

SUBSTITUTE FOR SENATE BILL No. 72

By Committee on Utilities

2-25

1 AN ACT concerning telecommunications; amending K.S.A. 50-6,103 and
2 K.S.A. 2010 Supp. 66-2005 and repealing the existing sections.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 50-6,103 is hereby amended to read as follows:
6 50-6,103. (a) As used in this section:

7 (1) "Express authorization" means an express, affirmative act by a
8 consumer clearly agreeing to a change in the consumer's
9 telecommunications carrier or local exchange carrier to another carrier.

10 (2) "Supplemental telecommunication services" means any property
11 or services for which any charge or assessment appears on a billing
12 statement directed to a consumer by a local exchange carrier or
13 telecommunications carrier, including but not limited to personal 800
14 number services, calling card plans, internet advertisement and website
15 services, voice mail services, paging services, psychic services, psychic
16 memberships, dating services or memberships, travel club memberships,
17 internet access services and service maintenance plans. "Supplemental
18 telecommunication services" does not include direct dial services to
19 which a per use charge applies.

20 (3) "Telecommunications services" has the meaning provided by
21 K.S.A. 66-1,187, and amendments thereto.

22 (b) No local exchange carrier or telecommunications carrier shall
23 submit or cause to be submitted to a local exchange carrier an order to
24 change a consumer's telecommunications carrier or local exchange carrier
25 to another carrier without having obtained the express authorization of the
26 consumer authorized to make the change. The local exchange carrier or
27 telecommunications carrier requesting the change shall have the burden
28 of proving the express authorization by a preponderance of the evidence.
29 It shall not be a violation of this subsection for a local exchange carrier to
30 assign a consumer to a telecommunications carrier for purposes of
31 intralata services pursuant to order of the state corporation commission.

32 (c) No supplier shall:

33 (1) Engage in any activity, conduct or representation that has the
34 capacity to mislead, deceive or confuse the consumer, while soliciting or
35 verifying a change in a consumer's telecommunications carrier or local
36 exchange carrier to another carrier;

1 (2) employ a box or container used to collect entries for
2 sweepstakes, contests or drawings to gather letters of agency or other
3 documents that constitute authorizations by consumers to change the
4 consumers' telecommunications carrier or local exchange carrier to
5 another carrier or to change or add to the consumers' accounts any
6 supplemental telecommunications services;

7 (3) use any methods not approved by statute, regulations of the
8 federal communications commission or federal trade commission (as in
9 effect on the effective date of this act) or state corporation commission
10 rules and regulations to change a consumer's telecommunications carrier
11 or local exchange carrier to another carrier; or

12 (4) employ a check, draft or other negotiable instrument that
13 constitutes authorization to change or add to the consumer's accounts any
14 supplemental telecommunications services.

15 (d) Any supplier that violates subsection (b) or (c) shall be subject to
16 a civil penalty of not less than \$5,000 nor more than \$20,000 for each
17 such violation instead of the penalty provided for in subsection (a) of
18 K.S.A. 50-636, and amendments thereto.

19 (e) Any violation of this section is a deceptive and unconscionable
20 act or practice under the provisions of the Kansas consumer protection act
21 and shall be subject to any and all of the enforcement provisions of the
22 Kansas consumer protection act. Nothing in this section shall preclude the
23 state corporation commission from exerting its authority as it pertains to
24 intrastate services nor the attorney general from pursuing violations of
25 any other provisions of the Kansas consumer protection act by a supplier.

26 (f) All local exchange carriers *and electing carriers* shall offer
27 consumers the option of notifying the local exchange carrier in writing
28 that they do not desire any change of telecommunications carrier
29 regardless of any orders to the contrary submitted by any third party. The
30 consumer shall be permitted to cancel such notification or to change its
31 telecommunications carrier by notifying the consumer's local exchange
32 carrier *or electing carrier* accordingly. *For the purposes of this section, a*
33 *letter of agency, as described in 47 CFR 64.1130, as in effect on the*
34 *effective date of this act, that is signed by the consumer shall satisfy the*
35 *notification requirement for purposes of making changes to the*
36 *consumer's telecommunications carrier. All local exchange carriers and*
37 *electing carriers* shall annually notify the consumers of the carrier's
38 telecommunications services of the availability of this option.

39 (g) Any person alleging a violation of this section may bring a
40 private action to seek relief pursuant to K.S.A. 50-634, 50-636 and this
41 section, and amendments thereto, and such person may be defined as a
42 consumer pursuant to K.S.A. 50-624, and amendments thereto, for the
43 purposes of such private action.

1 (h) The attorney general and the state corporation commission shall
2 enter into a memorandum of understanding providing for the cooperation
3 and sharing of information necessary to enforce this section against
4 suppliers and to assist consumers under federal and state law.

