

STATE CORPORATION COMMISSION

BEFORE THE  
STATE OF KANSAS  
STATE CORPORATION COMMISSION

JUL 25 2007

 Docket  
Room

In the Matter of the General ) Docket No. 06-GIMT-187-GIT  
Investigation into the Commission's )  
Telecommunications Billing )  
Practices Standards. )

DIRECT TESTIMONY OF

MICHAEL D. LURA

ON BEHALF OF

THE CITIZENS' UTILITY RATEPAYER BOARD

July 25, 2007

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2

3 A. My name is Michael D. Lura. My business address is 180 Cherry Hills Circle,

4 Gardner, Kansas 66030.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6

7 A. I am self-employed as a telecommunications consultant. I am appearing in this

8 case representing the Citizens' Utility Ratepayer Board (CURB).

9 **Q. PLEASE DESCRIBE YOUR BACKGROUND.**

10

11 A. I retired from AT&T in 1998, after 26 years of service. The last eight years with

12 AT&T I was responsible for coordinating AT&T's regulatory activities in the state

13 of Kansas. Prior to 1990 I held numerous positions with AT&T and the Bell

14 System. These positions included outside plant and central office assignments,

15 but were primarily in the area of regulatory and government affairs.

16 **Q. HAVE YOU PREVIOUSLY APPEARED BEFORE THIS COMMISSION?**

17

18 A. Yes. I testified in Docket Nos. 167,493-U, 94-SWBT-358-RRT, 191,994-U, 95-

19 SWBT-371-TAR, 98-SWBT-380-MIS, 98-GIMT-712-GIT, 99-GIMT-326-GIT,

20 99-GIMT-784-GIT, 99-SSLC-173-ETC, 99-GCCZ-156-ETC, 00-GIMT-236-

21 GIT, 00-GIMT-1054-GIT, 01-GIMT-032-GIT, 02-GIMT-555-GIT, 02-GIMT-

22 678-GIT, 03-GIMT-1063-GIT and 05-SWBT-997-PDR. In addition I have

23 testified before the Iowa Public Utilities Board, the South Dakota Public Utilities

24 Commission, the Arkansas Public Service Commission, the Texas Public Utilities

25 Commission and the Kansas Legislature regarding various telecommunications

26 issues.

1 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

2  
3 A. The purpose of my testimony is to present CURB's positions regarding the  
4 proposed telecommunications billing practices standards.

5 **Q. HOW IS YOUR TESTIMONY ORGANIZED?**

6  
7 A. I first discuss some of the background of this docket. Next, my testimony will  
8 address one of CURB's major issues in this docket; misleading and inappropriate  
9 line items or surcharges used by some telecommunications providers. Finally, the  
10 testimony will address the most recently revised standards proposed by Staff.<sup>1</sup>

11 **Q. PLEASE PROVIDE SOME OF THE BACKGROUND FOR THIS**  
12 **DOCKET.**

13  
14 A. On or about March 30, 2004, the National Association of State Utility Consumer  
15 Advocates ("NASUCA")<sup>2</sup> filed a Petition for Declaratory Ruling with the FCC in  
16 CC Docket No. 98-170 ("NASUCA Petition")<sup>3</sup>. CURB is a member of NASUCA  
17 and supports the positions taken by NASUCA on telephone billing issues. The  
18 NASUCA Petition addressed many of the issues under consideration in this  
19 docket. In its Petition, NASUCA stated:

20 To be clear, NASUCA is not asking the Commission to overturn  
21 prior decisions allowing carriers to recover specific assessments

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<sup>1</sup> Staff Proposed Revised Billing Standards and Proposed Procedural Schedule, filed December 11, 2006.

<sup>2</sup> NASUCA is a voluntary, national association of 44 consumer advocates in 42 states and the District of Columbia, organized in 1979. CURB is a member of NASUCA. NASUCA's members are designated by the laws of their respective states to represent the interests of utility consumers before state and/or federal regulators and in the courts. Members operate independently from state utility commissions, as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General's office). Associate and affiliate NASUCA members also serve utility consumers, but have not been created by state law or do not have statewide authority.

<sup>3</sup> National Association Of State Utility Consumer Advocates' Petition For Declaratory Ruling, *In the Matter of Truth-In-Billing and Billing Format*, CC Docket No. 98-170. See, [http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native\\_or\\_pdf=pdf&id\\_document=6516085825](http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6516085825).

1 mandated by regulatory action through line item charges. Rather,  
2 NASUCA is asking the Commission to declare that carriers are  
3 prohibited from imposing line items *unless those charges are*  
4 *expressly mandated by federal, state or local regulatory action.*  
5 NASUCA is also asking the Commission to declare that line items  
6 allowed must closely match the regulatory assessment.<sup>4</sup>  
7

8 CURB endorses and adopts the positions articulated by NASUCA. Taken  
9 together, these suggestions will help clarify and simplify consumer bills.<sup>5</sup>

10 On July 31, 2006, the Eleventh Circuit Court of Appeals issued a decision  
11 regarding billing standards and the authority of states to require or prohibit the use  
12 of line items.<sup>6</sup> The Eleventh Circuit decision states in part:

13 On the key issue, we grant the petitions for review because we  
14 conclude that the Commission exceeded its authority when it  
15 preempted the states from requiring or prohibiting the use of line  
16 items. The scope of federal authority to regulate "rates" or "entry"  
17 does not include the presentation of line items on cellular wireless  
18 bills. 47 U.S.C. § 332(c)(3)(A). This *billing practice* is a matter of  
19 "other terms and conditions" that Congress intended to be  
20 regulable by the states. *Id.*<sup>7</sup>  
21

22 On August 30, 2005, Staff filed a memorandum with the Commission  
23 suggesting the Commission open a docket to examine the Kansas  
24 Telecommunications Billing Practices. Staff noted that the existing standards

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<sup>4</sup> Petition for Declaratory Ruling, CC Docket No. 98-170, p. vii (emphasis in original).

