

SENATE BILL No. 278

By Committee on Commerce

2-7

AN ACT concerning telecommunications; relating to the definition of enhanced universal service; amending K.S.A. 2000 Supp. 66-1,187, 66-2002, 66-2005 and 66-2009 and repealing the existing sections; also repealing K.S.A. 66-2012, 66-2013 and 66-2016.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2000 Supp. 66-1,187 is hereby amended to read as follows: 66-1,187. As used in this act:

(a) "Broadband" means the transmission of digital signals at rates equal to or greater than 1.5 megabits per second.

(b) "CLASS services" means custom local area signaling services, which include automatic callback, automatic recall, calling number identification, selective call rejection, selective call acceptance, selective call forwarding, distinctive ringing and customer originated trace.

(c) "Commission" means the state corporation commission.

(d) "Dialing parity" means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications carrier of the customer's designation from among two or more telecommunications carriers, including such local exchange carrier.

(e) "Federal act" means the federal telecommunications act of 1996, P.L. 104-104 (amending the communications act of 1934, 47 U.S.C. 151, *et seq.*)

(f) "ISDN" means integrated services digital network which is a network and associated technology that provides simultaneous voice and data communications over a single communications channel.

(g) "LATA" has the meaning ascribed to it in the federal act.

(h) "Local exchange carrier" means any telecommunications public utility or its successor providing switched telecommunications service within any local exchange service area, as approved by the commission on or before January 1, 1996. ~~However, with respect to the Hill City exchange area, in which multiple carriers were certified by the commission prior to January 1, 1996, the commission's determination, subject to~~

1 ~~any court appeals, of which authorized carrier shall serve as the carrier~~
2 ~~of last resort will determine which carrier shall be deemed the local~~
3 ~~exchange carrier for that exchange.~~

4 (i) “Number portability” has the meaning ascribed to it in the federal
5 act.

6 (j) “1+ intraLATA dialing parity” means the ability of a local
7 exchange service customer to specify the telecommunications or local
8 exchange carrier that will carry the intraLATA long distance messages
9 when that customer dials either “1” or “0” plus a 10-digit number.

10 (k) “Operating area” means:

11 (1) In the case of a rural telephone company, operating area or service
12 area means such company’s study area or areas as approved by the federal
13 communications commission;

14 (2) in the case of a local exchange carrier, other than a rural telephone
15 company, operating area or service area means such carrier’s local
16 exchange service area or areas as approved by the commission.

17 (l) “Rural telephone company” has the meaning ascribed to it in the
18 federal act, excluding any local exchange carrier which together with all
19 of its affiliates has 20,000 or more access lines in the state.

20 (m) “Telecommunications carrier” means a corporation, company,
21 individual, association of persons, their trustees, lessees or receivers that
22 provides a telecommunications service, including, but not limited to, in-
23 terexchange carriers and competitive access providers, but not including
24 local exchange carriers certified before January 1, 1996.

25 (n) “Telecommunications public utility” means any public utility, as
26 defined in K.S.A. 66-104, and amendments thereto, which owns, controls,
27 operates or manages any equipment, plant or generating machinery, or
28 any part thereof, for the transmission of telephone messages, as defined
29 in K.S.A. 66-104, and amendments thereto, or the provision of telecom-
30 munications services in or throughout any part of Kansas.

31 (o) “Telecommunications service” means the provision of a service
32 for the transmission of telephone messages, or two-way video or data
33 messages.

34 (p) “Universal service” means telecommunications services and fa-
35 cilities which include: single party, two-way voice grade calling; stored
36 program controlled switching with vertical service capability; E911 ca-
37 pability; tone dialing; access to operator services; access to directory as-
38 sistance; and equal access to long distance services *and toll blocking or*
39 *toll control*.