5 (i) This section shall be part of and supplemental to the Kansas
6 consumer protection act.

7 Sec. 2. K.S.A. 2010 Supp. 66-2005 is hereby amended to read as
8 follows: 66-2005. (a) Each local exchange carrier shall file a network
9 infrastructure plan with the commission on or after January 1, 1997, and
10 prior to January 1, 1998. Each plan, as a part of universal service
11 protection, shall include schedules, which shall be approved by the
12 commission, for deployment of universal service capabilities by July 1,
13 1998, and the deployment of enhanced universal service capabilities by
14 July 1, 2003, as defined pursuant to subsections (p) and (q) of K.S.A. 66-
15 1,187, and amendments thereto, respectively. With respect to enhanced
16 universal service, such schedules shall provide for deployment of ISDN,
17 or its technological equivalent, or broadband facilities, only upon a firm
18 customer order for such service, or for deployment of other enhanced
19 universal services by a local exchange carrier. After receipt of such an
20 order and upon completion of a deployment plan designed to meet the
21 firm order or otherwise provide for the deployment of enhanced universal
22 service, a local exchange carrier shall notify the commission. The
23 commission shall approve the plan unless the commission determines that
24 the proposed deployment plan is unnecessary, inappropriate, or not cost
25 effective, or would create an unreasonable or excessive demand on the
26 KUSF. The commission shall take action within 90 days. If the
27 commission fails to take action within 90 days, the deployment plan shall
28 be deemed approved. This approval process shall continue until July 1,
29 2000. Each plan shall demonstrate the capability of the local exchange
30 carrier to comply on an ongoing basis with quality of service standards to
31 be adopted by the commission no later than January 1, 1997.

32 (b) In order to protect universal service, facilitate the transition to
33 competitive markets and stimulate the construction of an advanced
34 telecommunications infrastructure, each local exchange carrier shall file a
35 regulatory reform plan at the same time as it files the network
36 infrastructure plan required in subsection (a). As part of its regulatory
37 reform plan, a local exchange carrier may elect traditional rate of return
38 regulation or price cap regulation. Carriers that elect price cap regulation
39 shall be exempt from rate base, rate of return and earnings regulation and
40 shall not be subject to the provisions of K.S.A. 66-136 and 66-127, and
41 amendments thereto, except as otherwise provided in such sections.
42 However, the commission may resume such regulation upon finding, after
43 a hearing, that a carrier that is subject to price cap regulation has: violated

1 minimum quality of service standards pursuant to subsection (1) of K.S.A.
2 66-2002, and amendments thereto; been given reasonable notice and an
3 opportunity to correct the violation; and failed to do so. Regulatory
4 reform plans also shall include:

5 (1) A commitment to provide existing and newly ordered point-to-
6 point broadband services to: Any hospital as defined in K.S.A. 65-425,
7 and amendments thereto; any school accredited pursuant to K.S.A. 72-
8 1101 et seq., and amendments thereto; any public library; or other state
9 and local government facilities at discounted prices close to, but not
10 below, long-run incremental cost; and

11 (2) a commitment to provide basic rate ISDN service, or the
12 technological equivalent, at prices which are uniform throughout the
13 carrier's service area. Local exchange carriers shall not be required to
14 allow retail customers purchasing the foregoing discounted services to
15 resell those services to other categories of customers. Telecommunications carriers may purchase basic rate ISDN services, or the technological equivalent, for resale in accordance with K.S.A. 66-2003, and amendments thereto. The commission may reduce prices charged for services outlined in provisions (1) and (2) of this subsection, if the commitments of the local exchange carrier set forth in those provisions are not being kept.

22 (c) Subject to the commission's approval, all local exchange carriers
23 shall reduce intrastate access charges to interstate levels as provided
24 herein. Rates for intrastate switched access, and the imputed access
25 portion of toll, shall be reduced over a three-year period with the
26 objective of equalizing interstate and intrastate rates in a revenue neutral,
27 specific and predictable manner. The commission is authorized to
28 rebalance local residential and business service rates to offset the
29 intrastate access and toll charge reductions. Any remaining portion of the
30 reduction in access and toll charges not recovered through local
31 residential and business service rates shall be paid out from the KUSF
32 pursuant to K.S.A. 66-2008, and amendments thereto. Each rural
33 telephone company shall adjust its intrastate switched access rates on
34 March 1 of each odd-numbered year to match its interstate switched
35 access rates, subject to the following:

36 (1) Any reduction of a rural telephone company's cost recovery due
37 to reduction of its interstate access revenue shall be recovered from the
38 KUSF;

39 (2) any portion of rural telephone company reductions in intrastate
40 switched access rates which would result in an increase in KUSF
41 recovery in a single year which exceeds .75% of intrastate retail revenues
42 used in determining sums which may be recovered from Kansas
43 telecommunications customers pursuant to subsection (a) of K.S.A. 66-

1 2008, and amendments thereto, shall be deferred until March 1 of the
2 next following odd-numbered year; and

3 (3) no rural company shall be required at any time to reduce its
4 intrastate switched access rates below the level of its interstate switched
5 access rates.