<sup>5</sup> On March 18, 2005, the FCC released the "Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking." ("Truth-in-Billing Rules")<sup>5</sup> In that Order the FCC stated, "We deny NASUCA's request for a Declaratory Ruling prohibiting telecommunications carriers from imposing any line items or charges that have not been authorized or mandated by the government."

On or about June 24, 2005, NASUCA filed initial comments regarding the FCC's Truth-in-Billing Rules with the FCC in CC Docket No. 98-170 and CG Docket No. 04-208 ("NASUCA comments"). As a caveat to their comments, NASUCA states, "As an initial matter, NASUCA notes that it has filed a petition for review of the declaratory ruling portion of the Commission's March 18, 2005 decision, which is currently pending in the United States Court of Appeals for the Eleventh Circuit."<sup>5</sup> Therefore, while NASUCA did not support line items that are not mandated by the government, based on the FCC's ruling, NASUCA submitted comments on how to best implement the FCC ruling allowing additional line items.

<sup>6</sup> *National Association of State Utility Consumer Advocates v. F.C.C.*, 457 F.3d 1238 (11<sup>th</sup> Cir. 2006).

<sup>7</sup> *Id.*, at 1242 (emphasis added).

1 have been in place since 1983. On August 31, 2005, the Commission entered an  
2 order establishing this docket that included Staff's initial proposed billing  
3 standards. After a series of meetings and workshops, Staff issued their current  
4 proposed billing standards in a filing with this Commission on December 11,  
5 2006.

6 **Q. ARE SOME OF THE ISSUES IN THIS DOCKET STILL SUBJECT TO**  
7 **REVIEW BY THE FCC?**

8  
9 A. Yes. It is expected that the FCC will ultimately decide some of the issues being  
10 discussed in this docket. However, the timing of any relevant decisions from  
11 them is unknown and CURB urges the KCC to act based on the record before  
12 them.

13 **Q. WHAT IS CURB'S MAIN CONCERN IN THIS DOCKET?**

14 A. Throughout this docket CURB's main concern has been the misleading and  
15 inappropriate line items or surcharges used by some telecommunications  
16 providers. The use of these misleading or inappropriate line items or surcharges  
17 harms both consumers and competitors.

18 **Q. HOW ARE CONSUMERS HARMED BY MISLEADING LINE ITEMS OR**  
19 **SURCHARGES?**

20  
21 A. Consumers are harmed in two major ways. First, the way line items and  
22 surcharges have been implemented makes it very difficult for consumers to  
23 compare prices between telecommunications companies. It is accepted that one  
24 of the keys to creating a competitive marketplace is informed consumers.  
25 Consumers must be able to compare products, services and companies to

1 determine the best offerings for their needs. Today, making those comparisons is  
2 difficult at best and for most consumers is probably overwhelming.

3 Second, consumers are harmed by the inability to understand their bills.  
4 With misleading line items and surcharges, that are changing frequently, many  
5 consumers do not understand their bills and have difficulty verifying the accuracy  
6 of the bills.

7 **Q. PLEASE PROVIDE SOME EXAMPLES OF MISLEADING LINE ITEMS**  
8 **AND SURCHARGES CURRENTLY IN USE IN KANSAS.**

9  
10 A. CURB issued discovery requests to many of the parties in this docket. One of our  
11 data requests asked for a current copy, or sample, of a residential or small  
12 business customer bill. CURB received 15 responses that showed the types of  
13 line items and surcharges currently being used in Kansas. Among the items  
14 shown in the responses are:

- 15 • Regulatory Cost Recovery Fee
- 16 • Carrier Cost Recovery Charge
- 17 • In-state Access Charge
- 18 • Regulatory Surcharge
- 19 • Public Switched Network Recovery Charge
- 20 • ITSP Regulatory Fee Reimbursement
- 21 • Regulatory and Admin Fee
- 22 • Carrier Access Charge – B
- 23 • Property Tax Surcharge
- 24 • Instate Access Recovery Charge

- 1 • Regulatory Program Fee
- 2 • Fraud Protection Fee

3 **Q. HOW DID THE COMPANIES DESCRIBE THESE CHARGES?**

4 A. The descriptions varied widely. In response to discovery questions CURB  
5 received relatively long responses such as the following from U.S. Cellular:

6 Regulatory Cost Recovery Fee

7 U.S. Cellular charges its customers a Regulatory Cost Recovery  
8 Fee to defray the costs associated with certain federal and state  
9 mandated programs. U.S. Cellular is not required by law to charge  
10 this fee. Since implementation costs may change over time, this  
11 fee will be subject to change accordingly. The Regulatory Cost  
12 Recovery Fee defrays the cost of implementing and maintaining  
13 the following programs:

- 14
- 15 • Wireless Number Portability and Number Pooling  
16 Wireless Number Portability allows customers to keep their  
17 wireless numbers when switching to different carriers. Number  
18 pooling is a method to help conserve wireless phone numbers and  
19 delay area code exhaustion.
- 20 • E911  
21 E911 allows emergency response to units to more effectively track  
22 the locations of wireless 911 calls.
- 23 • Telephone Text (TTY)/Dual Party Relay  
24 TTY and Dual Party Relay assists speech and hearing-impaired  
25 individuals with making and receiving messages by telephone.
- 26 • Communications Assistance for Law Enforcement Act (CALEA)  
27 CALEA requires that wireless service providers make network  
28 changes that allow law enforcement officials to intercept and  
29 analyze communications carried over that network.
- 30

31 CURB also received shorter responses such as the following from Sprint

32 Communications Company, L.P., d/b/a Sprint:

33 Carrier Cost Recovery Charge – Sprint will assess a monthly \$0.99  
34 Carrier Cost Recovery Charge. This charge helps defray Sprint's  
35 overall costs of providing long distance service to residential  
36 customers.