40 (q) “Enhanced universal service” means ~~telecommunications serv-~~
41 ~~ices, in addition to those included in universal service, which shall include:~~
42 ~~Signaling system seven capability, with CLASS service capability, basic~~
43 ~~and primary rate ISDN capability, or the technological equivalent, full-~~

1 fiber interconnectivity, or the technological equivalent, between central
2 offices; and broadband capable facilities to: All schools accredited pur-
3 suant to K.S.A. 72-1101 *et seq.*, and amendments thereto; hospitals as
4 defined in K.S.A. 65-425, and amendments thereto; public libraries; and
5 state and local government facilities which request broadband services,
6 without regard to any transmission media or technology, high-speed,
7 switched, broadband telecommunications capability that enables users to
8 originate and receive high-quality voice, data, graphics and video tele-
9 communications using any technology.

10 Sec. 2. K.S.A. 2000 Supp. 66-2002 is hereby amended to read as
11 follows: 66-2002. The commission shall:

12 ~~(a) Adopt a definition of “universal service” and “enhanced universal~~
13 ~~service,” pursuant to subsections (p) and (q) of K.S.A. 2000 Supp. 66-~~
14 ~~1,187;~~

15 ~~(b)~~ (a) Authorize any requesting telecommunications carrier to pro-
16 vide local exchange or exchange access service pursuant to subsection (a)
17 of K.S.A. 2000 Supp. 66-2003, and amendments thereto;

18 ~~(c)~~ (b) on or before July 1, 1996, the commission shall initiate a pro-
19 ceeding to adopt guidelines to ensure that all telecommunications carriers
20 and local exchange carriers preserve and enhance universal service, pro-
21 tect the public safety and welfare, ensure the continued quality of tele-
22 communications services and safeguard the rights of consumers;

23 ~~(d) review, approve and ensure compliance with network infrastruc-~~
24 ~~ture plans submitted by local exchange carriers pursuant to K.S.A. 2000~~
25 ~~Supp. 66-2005;~~

26 ~~(e)~~ (c) review, approve and ensure compliance with regulatory plans
27 submitted by local exchange carriers pursuant to K.S.A. 2000 Supp. 66-
28 2005, and amendments thereto;

29 ~~(f)~~ (d) on or before January 1, 1997, establish, pursuant to K.S.A. 2000
30 Supp. 66-2006, and amendments thereto, the Kansas lifeline service pro-
31 gram, hereinafter referred to as the KLSP;

32 ~~(g)~~ (e) initiate and complete a proceeding by January 1, 1997, to es-
33 tablish a competitively neutral mechanism or mechanisms to fund: dual
34 party relay services for Kansans who are speech or hearing impaired;
35 telecommunications equipment for persons with visual impediments; and
36 telecommunications equipment for persons with other special needs. This
37 funding mechanism or mechanisms shall be implemented by March 1,
38 1997;

39 ~~(h)~~ (f) on or before January 1, 1997, establish the Kansas universal
40 service fund pursuant to K.S.A. 2000 Supp. 66-2008, and amendments
41 thereto, hereinafter referred to as the KUSF, and make various deter-
42 minations relating to the implementation of such fund;

43 ~~(i)~~ (g) authorize all local exchange carriers to provide internet access

1 as outlined in K.S.A. 2000 Supp. 66-2011, *and amendments thereto*, and
2 report on the status of the implementation provisions to specified legis-
3 lative committees;

4 ~~(j)~~ review the federal act and adopt additional standards and guide-
5 lines as necessary for enforcing slamming restrictions;

6 ~~(k)~~ *(h)* commencing on June 1, 1997, and periodically thereafter, re-
7 view and, to the extent necessary, modify the definition of universal serv-
8 ice and enhanced universal service, and KUSF, *establish and, to the extent*
9 *necessary, modify rules and guidelines to determine what services qualify*
10 *as enhanced universal services, pursuant to subsection (q) of K.S.A. 66-*
11 *1,187 and amendments thereto*, taking into account advances in telecom-
12 munications and information technology and services;