6 (d) Beginning March 1, 1997, each rural telephone company shall
7 have the authority to increase annually its monthly basic local residential
8 and business service rates by an amount not to exceed \$1 in each 12-
9 month period until such monthly rates reach an amount equal to the
10 statewide rural telephone company average rates for such services. The
11 statewide rural telephone company average rates shall be the arithmetic
12 mean of the lowest flat rate as of March 1, 1996, for local residential
13 service and for local business service offered by each rural telephone
14 company within the state. In the case of a rural telephone company which
15 increases its local residential service rate or its local business service rate,
16 or both, to reach the statewide rural telephone company average rate for
17 such services, the amount paid to the company from the KUSF shall be
18 reduced by an amount equal to the additional revenue received by such
19 company through such rate increase. In the case of a rural telephone
20 company which elects to maintain a local residential service rate or a
21 local business service rate, or both, below the statewide rural telephone
22 company average, the amount paid to the company from the KUSF shall
23 be reduced by an amount equal to the difference between the revenue the
24 company could receive if it elected to increase such rate to the average
25 rate and the revenue received by the company.

26 (e) For purposes of determining sufficient KUSF support, an
27 affordable rate for local exchange service provided by a rural telephone
28 company subject to traditional rate of return regulation shall be
29 determined as follows:

30 (1) For residential service, an affordable rate shall be the arithmetic
31 mean of residential local service rates charged in this state in all
32 exchanges served by rural telephone companies and in all exchanges in
33 rate groups 1 through 3 as of February 20, 2002, of all other local
34 exchange carriers, *but not including electing carriers*, weighted by the
35 number of residential access lines to which each such rate applies, and
36 thereafter rounded to the nearest quarter-dollar, subject to the following
37 provisions:

38 (A) If a rural telephone company's present residential rate, including
39 any separate charge for tone dialing, is at or above such weighted mean,
40 such rate shall be deemed affordable prior to March 1, 2007.

41 (B) If a rural telephone company's present residential rate, including
42 any separate charge for tone dialing, is below such average: (i) Such rate
43 shall be deemed affordable prior to March 1, 2003; (ii) as of March 1,

1 2003, and prior to March 1, 2004, a rate \$2 higher than the company's
2 present residential monthly rate, but not exceeding such weighted mean,
3 shall be deemed affordable; (iii) as of March 1, 2004, and prior to March
4 1, 2005, a rate \$4 higher than the company's present residential monthly
5 rate, but not exceeding such weighted mean, shall be deemed affordable;
6 and (iv) as of March 1, 2005, and prior to March 1, 2006, a rate \$6 higher
7 than the company's present residential monthly rate, but not exceeding
8 such weighted mean, shall be deemed affordable.

9 (C) As of March 1, 2007, and each two years thereafter, an
10 affordable residential service rate shall be the weighted arithmetic mean
11 of local service rates determined as of October 1 of the preceding year in
12 the manner hereinbefore specified, except that any increase in such mean
13 exceeding \$2 may be satisfied by increases in a rural telephone
14 company's residential monthly service rate not exceeding \$2 per year,
15 effective March 1 of the year when such mean is determined, with the
16 remainder applied at the rate of \$2 per year, but not to exceed the
17 affordable rate.

18 (2) For single line business service at any time, an affordable rate
19 shall be the existing rate or an amount \$3 greater than the affordable rate
20 for residential service as determined under provision (1) of this
21 subsection, whichever is higher, except that any increase in the business
22 service affordable rate exceeding \$2 may be satisfied by increases in a
23 rural telephone company's business monthly service rate not exceeding \$2
24 per year, effective March 1 of the year when such rate is determined, with
25 the remainder applied at the rate of \$2 per year, but not to exceed the
26 affordable rate.

27 (3) Any flat fee or charge imposed per line on all residential service
28 or single line business service, or both, other than a fee or charge for
29 contribution to the KUSF or imposed by other governmental authority,
30 shall be added to the basic service rate for purposes of determining an
31 affordable rate pursuant to this subsection.