1 **Q. DO YOU HAVE ANY CONCERNS WITH THESE DESCRIPTIONS?**

2 A. In my opinion, while the descriptions are certainly better than having none at all,  
3 they both point out two major flaws with their imposition. First, the descriptions  
4 are not consumer friendly. The U.S. Cellular explanation is certainly thorough  
5 but contains references and phrases such as “area code exhaustion” that the  
6 average consumer is unlikely to relate to. The Sprint description is obviously  
7 more concise but does not begin to explain why these charges are different than  
8 the charges covered in the monthly rate.

9 Second, both descriptions address costs that are a normal part of doing  
10 business. All telecommunications carriers incur the same basic costs and those  
11 costs should be covered in the monthly rates or usage charges. The separating out  
12 of specific costs, on a non-uniform and unequal basis, should not be allowed.  
13 CURB continues to advocate that government mandated charges may be listed  
14 separately, but that all other costs of doing business should be included in the  
15 basic rates.

16 **Q. DID ANY COMPANIES EXPRESS THEIR CONCERN WITH THESE**  
17 **CHARGES?**

18  
19 A. Yes. In response to CURB Data Request 1.3 Sage Telecom Inc. explained their  
20 “Public Switched Network Recovery Charge” as follows:

21 Pursuant to Sage’s Local Exchange Tariff on file with the Kansas  
22 Corporation Commission, the Public Switched Network Recovery  
23 Charge is a monthly recurring charge which is applied on a per  
24 customer line basis. This fee is intended to recover costs to access  
25 the public switched network for local service.

26  
27 On January 1, 2006 the wholesale rate that Sage pays AT&T  
28 increased by \$1.00 per line per month. Sage originally intended



1 not to increase retail rates. However, several months into the year  
2 the company's margins had become squeezed and a retail rate  
3 increase became necessary. Because the earliest practical effective  
4 date at that point was April 1, and because some of Sage's other  
5 costs had increased in 2006, Sage chose to increase its retail per-  
6 line rate by \$1.33 per month. **And because several of Sage's**  
7 **principal competitors in Kansas utilize separate fees and line**  
8 **items (when Sage was last able to compare, Xspedius applied**  
9 **an "Access Recovery Charge" of 7.1% to monthly bills below**  
10 **\$300.00), a general increase to Sage's basic service rates would**  
11 **not provide competitive neutrality. Therefore, the separate**  
12 **line item PSN Recovery Charge was filed (albeit at a lower rate**  
13 **than that of the Xspedius charge). On January 1, 2007, the**  
14 **wholesale rate that Sage pays to AT&T further increased \$1.00 per**  
15 **line per month. (Emphasis added.)**  
16

17 This is a clear example of a company forced by competitive pressures to  
18 implement a separate line item charge rather than raising basic local rates.

19 There is no question Sage is allowed to recover their costs. The question  
20 becomes, how? CURB maintains that an increase in retail rates, consistently  
21 required of all telecommunications carriers, is more consumer friendly and will  
22 actually enhance competition in Kansas by putting all companies on an equal  
23 footing.

24 **Q. ARE THERE ANY INDICATIONS THAT THE USE OF LINE ITEMS**  
25 **AND SURCHARGES IS INCREASING OR DECREASING?**  
26

27 **A. Yes. Sprint response 1.2.A to CURB's Data Request 1.2 states:**  
28

29 Other Surcharges – Sprint **may assess other surcharges** to recover  
30 amounts Sprint is required to pay in support of statutory or  
31 regulatory programs (including, but not limited to, state-specific  
32 universal service funds, lifeline charges, mandated user fees,  
33 telecommunications and deaf relay charges, and other federal and  
34 state miscellaneous charges), as well as excise, sales, use, gross  
35 receipts or other similar taxes levied by a governing body on  
36 Sprint. The rates for some of these taxes are set by governing  
37 bodies, while others are set by Sprint in accordance with the  
38 amounts it must pay the governing bodies. Where required by

1 state law, the specific amounts of these surcharges are set forth in  
2 Sprint in-state tariffs. (Emphasis added.)  
3

4 This appears to be a notice that even further line items and surcharges may be  
5 implemented recovering additional taxes and fees. This notice, coupled with the  
6 growing implementation of such items as property tax surcharges and fraud  
7 protection fees, indicates a broadening of the use of line items and surcharges.

8 Indeed, under current regulations, there is nothing to prevent a company  
9 from recovering virtually all, or even all, their costs through line items and  
10 surcharges. While admittedly far-fetched, the possibility exists of a company  
11 telling customers they offer free service but that certain line items and surcharges  
12 apply.

13 **Q. DID CURB ATTEMPT TO QUANTIFY THE VARIOUS LINE ITEMS**  
14 **AND SURCHARGES?**  
15

16 A. Yes. Requests for information were sent to companies that indicated they use line  
17 items and surcharges in their billing.

18 **Q. WHAT WERE THE RESULTS OF THOSE INQUIRIES?**

19 A. CURB was only able to get responses from a limited number of companies and  
20 for the most part those responses were labeled as Proprietary or Confidential.  
21 Therefore, I will only address the responses in general terms.