13 ~~(l)~~ *(i)* on or before January 1, 1997, initiate and complete a proceeding
14 to establish minimum quality of service standards which will be equally
15 applicable to all local exchange carriers and telecommunications carriers
16 in the state; any local exchange carrier or telecommunications carrier
17 violating such standards, for each occurrence, shall forfeit and pay a pen-
18 alty of not less than \$100, nor more than \$5,000; violations of such stan-
19 dards shall be enforced in accordance with provisions of K.S.A. 66-138
20 and 66-177, and amendments thereto; and

21 ~~(m)~~ *(j)* on January 1, 2000, prepare and submit a report to the leg-
22 islatre. The report shall include an analysis of the manner in which the
23 regulatory framework has served to: Protect consumers; safeguard uni-
24 versal service; ensure that consumers have reaped the benefits of com-
25 petition; maximize the use of market forces; and promote development
26 of the telecommunications infrastructure throughout the state. The com-
27 mission also shall recommend if and how the KUSF should be modified.

28 *The commission may submit the report by posting the report's contents*
29 *on the commission's internet homepage and notifying the legislature of*
30 *the report's availability.*

31 Sec. 3. K.S.A. 2000 Supp. 66-2005 is hereby amended to read as
32 follows: 66-2005. (a) Each local exchange carrier shall file a network in-
33 frastructure plan with the commission on or after January 1, 1997, and
34 prior to January 1, 1998. Each plan, as a part of universal service protec-
35 tion, shall include schedules, which shall be approved by the commission,
36 for deployment of universal service capabilities by July 1, 1998, and the
37 deployment of enhanced universal service capabilities by July 1, 2003, as
38 defined pursuant to subsections (p) and (q) of K.S.A. 2000 Supp. 66-1,187
39 and amendments thereto, respectively *as the commission may determine*
40 *by rules and guidelines. With respect to enhanced universal service, such*
41 *schedules shall provide for deployment of ISDN, or its technological*
42 *equivalent, or broadband facilities, only upon a firm customer order for*
43 *such service, or for deployment of other enhanced universal services by*

1 a local exchange carrier. After receipt of such an order and upon completion of a deployment plan designed to meet the firm order or otherwise
2 provide for the deployment of enhanced universal service, a local
3 exchange carrier shall notify the commission. The commission shall approve the plan unless the commission determines that the proposed deployment plan is unnecessary, inappropriate, or not cost effective, or
4 would create an unreasonable or excessive demand on the KUSF. The
5 commission shall take action within 90 days. If the commission fails to
6 take action within 90 days, the deployment plan shall be deemed approved. This approval process shall continue until July 1, 2000. Each plan
7 shall demonstrate the capability of the local exchange carrier to comply
8 on an ongoing basis with quality of service standards to be adopted by
9 the commission no later than January 1, 1997. *Those local exchange carriers that have deployed enhanced universal service, prior to July 1, 2001, will be eligible for reimbursement from the KUSF pending verification of the expenditure, the timing of the expenditure and the associated costs.*

10 (b) In order to protect universal service, facilitate the transition to
11 competitive markets and stimulate the construction of an advanced telecommunications infrastructure, each local exchange carrier shall file a
12 regulatory reform plan at the same time as it files the network infrastructure plan required in subsection (a). As part of its regulatory reform plan,
13 a local exchange carrier may elect traditional rate of return regulation or price cap regulation. Carriers that elect price cap regulation shall be exempt from rate base, rate of return and earnings regulation. However,
14 the commission may resume such regulation upon finding, after a hearing, that a carrier that is subject to price cap regulation has violated minimum
15 quality of service standards pursuant to subsection (l) of K.S.A. 2000 Supp. 66-2002 and amendments thereto; been given reasonable notice
16 and an opportunity to correct the violation; and failed to do so. Regulatory reform plans also shall include: ~~(1)~~ a commitment to provide existing and
17 newly ordered point-to-point broadband services to: Any hospital as defined in K.S.A. 65-425, and amendments thereto; any school accredited
18 pursuant to K.S.A. 72-1101 et seq., and amendments thereto; any public library; or other state and local government facilities at discounted prices
19 close to, but not below, long-run incremental cost; ~~and~~
20 ~~(2)~~ a commitment to provide basic rate ISDN service, or the technological equivalent, at prices which are uniform throughout the carrier's
21 service area. Local exchange carriers shall not be required to allow retail customers purchasing the foregoing discounted services to resell those
22 services to other categories of customers. Telecommunications carriers may purchase basic rate ISDN services, or the technological equivalent,
23 for resale in accordance with K.S.A. 2000 Supp. 66-2003 and amendments
24 thereto. The commission may reduce prices charged for services outlined
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1 in provisions (1) and (2) of this subsection, if the commitments of the
2 local exchange carrier set forth in those provisions are not being kept.