32 (4) Not later than March 1, 2003, tone dialing shall be made
33 available to all local service customers of each rural telephone company
34 at no charge additional to any increase in the local service rate to become
35 effective on that date. The amount of revenue received as of March 1,
36 2002, by a rural telephone company from the provision of tone dialing
37 service shall be excluded from reductions in the company's KUSF
38 support otherwise resulting pursuant to this subsection.

39 (5) A rural telephone company which raises one or more local
40 service rates on application made after February 20, 2002, and pursuant
41 to subsection (b) of K.S.A. 66-2007, and amendments thereto, shall have
42 the level of its affordable rate increased by an amount equal to the
43 amount of the increase in such rate.

1 (6) Upon motion by a rural telephone company, the commission may
2 determine a higher affordable local residential or business rate for such
3 company if such higher rate allows the company to provide additional or
4 improved service to customers, but any increase in a rural telephone
5 company's local rate attributable to the provision of increased calling
6 scope shall not be included in any subsequent recalculation of affordable
7 rates as otherwise provided in this subsection.

8 (7) A uniform rate for residential and single line business local
9 service adopted by a rural telephone company shall be deemed an
10 affordable rate for purposes of this subsection if application of such
11 uniform rate generates revenue equal to that which would be generated by
12 application of residential and business rates which are otherwise deemed
13 affordable rates for such company under this subsection.

14 (8) The provisions of this subsection relating to the implementation
15 of an affordable rate shall not apply to rural telephone companies which
16 do not receive KUSF support. When recalculating affordable rates as
17 provided in this subsection, the rates used shall include the actual rates
18 charged by rural companies that do not receive KUSF support.

19 (f) For regulatory reform plans in which price cap regulation has
20 been elected, price cap plans shall have three baskets: Residential and
21 single-line business, including touch-tone; switched access services; and
22 miscellaneous services. The commission shall establish price caps at the
23 prices existing when the regulatory plan is filed subject to rate
24 rebalancing as provided in subsection (c) for residential services,
25 including touch-tone services, and for single-line business services,
26 including touch-tone services, within the residential and single-line
27 business service basket. The commission shall establish a formula for
28 adjustments to the price caps. The commission also shall establish price
29 caps at the prices existing when the regulatory plan is filed for the
30 miscellaneous services basket. The commission shall approve any
31 adjustments to the price caps for the miscellaneous service basket, as
32 provided in subsection (g).

33 (g) On or before January 1, 1997, the commission shall issue a final
34 order in a proceeding to determine the price cap adjustment formula that
35 shall apply to the price caps for the local residential and single-line
36 business and the miscellaneous services baskets and for sub-categories, if
37 any, within those baskets. In determining this formula, the commission
38 shall balance the public policy goals of encouraging efficiency and
39 promoting investment in a quality, advanced telecommunications network
40 in the state. The commission also shall establish any informational filing
41 requirements necessary for the review of any price cap tariff filings,
42 including price increases or decreases within the caps, to verify such caps
43 would not be exceeded by any proposed price change. The adjustment

1 formula shall apply to the price caps for the local residential and single-
2 line business basket after December 31, 1999, and to the miscellaneous
3 services basket after December 31, 1997. The price cap formula, but not
4 actual prices, shall be reviewed every five years.

5 (h) The price caps for the residential and single-line business service
6 basket shall be capped at their initial level until January 1, 2000, except
7 for any increases authorized as a part of the revenue neutral rate
8 rebalancing under subsection (c). The price caps for this basket and for
9 the categories in this basket, if any, shall be adjusted annually after
10 December 31, 1999, based on the formula determined by the commission
11 under subsection (g).

12 (i) The price cap for the switched access service basket shall be set
13 based upon the local exchange carrier's intrastate access tariffs as of
14 January 1, 1997, except for any revenue neutral rate rebalancing
15 authorized in accordance with subsection (c). Thereafter, the cap for this
16 basket shall not change except in connection with any subsequent
17 revenue neutral rebalancing authorized by the commission under
18 subsection (c).

19 (j) The price caps for the miscellaneous services basket shall be
20 adjusted annually after December 31, 1997, based on the adjustment
21 formula determined by the commission under subsection (g).

22 (k) A price cap is a maximum price for all services taken as a whole
23 in a given basket. Prices for individual services may be changed within
24 the service categories, if any, established by the commission within a
25 basket. An entire service category, if any, within the residential and
26 single-line business basket or miscellaneous services basket may be
27 priced below the cap for such category. Unless otherwise approved by the
28 commission, no service shall be priced below the price floor which will
29 be long-run incremental cost and imputed access charges. Access charges
30 equal to those paid by telecommunications carriers to local exchange
31 carriers shall be imputed as part of the price floor for toll services offered
32 by local exchange carriers on a toll service basis.