22 What CURB did find was that for some companies these line items and  
23 surcharges are generating significant amounts of revenue. The responses showed  
24 2006 revenues from Kansas customers ranged from approximately \$22,000 to  
25 several companies reporting revenues of over \$450,000 just for these line items  
26 and surcharges.

1 CURB also asked what costs were incurred on a Kansas basis that  
2 corresponds with the listed revenues. In only one case was a company able to  
3 identify corresponding costs. The general response was that no costs are available  
4 on a Kansas basis. The result of this limited review of line items and surcharges  
5 shows that Kansas consumers are paying significant dollars to some  
6 telecommunications companies with little ability for consumers to verify the  
7 correctness of the charges. Similarly, should the Commission elect to review line  
8 items and surcharges to determine whether they are misleading or deceptive, there  
9 simply is not enough data available to enable that review.

10 **Q. YOU STATED EARLIER IN YOUR TESTIMONY THAT “CURB**  
11 **CONTINUES TO ADVOCATE THAT GOVERNMENT MANDATED**  
12 **CHARGES MAY BE LISTED SEPARATELY.” PLEASE FURTHER**  
13 **EXPLAIN THAT POSITION.**

14  
15 A. CURB urges the Commission to require that government mandated charges be  
16 clearly defined and separated from other charges to eliminate misleading line  
17 items on consumer bills. The question becomes, what is a mandated charge? The  
18 NASUCA comments recommended a definition of mandated charges as those,  
19 “charges that a carrier is *required* to collect directly from customers, and remit to  
20 federal, state or local governments.”<sup>8</sup> I recommend this definition be included in  
21 the definitions section of the revised billing standards. This clear definition will  
22 eliminate misleading line items on consumer bills and will provide equally clear  
23 guidelines for providers.

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<sup>8</sup> Initial Comments Of The National Association Of State Utility Consumer Advocates, pp. 3-4, Section II, A, *In the Matter of Truth-In-Billing and Billing Format*, CC Docket No. 98-170, CG Docket No. 04-208.

1 Staff's initial proposed billing standards included language that supports  
2 this position. That version of Staff's proposed standards stated,

3 I.A.(3)c. **Taxes and Fees.** All applicable taxes and fees (excise,  
4 sales, 911, KUSF, franchise, etc.) shall be itemized. **Monthly**  
5 **surcharges or other fees shall only be itemized on the bill if**  
6 **such charges have been expressly mandated by a regulatory**  
7 **agency.** Line-item charges associated with federal regulatory  
8 action should be identified through standard and uniform labels as  
9 defined in the Federal Communications Commission's Truth In  
10 Billing docket. (Emphasis added.)  
11

12 However, Staff's latest proposal removes this vital language without any thorough  
13 explanation of their reason for this seminal change.

14 Putting forth such a clear statement and requirement has several inherent  
15 benefits.

16 **Deterrence** - Adopting a straightforward definition of government mandated  
17 charges, and separating those charges from other charges, should deter carriers  
18 from misleading consumers that certain charges are beyond the providers' control.  
19 Clearly, there is an incentive for any provider to keep rates low and therefore  
20 more competitive. However, carriers should not be allowed to tariff and advertise  
21 rates that are lower than competitors by hiding additional costs in inappropriate  
22 surcharges.

23 **Consistency with Truth in Billing standards** - In its TIB Order, the FCC stated:

24 *As the record in this proceeding demonstrates, line-item charges*  
25 *are being labelled [sic] in ways that could mislead consumers by*  
26 *detracting from their ability to fully understand the charges*  
27 *appearing on their monthly bills, thereby reducing their propensity*  
28 *to shop around for the best value. Consumers misled into*  
29 *believing that these charges are federally mandated, or that the*  
30 *amounts of the charge are established by law or government*

1            *action, could decide that such shopping would be futile.* In  
2            addition, lack of standard labeling could make comparison  
3            shopping infeasible. Unlike most products purchased by  
4            consumers, these line-item charges cannot be attributed to  
5            individual tangible articles of commerce. For example, when a  
6            consumer purchases socks from the local department store, the  
7            consumer knows what item the bill refers to, whether it describes  
8            the product as socks, men’s wear, hosiery, etc. In contrast, a  
9            consumer receives no tangible product in conjunction with a line-  
10           item charge on his or her telecommunications bill.<sup>9</sup>

11  
12            **Benefits to Carriers** – Adopting a definition of “government mandated charges”

13            that includes only amounts that a carrier is required to collect and remit to  
14            government will simplify billing standards for all carriers by reducing guesswork  
15            on what charges go where, and will reduce consumer inquiries to providers. In  
16            addition, clearly defining those charges that are government mandated will  
17            eliminate unfair competitive advantages gained by carriers that reduce their  
18            advertised rates by placing non-government mandated costs in line items that give  
19            the impression they are government mandated.

20  
21            **Q. DO YOU HAVE FURTHER RECOMMENDATIONS REGARDING**  
22            **SURCHARGES AND LINE ITEMS?**

23  
24            A. If the Commission decides to allow companies to use line items and surcharges  
25            beyond those mandated by government agencies, I recommend the Commission  
26            adopt rules that prohibit carriers from recovering several types of costs in one line  
27            item and require carriers to characterize their line items as accurately and  
28            concisely as possible. NASUCA’s comments state:

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<sup>9</sup> *In the Matter of Truth-in-Billing and Billing Format*, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 7492, 7532, ¶62 (May 11, 1999) (“*TIB Order*”). (emphasis added)

1           Given the disparate and varying manner in which carriers have  
2           identified their monthly line items and surcharges and placed them  
3           on customers' bills, NASUCA believes that the consumers'  
4           interest in clear and non-misleading charges, as well as consumers'  
5           interest in being able to make reasonable price comparisons  
6           between competing providers or services, requires guidance in  
7           labeling these categories of charges.<sup>10</sup>  
8

9           If the Commission allows carriers to impose line items and surcharges at  
10          the company's discretion, the charges will likely vary to a considerable extent  
11          among carriers (some may impose a surcharge to recover property taxes they pay  
12          while others may not, for example), consumers should be able to readily discern  
13          not only the total amount of discretionary line items different carriers charge, but  
14          also what costs the carriers recover through such charges.