3 (c) Subject to the commission's approval, all local exchange carriers
4 shall reduce intrastate access charges to interstate levels as provided
5 herein. Rates for intrastate switched access, and the imputed access por-
6 tion of toll, shall be reduced over a three-year period with the objective
7 of equalizing interstate and intrastate rates in a revenue neutral, specific
8 and predictable manner. The commission is authorized to rebalance local
9 residential and business service rates to offset the intrastate access and
10 toll charge reductions. Any remaining portion of the reduction in access
11 and toll charges not recovered through local residential and business serv-
12 ice rates shall be paid out from the KUSF pursuant to K.S.A. 2000 Supp.
13 66-2008, and amendments thereto. Rural telephone companies shall re-
14 duce their intrastate switched access rates to interstate levels on March
15 1, 1997, and every two years thereafter, as long as amounts equal to such
16 reductions are recovered from the KUSF.

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

37 (e) For regulatory reform plans in which price cap regulation has
38 been elected, price cap plans shall have three baskets: Residential and
39 single-line business, including ~~touch-tone~~ *touch-tone dialing*; switched access
40 services; and miscellaneous services. The commission shall establish price
41 caps at the prices existing when the regulatory plan is filed subject to rate
42 rebalancing as provided in subsection (c) for residential services, includ-
43 ing touch-tone services, and for single-line business services, including

1 ~~touch-tone~~ *tone dialing* services, within the residential and single-line
2 business service basket. The commission shall establish a formula for ad-
3 justments to the price caps. The commission also shall establish price
4 caps at the prices existing when the regulatory plan is filed for the mis-
5 cellaneous services basket. The commission shall approve any adjustments
6 to the price caps for the miscellaneous service basket, as provided in
7 subsection (f).

8 (f) On or before January 1, 1997, the commission shall issue a final
9 order in a proceeding to determine the price cap adjustment formula that
10 shall apply to the price caps for the local residential and single-line busi-
11 ness and the miscellaneous services baskets and for sub-categories, if any,
12 within those baskets. In determining this formula, the commission shall
13 balance the public policy goals of encouraging efficiency and promoting
14 investment in a quality, advanced telecommunications network in the
15 state. The commission also shall establish any informational filing require-
16 ments necessary for the review of any price cap tariff filings, including
17 price increases or decreases within the caps, to verify such caps would
18 not be exceeded by any proposed price change. The adjustment formula
19 shall apply to the price caps for the local residential and single-line busi-
20 ness basket after December 31, 1999, and to the miscellaneous services
21 basket after December 31, 1997. The price cap formula, but not actual
22 prices, shall be reviewed every five years.

23 (g) The price caps for the residential and single-line business service
24 basket shall be capped at their initial level until January 1, 2000, except
25 for any increases authorized as a part of the revenue neutral rate rebal-
26 ancing under subsection (c). The price caps for this basket and for the
27 categories in this basket, if any, shall be adjusted annually after December
28 31, 1999, based on the formula determined by the commission under
29 subsection (f).

30 (h) The price cap for the switched access service basket shall be set
31 based upon the local exchange carrier's intrastate access tariffs as of Jan-
32 uary 1, 1997, except for any revenue neutral rate rebalancing authorized
33 in accordance with subsection (c). Thereafter, the cap for this basket shall
34 not change except in connection with any subsequent revenue neutral
35 rebalancing authorized by the commission under subsection (c).