33 (l) A local exchange carrier may offer promotions within an
34 exchange or group of exchanges. All promotions shall be approved by the
35 commission and may not be unjust, unreasonably discriminatory or
36 unduly preferential.

37 (m) Unless the commission authorizes price deregulation at an
38 earlier date, intrastate toll services within the miscellaneous services
39 basket shall continue to be regulated until the affected local exchange
40 carrier begins to offer 1+ intraLATA dialing parity throughout its service
41 territory, at which time intrastate toll will be price deregulated, except
42 that prices cannot be set below the price floor.

43 (n) On or before July 1, 1997, the commission shall establish

1 guidelines for reducing regulation prior to price deregulation of price cap
2 regulated services in the miscellaneous services basket, the switched
3 access services basket, and the residential and single-line business basket.

4 (o) Subsequent to the adoption of guidelines pursuant to subsection
5 (n), the commission shall initiate a petitioning procedure under which the
6 local exchange carrier may request rate range pricing. The commission
7 shall act upon a petition within 21 days, subject to a 30-day extension.
8 The prices within a rate range shall be tariffed and shall apply to all
9 customers in a nondiscriminatory manner in an exchange or group of
10 exchanges.

11 (p) A local exchange carrier may petition the commission to
12 designate an individual service or service category, if any, within the
13 miscellaneous services basket, the switched access services basket or the
14 residential and single-line business basket for reduced regulation. The
15 commission shall act upon a petition for reduced regulation within 21
16 days, subject to an extension period of an additional 30 days, and upon a
17 good cause showing of the commission in the extension order, or within
18 such shorter time as the commission shall approve. The commission shall
19 issue a final order within the 21-day period or within a 51-day period if
20 an extension has been issued. Following an order granting reduced
21 regulation of an individual service or service category, the commission
22 shall act on any request for price reductions within seven days subject to
23 a 30-day extension. The commission shall act on other requests for price
24 cap adjustments, adjustments within price cap plans and on new service
25 offerings within 21 days subject to a 30-day extension. Such a change
26 will be presumed lawful unless it is determined the prices are below the
27 price floor or that the price cap for a category, if any, within the entire
28 basket has been exceeded.

29 (q) (1) Beginning July 1, 2006, price regulation of
30 telecommunications services in the residential and single-line business
31 service basket and the miscellaneous services basket for local exchange
32 carriers subject to price cap regulation shall be as follows:

33 (A) Packages or bundles of services shall be price deregulated
34 statewide, however the individual telecommunication service components
35 of such packages or bundles shall remain available for purchase on an
36 individual basis at prices subject to price cap regulation in any exchange
37 in which the standards in subsection (q)(1)(B), (C) or (D) have not been
38 met. If standards in subsection (q)(1)(B), (C) or (D) have been met, the
39 individual telecommunication service components of such packages or
40 bundles shall remain available for purchase on an individual basis and
41 prices for packages or bundles shall not exceed the sum of the highest
42 prices of the ala carte components of the package or bundle;

43 (B) in any exchange in which there are 75,000 or more local

1 exchange access lines served by all providers, rates for all
2 telecommunications services shall be price deregulated;

3 (C) in any exchange in which there are fewer than 75,000 local
4 exchange access lines served by all providers, the commission shall price
5 deregulate all business telecommunication services upon a demonstration
6 by the requesting local telecommunications carrier that there are two or
7 more nonaffiliated telecommunications carriers or other entities, that are
8 nonaffiliated with the local exchange carrier, providing local
9 telecommunications service to business customers, regardless of whether
10 the entity provides local service in conjunction with other services in that
11 exchange area. One of such nonaffiliated carriers or entities shall be
12 required to be a facilities-based carrier or entity and not more than one of
13 such nonaffiliated carriers or entities shall be a provider of commercial
14 mobile radio services in that exchange;

15 (D) in any exchange in which there are fewer than 75,000 local
16 exchange access lines served by all providers, the commission shall price
17 deregulate all residential telecommunication services upon a
18 demonstration by the requesting local telecommunications carrier that
19 there are two or more nonaffiliated telecommunications carriers or other
20 entities, that are nonaffiliated with the local exchange carrier, providing
21 local telecommunications service to residential customers, regardless of
22 whether the entity provides local service in conjunction with other
23 services in that exchange area. One of such nonaffiliated carriers or
24 entities shall be required to be a facilities-based carrier or entity and not
25 more than one of such nonaffiliated carriers or entities shall be a provider
26 of commercial mobile radio services in that exchange;

27 (E) rates for lifeline services shall remain subject to price cap
28 regulation;