15          If the Commission decides to allow companies to use line items and  
16          surcharges beyond those mandated by government agencies, I also recommend  
17          separation of charges to include a section on customers' monthly telephone bills  
18          labeled "Carrier Imposed Charges," containing charges that carriers may, but are  
19          not required to, impose. NASUCA's comments state:

20                 In this portion of the bill, carriers could include government-  
21                 authorized charges which they may impose, regardless of whether  
22                 the revenues generated by the charge is remitted to the  
23                 government. In this section of the monthly bill, carriers could  
24                 include, for example, their monthly universal service charge, local  
25                 number portability charge, charges that recover property tax  
26                 assessments, service-related surcharges (such as paper billing fees,  
27                 payphone use surcharges) and any charges that otherwise recover  
28                 the carrier's operating costs (e.g., regulatory compliance and  
29                 proceedings, access charges, etc.).  
30

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<sup>10</sup> Initial Comments Of The National Association Of State Utility Consumer Advocates, at pp. 14, *In the Matter of Truth-In-Billing and Billing Format*, CC Docket No. 98-170, CG Docket No. 04-208.

1 By designating such charges as “Carrier Imposed,” consumers  
2 would be accurately, and concisely, informed about the true source  
3 of the charges included in this portion of the bill: the carrier.<sup>11</sup>  
4

5 **Q. PLEASE PROVIDE SPECIFIC RESPONSES TO STAFF’S PROPOSED**  
6 **REVISIONS.**

7  
8 A. In this section I will respond to some of the specific revisions recommended by  
9 Staff.

10  
11 **DEFINITIONS**

12 **Local Service Charges**

13 A local service provider’s charge for service which allows customer to  
14 complete calls within the local service area (dial tone), plus any local  
15 service provider charges for calling, line or directory service features  
16 (such as Caller ID, extra directory listings, touch tone service, etc.) Local  
17 service charges include packages or bundles of service, offered at one  
18 price, which includes local and other services (e.g., long distance, internet  
19 services, wireless services, etc.). Local services do not include long  
20 distance, directory advertising, inside wire maintenance, etc. when  
21 purchased by the subscriber on an *a la carte* basis.

22  
23 I do not agree that vertical features such as Caller ID, extra directory listings,  
24 touch tone service, etc. should be included in the definition of Local Service  
25 Charges. Including these services in the definition makes them deniable charges  
26 per the definition of Deniable Charges and would allow disconnection of vital  
27 basic local service for the non-payment of, for example, Caller ID charges. I  
28 recommend that the first sentence of the definition of Local Service Charges be  
29 changed to state:

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<sup>11</sup> Initial Comments Of The National Association Of State Utility Consumer Advocates, pp. 13-14, *In the Matter of Truth-In-Billing and Billing Format*, CC Docket No. 98-170, CG Docket No. 04-208.

1            *A local service provider's charge for service which allows the*  
2            *customer to complete calls within the local service area (dial*  
3            *tone).*

4  
5  
6            **Section I.A.1.**

7            **Billing Frequency.** The standard billing period is monthly from billing  
8            date up to and including the day before [the] next billing date. Long  
9            distance providers may deviate from this standard upon notice to  
10           subscribers, but must provide a monthly bill if a customer requests.

11  
12           The standard as written does not make it explicit that monthly billing must be  
13           provided if a customer chooses monthly billing and that no additional charges  
14           should be imposed on customers that choose monthly billing. I recommend the  
15           following sentence be added:

16                   *Under no circumstances shall a customer be charged extra for*  
17                   *choosing a monthly billing option.*

18  
19  
20           **Section I.A.3.b.**

21           **Itemized Services, Service Changes and Charges.** Upon an initiation or  
22           change of service each service and its corresponding recurring and non-  
23           recurring charge to which the customer of record subscribes shall be  
24           accompanied by a brief, clear, plain language definition. Packaged or  
25           bundled service shall be itemized on the bill by package or bundle  
26           name. A detailed listing of each service provided in the package or  
27           bundle shall be provided to the subscriber either on the bill in the next  
28           billing cycle or by separate mailing. All service changes must be  
29           included in the subscriber's bill for the next billing cycle. Service  
30           changes may be accomplished through electronic means to the  
31           subscriber if the subscriber has authorized this form of  
32           communication. Additionally, each long distance call shall be  
33           itemized and include the date, destination city and telephone  
34           number called. Details of calls included in block of time and  
35           unlimited calling plans are excluded from this itemization  
36           requirement; however, itemized call detail associated with block of  
37           time plans must be available to the subscriber upon request at no  
38           additional charge.  
39



1 It is precisely because of increased customer dissatisfaction with end user bills  
2 that this docket is so important. Itemizing and explaining charges is the first step  
3 toward billing clarity and increased customer satisfaction. Bundling charges and  
4 not providing brief, clear definitions of charges must be eliminated or reduced to  
5 the greatest extent possible. I support this language.

