

## **Testimony in Opposition To HB2201**

**Offered By: Gary Shorman; President – Eagle Communications**

**Senate Utilities Committee**

**March 13, 2013**

Chairman Apple and Members of the Senate Utilities Committee:

My name is Gary Shorman, President of Eagle Communications – an employee-owned telecommunications company headquartered in Hays, KS. Eagle provides Broadband Internet, telephone and video service in 32 communities across Kansas. These communities have populations ranging from 160 – 20,000 and thus represent some of the most rural parts of our state.

Eagle Communications is not the incumbent telephone provider in any of these communities. Rather, our employee-owners invest private capital against the incumbent Local Exchange Carriers whom in many cases receive thousands, even millions of dollars of federal and state subsidies every year in the form of Universal Service dollars.

Thank you for the opportunity to appear before you today to express our opposition to HB2201. Specifically, it is our concern related to the KUSF portion of HB2201 that has caused us to travel to Topeka to testify against the bill.

The existing language in HB 2201 would continue the Kansas Universal Service Fund for Local Exchange Carriers operating under Rate of Return regulation “as is” for the next four years, providing government subsidies to many of the competitors Eagle faces each and every day. The end result of this overly-cautious approach? A woefully unfair and “unlevel” marketplace that directly jeopardizes the future of a small, employee-owned, Kansas-grown company.

Even the federal government has realized that immediate changes to the existing universal service fund system are necessary. Federal Communications Commissioners have gone on record stating the Universal Service Fund is “a system designed for the Alexander Graham Bell era of rotary telephones” and “has outlived its time”. In Commissioner Michael Copps’ words “It (the Universal Service Fund) has strayed from what Congress intended and consumers deserve.” “In sum, we lost sight of the original purposes of both the Telecommunications Act of 1996 in general and the Universal Service Fund in particular”.

The language in HB 2201 will preserve an antiquated system, and actually places Kansas behind the Federal Government in reform of subsidies and the advancement of Broadband to underserved areas of the state.

Allow me to provide you some staggering numbers and real-life examples to demonstrate the extent of the subsidies that flow into the marketplace in Kansas and how they actually serve as a disincentive to investment from privately capitalized businesses like Eagle Communications.

WaKeeney, Kansas is a town of 1,862 people along I-70 in western Kansas. Eagle Communications provides internet services as fast as 50Mb to residential and business customers along with telephone and cable television service. Rural Telephone Service Company/Nex-Tech provides these same services. Telephone services are provided to residential customers for as low as \$16.75 per month.

In WaKeeney, subsidies in the form of Federal Universal Service have been available in the amount of \$153.80 per month for each and every telephone customer. In addition, the Kansas Universal Service Fund adds an additional \$38.62 per month per customer. In total, over \$190 per month in subsidies... For a service that costs the customer \$16.75.

To put this into scale for you, in 2012 Rural Telephone/Nex-Tech and their related entities obtained \$40,683,000 across their service territory in Kansas from the Federal USF program. In addition the KUSF provided \$8,900,000 in additional subsidies for a total of \$49,583,000.

Rural Telephone/Nex-Tech and their wireless subsidiary were the second largest recipient of KUSF dollars for the period March 2011 – February 2012 behind only Century Link, and in front of ATT.

In total, Rural Local Exchange Carriers whom will be held status quo under the current legislation received \$23.7 million in Kansas subsidies during this period –from a program the FCC has deemed “outdated”; “broken”. Under HB 2201 The State of Kansas will not adopt new standards to bring the Universal Service Fund subsidy into the “Broadband Age” until maybe 2017.

Eagle Communications currently does not participate or receive any funding from the Kansas Universal Service Fund program. In 2012 our partner in providing phone service, Big River Telephone did receive \$113,000 from the Federal program for customers in Kansas – a de minimus amount in comparison to the competition we face in Kansas each and every day.

Beginning in April 2013, Big River Telephone is scheduled to begin receiving near \$7,000 per month in Kansas Universal Service Funds. Under HB 2201 this funding will be either immediately eliminated or phased out in time. Eagle Communications is supportive of the elimination of this funding IF no other carrier receives funding for that same community. But HB 2201 will allow Rate of Return carriers to continue receiving Kansas Universal Service Funds while the funding to our partner, Big River Telephone is eliminated.

Without question the above situation creates an unlevel playing field with the State of Kansas effectively picking a “winner” for provision of telecommunications services in a community via taxpayer subsidies. This situation discourages private capital investment and goes against the desired outcome of providing Kansans choice in the marketplace.

Eagle has invested considerably to bring enhanced Hi-speed Broadband services to customers across our footprint – and will continue to do so in 2013 with over \$4.0 million earmarked for projects to bring competitive state-of-the-art services to Kansas. However, doing so in a continued climate where a competitive operator is essentially endorsed and supported via taxpayer subsidies must cause us to question our efforts.

I stand before you today not to complain, ...not to whine,...but rather to hopefully help you understand the realities of what it's like for a small, employee-owned Kansas business to compete against a heavily-subsidized competitor offering the same products in the same communities. And, to politely but passionately express our frustration that when given the opportunity to be progressive in instituting reforms, HB2201 delays any meaningful changes for nearly four years.

HB 2201 retains in Section 11 (b) (page 25 lines 11-15) important language that states “distributions from the KUSF shall be made in a competitively neutral manner to qualified telecommunications public utilities, telecommunications carriers and wireless telecommunications providers .....” Eagle Communications is supportive of HB 2201 discontinuing the use of the “identical support” rule which caps and phases out KUSF high cost support for competitive eligible telecommunications carriers. However, in keeping with the aim of providing competitively neutral support Eagle Communications respectfully requests this committee consider an amendment to HB 2201 that does not allow for KUSF dollars to go to ANY provider in a community where competitive offerings exist. Furthermore, if the entity is already receiving federal subsidies for services offered in any particular-community, they should be precluded from “double-dipping” and should not be allowed to also receive KUSF funding for the same service.

Rate of Return Carriers should be expected to abide under a subsidy framework that mirrors those operating under Price Cap regulations and not place them at an advantage over competitive carriers through 2017.

The result should be that KUSF subsidies be available for where they are truly needed – those areas of the state where Broadband service is deficient or does not exist at all. Not for an “Alexander Graham Bell rotary telephone era system”.

Amending HB 2201 to provide for such language will make real change in the amount of the Kansas Universal Service Fund and this direct cost to taxpayers, and promote competitive offerings from all business in the State of Kansas thus leading to the most advanced, competitively priced services for all Kansans.

Thank you for your time this afternoon Chairman Apple and I will be happy to stand for questions at the appropriate time.