29 (F) up to and continuing until July 1, 2008, rates for the initial
30 residential local exchange access line and up to four business local
31 exchange access lines at one location shall remain subject to price cap
32 regulation. On and after July 1, 2008, the local exchange carrier shall be
33 authorized to adjust such rates without commission approval by not more
34 than the percentage increase in the consumer price index for all urban
35 consumers, as officially reported by the bureau of labor statistics of the
36 United States department of labor, or its successor index, in any one year
37 period and such rates shall not be adjusted below the price floor
38 established in subsection (k). Such rates shall not be affected by purchase
39 of one or more of the following: Call management services, intraLATA
40 long distance service or interLATA long distance service; and

41 (G) local exchange carriers shall offer a uniform price throughout
42 each such exchange for services subject to price deregulation, under this
43 subsection, including packages or bundles of services, except as provided

1 in subsection (1) or as otherwise approved by the commission.

2 (2) For the purposes of this subsection:

3 (A) Any entity providing voice service shall be considered as a local
4 telecommunications service provider regardless of whether such entity is
5 subject to regulation by the commission;

6 (B) a provider of local telecommunications service that requires the
7 use of a third party, unaffiliated broadband network or dial-up internet
8 network for the origination of local voice service shall not be considered
9 a local telecommunications service provider;

10 (C) telecommunications carriers offering only prepaid
11 telecommunications service shall not be considered entities providing
12 local telecommunications service.

13 (3) If the services of a local exchange carrier are classified as price
14 deregulated under this subsection, the carrier may thereafter adjust its
15 rates for such price deregulated services upward or downward as it
16 determines appropriate in its competitive environment, with tariffs for
17 such services deemed effective upon filing with the commission. Price
18 deregulated services shall be subject to the price floor in subsection (k),
19 and shall not be unreasonably discriminatory or unduly preferential
20 within an exchange.

21 (4) The commission shall act upon a petition filed pursuant to
22 subsection (q)(1)(C) or (D) within 21 days, subject to an extension period
23 of an additional 30 days, and upon a good cause showing of the
24 commission in the extension order, or within such shorter time as the
25 commission shall approve. The commission shall issue a final order
26 within the 21-day period or within a 51-day period if an extension order
27 has been issued.

28 (5) The commission may resume price cap regulation of a local
29 exchange carrier, deregulated under this subsection upon finding, after a
30 hearing, that such carrier has: Violated minimum quality of service
31 standards pursuant to subsection (1) of K.S.A. 66-2002, and amendments
32 thereto; been given reasonable notice and an opportunity to correct the
33 violation; and failed to do so.

34 (6) The commission on July 1, 2006, and on each date that any
35 service is deregulated, shall record the rates of each service which has
36 been price deregulated in each exchange.

37 (7) Prior to January 1, 2007, the commission shall determine the
38 weighted, statewide average rate of nonwireless basic local
39 telecommunications service as of July 1, 2006. Prior to January 1, 2007,
40 and annually thereafter, the commission shall determine the weighted,
41 average rate of nonwireless basic local telecommunications services in
42 exchanges that have been price deregulated pursuant to subsection (q)(1)
43 (B), (C) or (D). The commission shall report its findings on or before

1 February 1, 2007, and annually thereafter to the governor, the legislature
2 and each member of the standing committees of the house of
3 representatives and the senate which are assigned telecommunications
4 issues. The commission shall also provide in such annual report any
5 additional information it deems useful in determining the impact of price
6 deregulation on consumers and the competitive environment, including,
7 but not limited to, the rates recorded under paragraph (6) of this
8 subsection, the current rates for services in price deregulated exchanges,
9 changes in service offerings available in price deregulated exchanges and
10 the change in the number of competitors in price deregulated exchanges.
11 If the commission finds that the weighted, average rate of nonwireless
12 basic local telecommunications service, in exchanges that have been price
13 deregulated pursuant to subsection (q)(1)(B), (C) or (D) in any one year
14 period is greater than the weighted, statewide average rate of nonwireless
15 basic local telecommunications service as of July 1, 2008, multiplied by
16 one plus the percentage increase in the consumer price index for goods
17 and services for the study periods, or the commission believes that
18 changes in state law are warranted due to the status of competition, the
19 commission shall recommend to the governor, the legislature and each
20 member of the standing committees of the house of representatives and
21 the senate which are assigned telecommunications issues such changes in
22 state law as the commission deems appropriate and the commission shall
23 also send a report of such findings to each member of the legislature.