6  
7 **Section I.A. 3.c.**

8 **Government Taxes, Fees and Surcharges.** Any federal, state, local  
9 government and/or regulatory taxes, fees and/or surcharges, shall be  
10 itemized on a subscriber's bill and shall be clearly identified. Current  
11 examples of such federal charges include: "Subscriber Line Charge,"  
12 "Federal Universal Service Fund," "Local Number Portability," and  
13 Federal Tax. Current examples of such state and local governmental  
14 charges include; city and county taxes, city franchise fee, Kansas  
15 Universal Service Fund and 911 taxes and fees. The Subscriber Line  
16 Charge cannot exceed the rate permitted by law. Only those taxes,  
17 fees and surcharges authorized by federal, state or local governments  
18 may be itemized in this section of the bill. All other fees and  
19 surcharges must be clearly distinguished in another section of the bill.

20  
21 I do not support this language. Prior to Staff's current proposed billing standards,  
22 Staff's proposed standards included the following two sentences in place of the  
23 last sentence shown above.

24 Only those taxes, fees and surcharges noted above can be itemized.  
25 All other charges shall be included in service rates.

26  
27 Staff's new proposed change fundamentally changes the entire application  
28 of line item surcharges and fees. Using previous language, government mandated  
29 taxes and fees were the only fees that could be shown separately on the bill. I  
30 supported the original language. However, the last sentence, as now proposed by  
31 Staff, allows unconstrained use of line item surcharges and fees that are often  
32 unclear, unsupported and cause consumer confusion. Consistent with my

1 previous testimony reviewing the problems associated with unconstrained line  
2 items, I urge the Commission to reject Staff's proposed language and order the  
3 inclusion of the two lines previously proposed by Staff.

4 However, as I previously testified, if the Commission would decide to  
5 allow companies to use line items and surcharges beyond those mandated by  
6 government agencies, I also recommend separation of charges to include a section  
7 on customers' monthly telephone bills labeled "Carrier Imposed Charges,"  
8 containing charges that carriers may, but are not required to, impose.

9

10

**Section I.A.3.i.**

11

**Notice of Late Payment Charge.** If a provider assesses late payment  
12 charges, each bill must include the amount of the late payment charge.  
13 (See Section II.D. for late payment charge rules.)  
14

14

15

I support this recommendation. For consumers to make proper decisions they  
16 need adequate information. If a late payment charge is going to be imposed, the  
17 requirement that the provider must inform the consumer of the amount of the late  
18 payment charge is a necessity.

19

20

**Section I.A.3.k.**

21

**Deniable and Non-Deniable Charges.** Charges that are non-deniable  
22 (i.e., any charges other than local service charges) shall be designated  
23 clearly and separately from the charges for local telephone services.  
24 See Section I.A.3.b. regarding the itemization of services. Providers  
25 must clearly and conspicuously identify that non-payment of non-  
26 deniable charges will not result in the disconnection of basic local  
27 service. The charge for a bundle or package of services shall be  
28 considered a deniable charge. Special charges for services such as the  
29 sale of merchandise, inside wire maintenance plans, directory  
30 advertising, long distance calls, etc. can also be included on the  
31 consumer's bill, however, failure to pay these non-deniable charges  
32 shall not be justifiable cause to suspend/disconnect local service.  
33

33

1 I generally support this recommendation. Giving telephone companies special  
2 authority to disconnect basic local service for non-payment of products and  
3 services not considered an essential part of basic telephone service, places  
4 consumers at risk for losing vital telephone service. However, I recommend a  
5 change in the following sentence in Staff's proposal:

6 The charge for a bundle or package of services shall be  
7 considered a deniable charge.

8

9 I recommend the sentence be changed to:

10

11 *The charge for a bundle or package of services that contains basic*  
12 *local service shall be considered a deniable charge.*

13

14 Inclusion of the inserted language clarifies that a bundle or package that consists  
15 solely of non-deniable charges does not become a deniable charge merely by the  
16 bundling or packaging of services.

17

18

**Section I.B.**

19

20

21

22

23

24

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26

27

28

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31

**Alternative Billing Format.** If approved by the subscriber, a telecommunications provider may provide a bill through alternative means (e.g., electronic billing) and/or in an alternative format. A provider may offer discounts to those subscribers that choose to use an alternate means of billing. Upon request a paper copy of the subscriber's bill must be provided.

I support this recommendation with the following changes. While I would expect that any such request for an alternative billing format would **not** result in a higher charge for consumers, any increase in cost to the consumer from the selection of an alternative billing format must be made explicit at the time of selection. I also recommend that it be made clear that a complete, paper copy of the bill must be provided at no cost in the event of a billing dispute.

1           **Section I.D.**

2                   **High Long Distance Pre-Billing.**

3           1.       A Telecommunications provider may utilize high long distance  
4                   pre-billing only when:

5                   ...

6                   b.       Long distance usage is at least double the previous 3-month  
7                               average levels or the subscriber's provided estimate and  
8                               above the amount of deposit held.

9  
10           CURB suggests the following language for clarification.

11           1.       A Telecommunications provider may utilize high long distance  
12                   pre-billing only when:

13                   ...

14                   b.       *Long distance usage is above the amount of deposit held  
15                               and (i) at least double the previous 3-month average levels  
16                               or (ii) above the subscriber's provided estimate, but in no  
17                               event if usage is less than one hundred dollars (\$100).*

18  
19  
20           This language includes a \$100.00 minimum threshold charge that was included in  
21                   a previous version of Staff's proposed standards. The threshold allows for the  
22                   occasional toll user to avoid high long distance pre-billing. For example, it is not  
23                   unusual for people to use cell phones for much of their long distance calling.  
24                   This, of course, results in low average monthly toll usage. If the need then arises  
25                   to use regular long distance it would be easy to exceed the average monthly usage  
26                   level. The threshold prevents needless customer high toll pre-billing while still  
27                   allowing providers the ability to control unusually high toll bills. I recommend  
28                   the threshold be re-inserted.

