



**House Energy, Utilities and Telecommunications Committee**  
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**Opposition Testimony HB 2563**  
**February 5, 2018**

Good morning Chairman Seiwert and members of the Committee. I am Catherine Moyer, the CEO of Pioneer Communications in Ulysses, Kansas. I appear today on behalf of the Kansas Rural Independent Telecommunications Coalition (KRITC) and the State Independent Telephone Association of Kansas (SITA) in opposition to HB 2563.

The rural independent companies that comprise KRITC and SITA are the success stories of rural broadband deployment. We are the companies who have been able to provide reliable, affordable rural broadband service extensively in the State of Kansas. We know what it takes to deploy the necessary facilities and what it takes to operate them in a reliable and sustained manner.

We are the people who accepted the State's charge to make services available as described in the public policy this Legislature adopted: "...promote consumer access to a full range of telecommunications services, including advanced telecommunications services that are comparable in urban and rural areas throughout the state; and...advance the development of a statewide telecommunications infrastructure that is capable of supporting applications, such as public safety, telemedicine, services for persons with special needs, distance learning, public library services, access to internet providers and others." Lots of people have lots of ideas about how to expand broadband deployment. We have actually done it.

The rural independent companies provide wired service to areas long ago left behind, or never served, by larger providers because the markets were too high cost—they are too sparsely populated, too far from larger cities and towns, too challenging in terms of topography or terrain, or because the larger providers did not see sufficient profit in serving these areas. The rural independent companies are community-based small businesses that create jobs, fuel the economy, and connect rural Americans to the world. We took the challenge of serving these high-cost areas, with the assurances by the Federal and Kansas governments that there would be adequate resources for cost recovery of the dollars that were spent to provide this service.

In 1996, the State of Kansas joined the Federal government in recognizing universal service as the defining public policy for telecommunications. Universal service is the foundation of a universal economy and connected nation. The Kansas Legislature created the Kansas Universal Service Fund (KUSF) that would join the Federal Universal Service Fund (USF) as the adequate

resources for cost recovery. In order to access the KUSF and USF dollars, a rural independent company must first spend money and invest in its network and then “prove” the investment to regulatory entities before access to KUSF and USF dollars is allowed. The independent companies do not simply just receive an amount of money every year and go out and spend it. An independent company examines its service area and population, studies new technology and its demand, and makes a business decision about where to invest in their network. Then, the company invests money in a project—that money may be internally generated, or may be borrowed from a lender. Only then is a company eligible for cost recovery from the KUSF and USF. Independent companies make the investment in a robust wired network in areas of rural Kansas where other carriers were unwilling to serve, and only after that investment is made is a company eligible for KSUF dollars.

It is only with access to KUSF and USF dollars that the independents have been able to build the robust rural network, but also maintain it, and provide affordable rates to rural consumers. The KUSF program has not only been a terrific for Kansas rural areas and the nation as a whole, but also the entire network and all that access it. And it is not only rural business and rural consumers that access the rural network. Other carriers heavily utilize our rural networks—those who want to reach rural businesses and consumers; carriers like long distance companies and wireless companies, as well as edge providers like Amazon and Netflix. The robust rural network interconnects with these other networks and provides the connectivity in rural areas we serve.

As I am sure you can tell, I believe the KUSF is a success story. But, it is an unfinished story. There is still network to build, maintenance to be performed, and continued upgrades. HB 2563 would tear down the model that has made the current success possible. The first likely consequence of HB 2563 would be to create new unserved and underserved broadband areas. That would have several implications. Perhaps a business will not locate in the rural areas of Kansas because it cannot access the necessary telecommunications services to do so. Or because it does not believe it can recruit skilled professionals to the rural areas due to a lack of available telecommunications services. I am one of the few young professionals in Ulysses who grew up in rural Kansas, left to receive my secondary and post-secondary education, and returned to rural Kansas. My fellow Gen-Xers, the younger Millennials and Gen-Yers, will not move to an area unless that have robust telecommunications connectivity. And the quality of life for all others living in rural Kansas is enhanced by this connectivity—it is your quality of life that often determines whether you will stay or relocate elsewhere.

I understand that I have just made the point of why a robust network is needed in the parts of rural Kansas that are not served by the rural independent companies. However, as I stated earlier, removing money from one segment of Kansas to benefit another segment of Kansas does not solve the issue. It simply flips the connectivity issue from one part of Kansas to another. I do not think creating new unserved and underserved broadband areas of Kansas should be a policy goal of the Legislature. HB 2563 would require a state agency to pick winners and losers, providers and areas of Kansas. By comparison, the KUSF can be accessed by another provider willing to assume the same public service responsibilities the rural independent providers bear. The criteria contained in HB 2563 are subjective and insufficient to protect the public interest. Essentially, a proposed recipient of public support from the proposed fund is required only to make a good presentation, with little or no guarantee of actual performance. Again, this should not be a policy goal of the Legislature.

HB 2563 notes the focus should be on the deployment of better broadband in the rural parts of Kansas, defining rural as "...a county with an average population density of less than 100 persons per square mile, excluding the county seat..." I will point out that currently 98 of the 105 Kansas counties have a population density of less than 100 persons per square mile, even when the county seat is included in the calculation. The remaining 7 counties may be pretty close to that definition once the county seat is removed. So, all counties in Kansas are considered rural? Frankly, the real eye-opening statistic is that 70% of Kansas counties have less than 23 people per square mile. In my service territory in southwest Kansas, the rural population is less than 2 people per square mile. Much discussion is still needed on the rural qualifying language.

HB 2563 also contains the requirement that "advanced telecommunications providers" (ATP) should be assessed for the KUSF. The bill is correct in that ATPs are not currently assessed for contribution to the Federal USF, so a methodology is proposed. Just quickly—how will the KCC determine what the net retail intrastate revenues for an ATP are? What is the definition of net revenues? Does the KCC have the authority to audit the books of an ATP? How does the KCC even identify an ATP, or become aware of the existence of an ATP? How will the KCC set the assessments?

Finally, I must point out that I find it ironic that while we are discussing ways to improve broadband service in our rural areas, HB 2563 proposes to reduce funding for the one program, KUSF, that focuses on providing quality service to the rural areas of our State.

I appreciate the opportunity to testify before you this morning. Based on the issues I have highlight, I would urge the committee to not pass out HB 2563.

I would be happy to stand for questions at the appropriate time.