24 (8) For the purposes of this subsection:

25 (A) "Packages or bundles of services" means the offering of a local
26 telecommunications service with one or more of the following,
27 subscribed together, as one service option offered at one price, one or
28 more call management services, intraLATA long distance service,
29 interLATA long distance service, internet access, video services or
30 wireless services. Packages or bundles of services shall not include only a
31 single residential local exchange access line or up to four business local
32 exchange access lines at one location and intraLATA long distance
33 service or interLATA long distance service, or both;

34 (B) "local telecommunications service" means two-way voice
35 service capable of being originated and terminated within the exchange of
36 the local exchange telecommunications company seeking price
37 deregulation of its services, regardless of the technology used to
38 provision the voice service;

39 (C) "broadband network" means a connection that delivers services
40 at speeds exceeding two hundred kilobits per second in both directions;

41 (D) "prepaid telecommunications service" means a local service for
42 which payment is made in advance that excludes access to operator
43 assistance and long distance service;

1 (E) "facilities based carrier" means a telecommunications carrier or
2 entity providing local telecommunications service either wholly or
3 partially over its own network. Facilities based carrier shall not include
4 any radio communication services provider licensed by the federal
5 communications commission to provide commercial mobile radio
6 services; and

7 (F) "call management services" means optional telecommunications
8 services that allow a customer to manage call flow generated over the
9 customer's local exchange access line.

10 (r) (1) Upon complaint or request, the commission may investigate a
11 price deregulated service.

12 (2) The commission shall resume price cap regulation of a service
13 provided in any exchange area by placing it in the appropriate service
14 basket, as approved by the commission, upon a determination by the
15 commission that the conditions in subsection (q)(1)(C) or (D) are no
16 longer satisfied in that exchange area.

17 (3) The commission shall resume price cap regulation of business
18 services in any exchange meeting the conditions of subsection (q)(1)(B)
19 by placing it in the appropriate service basket, as approved by the
20 commission, upon a determination by the commission that the following
21 condition is not met: There are at least two nonaffiliated
22 telecommunications carriers or other entities, that are nonaffiliated with
23 the local exchange carrier, providing local telecommunications service to
24 business customers, regardless of whether the entity provides local
25 service in conjunction with other services in that exchange area. One of
26 such nonaffiliated carriers or entities shall be required to be a facilities-
27 based carrier or entity and not more than one such nonaffiliated carriers
28 or entities shall be a provider of commercial mobile radio services in that
29 exchange.

30 (4) The commission shall resume price cap regulation of residential
31 services in any exchange meeting the conditions of subsection (q)(1)(B)
32 by placing it in the appropriate service basket, as approved by the
33 commission, upon a determination by the commission that the following
34 condition is not met: There are at least two or more nonaffiliated
35 telecommunications carriers or other entities, that are nonaffiliated with
36 the local exchange carrier, providing local telecommunications service to
37 residential customers, regardless of whether the entity provides local
38 service in conjunction with other services in that exchange area. One of
39 such nonaffiliated carriers or entities shall be required to be a facilities-
40 based carrier or entity and not more than one such nonaffiliated carriers
41 or entities shall be a provider of commercial mobile radio services in that
42 exchange.

43 (s) The commission shall require that for all local exchange carriers

1 all such price deregulated basic intraLATA toll services be geographically
2 averaged statewide and not be priced below the price floor established in
3 subsection (k).

4 (t) Cost studies to determine price floors shall be performed as
5 required by the commission in response to complaints. In addition,
6 notwithstanding the exemption in subsection (b), the commission may
7 request information necessary to execute any of its obligations under the
8 act. In response to a complaint that a price deregulated service is priced
9 below the price floor set forth in subsection (k), the commission shall
10 issue an order within 60 days after the filing of the complaint unless the
11 complainant agrees to an extension.

12 (u) A local exchange carrier may petition for individual customer
13 pricing. The commission shall respond expeditiously to the petition
14 within a period of not more than 30 days subject to a 30-day extension.

15 (v) No audit, earnings review or rate case shall be performed with
16 reference to the initial prices filed as required herein.

17 (w) Telecommunications carriers shall not be subject to price
18 regulation, except that: Access charge reductions shall be passed through
19 to consumers by reductions in basic intrastate toll prices; and basic toll
20 prices shall remain geographically averaged statewide. As required under
21 K.S.A. 66-131, and amendments thereto, and except as provided for in
22 subsection (c) of K.S.A. 66-2004, and amendments thereto,
23 telecommunications carriers that were not authorized to provide switched
24 local exchange telecommunications services in this state as of July 1,
25 1996, including cable television operators who have not previously
26 offered telecommunications services, must receive a certificate of
27 convenience based upon a demonstration of technical, managerial and
28 financial viability and the ability to meet quality of service standards
29 established by the commission. Any telecommunications carrier or other
30 entity seeking such certificate shall file a statement, which shall be
31 subject to the commission's approval, specifying with particularity the
32 areas in which it will offer service, the manner in which it will provide
33 the service in such areas and whether it will serve both business
34 customers and residential customers in such areas. Any structurally
35 separate affiliate of a local exchange carrier that provides
36 telecommunications services shall be subject to the same regulatory
37 obligations and oversight as a telecommunications carrier, as long as the
38 local exchange carrier's affiliate obtains access to any services or facilities
39 from its affiliated local exchange carrier on the same terms and
40 conditions as the local exchange carrier makes those services and
41 facilities available to other telecommunications carriers. The commission
42 shall oversee telecommunications carriers to prevent fraud and other
43 practices harmful to consumers and to ensure compliance with quality of