29  
30           **Section I.E.**

31                   **Refunds for Service Outages (Repair).** The telecommunications  
32                   provider shall make an adjustment or refund, as required below, if a  
33                   subscriber's service is interrupted unless such interruption is by  
34                   negligence or willful act of the subscriber. The adjustment or refund  
35                   shall be a pro rata portion of the monthly local service charges and

1 any miscellaneous equipment charges for the period of time during  
2 which the service is interrupted. An adjustment or refund is not  
3 required for the portion of time when the provider stands ready to  
4 repair and restore service but the subscriber does not provide access  
5 necessary to accomplish the repair or restoration. The adjustment or  
6 refund may be accomplished by a credit on the next subsequent bill  
7 for service. An adjustment or refund shall be made:

8 ...  
9

10 I support this section but recommend that the description of an interruption be  
11 included to cover other recurring problems such as unacceptable noise levels,  
12 slow dial tone and dropped or disconnected calls. Each of these recurring  
13 problems can effectively render phone usage unacceptable. Since these  
14 measurements are subjective, I also recommend the Commission order the  
15 Commission Staff to work with parties to this docket to develop the actual  
16 standards.

17  
18 **Section I.G.1.**

19 **Notification of Change.** Subscriber notice must be provided any time a  
20 rate or rates are increased by a telecommunications provider. Subscribers  
21 must be notified on or before the date on which an increased rate appears  
22 on the subscriber's bill. Notice must be provided through direct mail, bill  
23 notice or bill insert and must be conspicuously placed and highlighted.  
24 Newspaper notification is only allowed if a rate increase could affect the  
25 general public. A copy of the subscriber notice shall be retained for at  
26 least six (6) months for possible Commission review. In the event that  
27 notice to the subscriber is provided after the rate increase has become  
28 effective, a subscriber shall be given 30 days, from the date a subscriber  
29 receives a bill containing the new rate, to cancel the service and receive  
30 an adjustment for the change.

31  
32 Customers need timely, accurate data to make wise purchasing decisions. Getting  
33 notice of a rate change on the day the bill is delivered does not give consumers  
34 adequate time to price compare with other providers. I recommend at least a five-

1 day notice before rates are increased but with this change support the proposed  
2 standard as written.

3  
4 **Section II.D.**

5 **Late Payment Charge.** A Commission approved late payment fee on  
6 the unpaid balance, not previously assessed a late fee, may be added to  
7 the subscriber's bill. The provider may charge a disconnect notice fee  
8 in lieu of a late payment fee, however, the notice fee must be based  
9 upon the cost of providing such notice. A late payment fee does not  
10 apply to installment payments that are made on time.

11  
12 I endorsed many of the elements of this proposed standard and therefore support  
13 the language as proposed.

14  
15 **Section II.F.**

16 **Delayed Billing.** Unless agreed to by the subscriber, she/he is not  
17 responsible for delayed or back billed charges for local service furnished  
18 more than three (3) months immediately preceding the date of the bill,  
19 and for long distance charges furnished more than six (6) months  
20 immediately preceding the date of the bill, except for services obtained  
21 through fraud, as defined in Section IV.A.1.e.. Providers may petition  
22 the Commission for permission to bill outside the standard 3 or 6  
23 months (see V). Also upon subscriber request, companies must  
24 extend the payment period proportionately if a bill contains two  
25 (2) or more months charges, all of which have not previously been  
26 billed.

27  
28 Delayed billing should be the exception and not the rule. However, I support the  
29 language as proposed and agree with the three and six month time frames for back  
30 billing. The imposition of a time frame puts some burden on the provider to  
31 accomplish timely billing.

32  
33 **Section II.G.**

34 **Billing During Suspension of Service.** During the time a subscriber's  
35 service is suspended, the charges associated with the suspended  
36 services cease and resume only upon restoration or reconnection of  
37 service.

1 This section is no longer included in Staff's proposed billing standards,  
2 despite CURB's position that consumers should not be required to pay for  
3 service that is suspended. I supported this language and urge the  
4 Commission to order the section be re-inserted in the billing standards.

5  
6 **Section IV.C.**

7 **Suspension/Disconnection in Special Circumstances.**

8 1. Service may not be suspended/disconnected if a residential  
9 subscriber notifies the local service provider and establishes that:

10 a. Suspension/disconnection would be especially  
11 dangerous to the safety or health of the subscriber,  
12 resident member of the subscriber's family or other  
13 permanent resident of the premises where service is  
14 rendered and

15  
16 b. Such subscriber is unable to pay for such service in  
17 accordance with the requirements of the provider's  
18 billing or is able to pay for such service only in  
19 installments. The provider shall either allow payment in  
20 reasonable installments or postpone suspension/  
21 disconnection of service for at least twenty-one (21) days  
22 so that the subscriber may make arrangements for  
23 reasonable installment payments.  
24

25  
26 2. In determining whether suspension/ disconnection would  
27 be especially dangerous to health, consideration shall be  
28 given to the subscriber's (or other resident's) medical condition,  
29 age or disability. The provider may require the subscriber to  
30 provide medical provider's written certification of medical  
31 condition.  
32

33 3. The provider may restrict access to the long distance network  
34 during the period of postponement or installment payments  
35 under the conditions set out in Section II.E.  
36

