosz, Ms. Susan Wefald, Public Service Commissioner, said as subsidies move from implicit charges in access to explicit service fund charges the percentage of customers' bills that go for subsidies should remain the same; however, the percentage per customer will change because access is based on use and a universal fund charge is equal for everyone. She said it is still possible for the states to receive more assistance than 25 percent.

COMMISSION DISCUSSION

Commissioner Hagen said legislation is required for this state to have a universal service fund.

Senator Andrist said there does not seem to appear to be any industry interest in extended area service. He said industry should offer extended measured service or evaluate its desirability. He said the argument for extended area service will become more popular in the future.

Senator Andrist said the goal for the universal service fund is for the tax on intrastate calls to equal the reduction in access charges. Representative Grosz agreed with this assessment.

Chairman Grosz adjourned the meeting at 4:00 p.m.

Timothy J. Dawson
Commission Counsel

ATTACH: 1