1 service standards adopted for all local exchange carriers and
2 telecommunications carriers in the state.

3 (x) (1) *Any local exchange carrier with a majority of the carrier's*
4 *local exchange access lines in the state price deregulated pursuant to*
5 *subsection (q) may elect to no longer be regulated as a local exchange*
6 *carrier and, notwithstanding any other provisions, upon such election*
7 *shall instead be regulated as a telecommunications carrier, except as*
8 *provided in this subsection. A local exchange carrier making such*
9 *election shall be referred to as an "electing carrier."*

10 (2) *An electing carrier shall not be subject to price regulation and*
11 *shall be subject to nondiscriminatory regulation by the commission in the*
12 *same manner as and subject to no more regulation than other*
13 *telecommunications carriers operating in the state, except that the*
14 *carrier shall remain subject to:*

15 (A) *The reasonable resale of retail telecommunications services, as*
16 *well as unbundling and interconnection obligations as required by K.S.A.*
17 *66-2003, and amendments thereto;*

18 (B) *the requirements of subsection (c) concerning intrastate access*
19 *charges;*

20 (C) *the requirements of the KLSP, as required by K.S.A. 66-2006,*
21 *and amendments thereto; and*

22 (D) *shall remain eligible to receive KUSF funding.*

23 (3) *An electing carrier's rates for single residential or business local*
24 *exchange access lines in its rural exchanges shall be no higher than the*
25 *average of such rates for single residential or business local exchange*
26 *access lines respectively in its urban exchanges.*

27 (4) *An electing carrier may elect to be relieved of the requirement to*
28 *serve as carrier of last resort, as required by K.S.A. 66-2009, and*
29 *amendments thereto, by providing written notification to the commission*
30 *of the specific urban exchanges for which the electing carrier is electing*
31 *to be relieved of carrier of last resort obligations, in the electing carrier's*
32 *urban exchanges.*

33 (5) *Notwithstanding any other provision of law to the contrary, an*
34 *electing carrier that notifies the commission that the electing carrier*
35 *chooses to be relieved of carrier of last resort obligations in specific*
36 *urban exchanges or any local exchange carrier that does not have a*
37 *carrier of last resort obligation in a specific exchange shall not be*
38 *eligible for KUSF funding for carrier of last resort obligations, as*
39 *required by K.S.A. 66-2009, and amendments thereto, in those specific*
40 *exchanges.*

41 (6) *Notwithstanding the provisions of this subsection (x), an electing*
42 *carrier shall offer single residential local exchange access lines in the*
43 *electing carrier's exchanges.*

1 (7) *For the purposes of this subsection:*

2 (A) *"Facilities based carrier" means a telecommunications carrier*
3 *or entity providing local telecommunications service either wholly or*
4 *partially over its own network. Facilities based carrier shall not include*
5 *any radio communication services provider licensed by the federal*
6 *communications commission to provide commercial mobile radio*
7 *services;*

8 (B) *"rural exchange" means any exchange in which there are fewer*
9 *than 6,000 local exchange access lines served by the electing carrier and*
10 *all facilities based carriers; and*

11 (C) *"urban exchange" means any exchange in which there are*
12 *75,000 or more local exchange access lines served by the electing carrier*
13 *and all facilities based carriers.*

14 (y) *Notwithstanding the provisions of this act, a telecommunications*
15 *carrier is entitled to interconnection with an electing carrier to transmit*
16 *and route voice traffic between both the telecommunications carrier and*
17 *the electing carrier regardless of the technology by which the voice*
18 *traffic is originated by and terminated to a consumer. The commission*
19 *shall afford such telecommunications carrier all substantive and*
20 *procedural rights available to such carrier regarding interconnection*
21 *pursuant to 47 U.S.C. §§ 251 and 252 as in effect on the effective date of*
22 *this act.*

23 Sec. 3. K.S.A. 50-6,103 and K.S.A. 2010 Supp. 66-2005 are hereby
24 repealed.

25 Sec. 4. This act shall take effect and be in force from and after its
26 publication in the statute book.

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