37 I support the proposed standard as written.

1           **Section IV.D.3.**

2           **Notice Information Requirements.** The suspension/ disconnection  
3           notice shall contain the following information:  
4

- 5           a.     The name, billing address and telephone number(s) of the  
6           subscriber being suspended.  
7           b.     A clear and concise statement of the reason for the  
8           proposed suspension/disconnection of service and terms  
9           under which suspension/disconnection may be avoided.  
10          c.     The date and time by which payment is required to avoid  
11          suspension / disconnection.  
12          d.     A clear and concise explanation of the charges and  
13          conditions for reconnection of service.  
14          e.     A statement that suspension may be postponed or  
15          avoided if the subscriber makes payment arrangements  
16          with the company for moneys not in dispute.  
17          f.     A clear and concise statement to apprise the  
18          subscriber of the availability of an administrative  
19          procedure that may be utilized in the event of a bona fide  
20          dispute or under other circumstances, such as provided in  
21          Section IV. G. The address, telephone number and name of  
22          provider's office or personnel empowered to review  
23          disputed bills, rectify errors and prevent suspension, shall be  
24          clearly set forth. The notice shall state that the subscriber  
25          may talk with an employee of the provider and may  
26          present his or her reasons for disputing a bill, requesting  
27          payment arrangements or requesting a postponement of  
28          suspension/disconnection. The notice shall also contain  
29          the telephone number of the Commission's Consumer  
30          Protection Office.  
31

32           I support the standard as written. It is vital that consumers be made aware of  
33           avenues available to them in potentially disagreeable situations. In particular, as  
34           CURB discussed in Reply Comments, the inclusion of the phone number and title  
35           of the Commission's Consumer Protection Office is not overly burdensome and  
36           provides valuable consumer information.



1           **Section VI.**

2           **WAIVER OF REQUIREMENTS.** The requirements contained in  
3           these standards may be waived on an individual case basis by the  
4           Commission upon application by the telecommunications provider  
5           and a showing that a waiver is in the public interest.

6  
7           Certain parties opposed the public interest standard in this section. CURB  
8           disagrees. All parties have had adequate time to participate in the development of  
9           these proposed billing standards. At the time billing standards are approved by  
10          the Commission they will be approved based on the Commission's authority that  
11          balances the interests of the industry and consumers. Thereafter, if a company  
12          seeks a waiver of any standards, by default they are seeking to shift that balance  
13          in the company's interests. To maintain balance the Commission must look to the  
14          public interest to insure that not only the provider's interests, but also the public's  
15          interests are adequately protected. CURB supports the standard as stated.

16       **Q. HAS CURB EXAMINED THE IMPACT THE PROPOSED CHANGES IN**  
17       **THE BILLING STANDARDS WILL HAVE ON THE PUBLIC INTEREST**  
18       **AND UNIVERSAL SERVICE?**

19  
20       **A.** Yes. The Kansas Corporation Commission is charged by the State  
21       Telecommunications Act with protecting the public interest. Without citing the  
22       full statute, K.S.A. §66-2001 requires the Commission to ensure, "excellent  
23       services at an affordable price," "increased services," "improved  
24       telecommunications facilities and infrastructure at reduced rates" and  
25       "telecommunications services that are comparable in urban and rural areas." The  
26       proposed billing standards address, among other things:

- 27                   • Billing frequency  
28                   • Billing periods, mailing dates and due dates  
29                   • Clear, itemized service charges

- 1 • Taxes and fees
- 2 • Notice of late payment charges
- 3 • Non-deniable charges
- 4 • Alternative billing formats
- 5 • Refunds for interruptions
- 6 • Notifications of service changes
- 7 • Subscriber rate information
- 8 • Subscriber notices
- 9 • Due dates/Delinquency dates
- 10 • Late payment charges
- 11 • Billing during suspension of service
- 12 • Delayed billing
- 13 • Payment of deposits in installments
- 14 • Suspension in special circumstances
- 15 • Information included in suspension/disconnection notices

16  
17 Consistency in the application of each of these items is in the public  
18 interest and is required for consumers to make informed choices among all  
19 competitive providers. Vague, misleading, and/or deceptive billing practices  
20 prevent ratepayers from accurately assessing: (1) what they are being billed for;  
21 (2) whether the amounts charged conform to the price charged for the service; (3)  
22 when and why their service may be suspended or disconnected; (4) when and how  
23 late-payment penalties may be assessed; (5) when their payments are due or  
24 delinquent; and (6) when service or rates will be changed. These are vital  
25 consumer protections, directly impacting the provision of universal service, for  
26 Kansas ratepayers and, for all the reasons stated in this testimony, CURB urges  
27 the Commission to order the changes to the proposed billing standards  
28 recommended by CURB.

29 **Q. DOES THIS COMPLETE YOUR DIRECT TESTIMONY?**

30 **A.** Yes.

VERIFICATION

STATE OF KANSAS        )  
COUNTY OF SHAWNEE    )        ss:

Michael Lura, being duly sworn upon his oath, deposes and states that he is a consultant for the Citizens' Utility Ratepayer Board, that he has read and is familiar with the foregoing; and that the statements made herein are true to the best of his knowledge, information and belief.

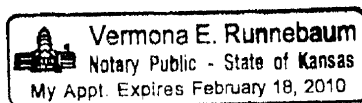
Michael D. Lura

Michael D. Lura

Subscribed and sworn to before me this 24 day of July, 2007.

Notary Public Vermona E. Runnebaum

My Appointment Expires:



**CERTIFICATE OF SERVICE**

06-GIMT-187-GIT

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was placed in the United States mail, postage prepaid, or hand-delivered this 25th day of July, 2007, to the following:

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