36 (i) The price caps for the miscellaneous services basket shall be ad-
37 justed annually after December 31, 1997, based on the adjustment for-
38 mula determined by the commission under subsection (f).

39 (j) A price cap is a maximum price for all services taken as a whole
40 in a given basket. Prices for individual services may be changed within
41 the service categories, if any, established by the commission within a
42 basket. An entire service category, if any, within the residential and single-
43 line business basket or miscellaneous services basket may be priced below

1 the cap for such category. Unless otherwise approved by the commission,
2 no service shall be priced below the price floor which will be long-run
3 incremental cost and imputed access charges. Access charges equal to
4 those paid by telecommunications carriers to local exchange carriers shall
5 be imputed as part of the price floor for toll services offered by local
6 exchange carriers on a toll service basis.

7 (k) A local exchange carrier may offer promotions within an exchange
8 or group of exchanges. All promotions shall be approved by the commis-
9 sion and shall apply to all customers in a nondiscriminatory manner within
10 the exchange or group of exchanges.

11 (l) Unless the commission authorizes price deregulation at an earlier
12 date, intrastate toll services within the miscellaneous services basket shall
13 continue to be regulated until the affected local exchange carrier begins
14 to offer 1+ intraLATA dialing parity throughout its service territory, at
15 which time intrastate toll will be price deregulated, except that prices
16 cannot be set below the price floor.

17 (m) On or before July 1, 1997, the commission shall establish guide-
18 lines for reducing regulation prior to price deregulation of price cap reg-
19 ulated services in the miscellaneous services basket, the switched access
20 services basket, and the residential and single-line business basket.

21 (n) Subsequent to the adoption of guidelines pursuant to subsection
22 (m), the commission shall initiate a petitioning procedure under which
23 the local exchange carrier may request rate range pricing. The commis-
24 sion shall act upon a petition within 21 days, subject to a 30-day suspen-
25 sion. The prices within a rate range shall be tariffed and shall apply to all
26 customers in a nondiscriminatory manner in an exchange or group of
27 exchanges.

28 (o) A local exchange carrier may petition the commission to designate
29 an individual service or service category, if any, within the miscellaneous
30 services basket, the switched access services basket or the residential and
31 single-line business basket for reduced regulation. The commission shall
32 act upon a petition for reduced regulation within 21 days, subject to a
33 suspension period of an additional 30 days, and upon a good cause show-
34 ing of the commission in the suspension order, or within such shorter
35 time as the commission shall approve. The commission shall issue a final
36 order within the 21-day period or within a 51-day period if a suspension
37 has been issued. Following an order granting reduced regulation of an
38 individual service or service category, the commission shall act on any
39 request for price reductions within seven days subject to a 30-day sus-
40 pension. The commission shall act on other requests for price cap ad-
41 justments, adjustments within price cap plans and on new service offer-
42 ings within 21 days subject to a 30-day suspension. Such a change will be
43 presumed lawful unless it is determined the prices are below the price

1 floor or that the price cap for a category, if any, within the entire basket
2 has been exceeded.

3 (p) The commission may price deregulate within an exchange area,
4 or at its discretion on a statewide basis, any individual service or service
5 category upon a finding by the commission that there is a telecommuni-
6 cations carrier or an alternative provider providing a comparable product
7 or service, considering both function and price, in that exchange area.
8 The commission shall act upon a petition for price deregulation within
9 21 days, subject to a suspension period of an additional 30 days, and upon
10 a good cause showing of the commission in the suspension order, or
11 within such shorter time as the commission shall approve; provided that
12 no such petition shall be filed prior to July 1997, unless the commission
13 otherwise authorizes. The commission shall issue a final order within the
14 21-day period or within a 51-day period if a suspension has been issued.

15 (q) Upon complaint or request, the commission may investigate a
16 price deregulated service. The commission shall resume price regulation
17 of a service provided in any exchange area by placing it in the appropriate
18 service basket, as approved by the commission, upon a determination by
19 the commission that there is no longer a telecommunications carrier or
20 alternative provider providing a comparable product or service, consid-
21 ering both function and price, in that exchange area.

22 (r) The commission shall require that for all local exchange carriers
23 all such price deregulated basic intraLATA toll services be geographically
24 averaged statewide and not be priced below the price floor established
25 in subsection (j).

26 (s) Cost studies to determine price floors shall be performed as re-
27 quired by the commission in response to complaints. In addition, not-
28 withstanding the exemption in subsection (b), the commission may re-
29 quest information necessary to execute any of its obligations under the
30 act.

31 (t) A local exchange carrier may petition for individual customer pric-
32 ing. The commission shall respond expeditiously to the petition within a
33 period of not more than 30 days subject to a 30-day suspension.

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

36 (v) Telecommunications carriers shall not be subject to price regu-
37 lation, except that: Access charge reductions shall be passed through to
38 consumers by reductions in basic intrastate toll prices; and basic toll prices
39 shall remain geographically averaged statewide. As required under K.S.A.
40 66-131, and amendments thereto, and except as provided for in subsec-
41 tion (c) of K.S.A. 2000 Supp. 66-2004, and amendments thereto, telecom-
42 munications carriers that were not authorized to provide switched local
43 exchange telecommunications services in this state as of July 1, 1996,

1 including cable television operators who have not previously offered tel-
2 ecommunications services, must receive a certificate of convenience
3 based upon a demonstration of technical, managerial and financial vi-
4 ability and the ability to meet quality of service standards established by
5 the commission. Any telecommunications carrier or other entity seeking
6 such certificate shall file a statement, which shall be subject to the com-
7 mission's approval, specifying with particularity the areas in which it will
8 offer service, the manner in which it will provide the service in such areas
9 and whether it will serve both business customers and residential custom-
10 ers in such areas. Any structurally separate affiliate of a local exchange
11 carrier that provides telecommunications services shall be subject to the
12 same regulatory obligations and oversight as a telecommunications carrier,
13 as long as the local exchange carrier's affiliate obtains access to any
14 services or facilities from its affiliated local exchange carrier on the same
15 terms and conditions as the local exchange carrier makes those services
16 and facilities available to other telecommunications carriers. The com-
17 mission shall oversee telecommunications carriers to prevent fraud and
18 other practices harmful to consumers and to ensure compliance with
19 quality of service standards adopted for all local exchange carriers and
20 telecommunications carriers in the state.

21 Sec. 4. K.S.A. 2000 Supp. 66-2009 is hereby amended to read as
22 follows: 66-2009. (a) Local exchange carriers that provided switched local
23 exchange services in the state prior to January 1, 1996, or their successors,
24 shall serve as the carrier of last resort in their exchanges and shall be
25 eligible to receive KUSF funding. ~~However, with respect to the Hill City~~
26 ~~exchange area in which multiple carriers were certified prior to January~~
27 ~~1, 1996, the commission's determination, subject to court appeals, shall~~
28 ~~determine which authorized carrier shall serve as carrier of last resort.~~
29 The local exchange carrier serving as the carrier of last resort shall remain
30 the carrier of last resort and shall be entitled to recover the costs of serving
31 as carrier of last resort.

32 (b) Beginning March 1, 1997, the amount of KUSF funds owed to
33 each qualifying telecommunications carrier, telecommunications public
34 utility or wireless telecommunications service provider in the state, based
35 upon the revenue requirements assigned to the funds for such qualifying
36 utility, carrier or provider, shall be allocated by the fund administrator in
37 equal monthly installments.

38 (c) *Any carrier that collects amounts from its customers to offset its*
39 *KUSF contribution shall specifically identify the amount as a separate*
40 *item on each bill.*

41 Sec. 5. K.S.A. 2000 Supp. 66-1,187, 66-2002, 66-2005, 66-2009, 66-
42 2012, 66-2013 and 66-2016 are hereby repealed.

1 Sec. 6. This act shall take effect and be in force from and after its
2 publication in the Kansas register.
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