

[As Amended by House Committee of the Whole]

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2008

SENATE BILL No. 469

By Committee on Utilities

1-24

14 AN ACT concerning telecommunications; relating to local exchange car-
15 riers and carriers of last resort; **[relating to pricing flexibility and**
16 **the lifeline service program;]** amending K.S.A. **[66-2006 and]** 66-
17 2009 and **K.S.A. 2007 Supp. 66-2005 and** repealing the existing ~~sec-~~
18 ~~tion~~ **[sections]**.
19

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

21 Section 1. K.S.A. 66-2009 is hereby amended to read as follows: 66-
22 2009. (a) Local exchange carriers that provided switched local exchange
23 services in the state prior to January 1, 1996, or their successors, shall
24 serve as the carrier of last resort in their exchanges and shall be eligible
25 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) (1) *For the purposes of this subsection:*

39 (A) "Alternative service provider" means any person or entity pro-
40 viding local telecommunications services or ~~internet access services~~, any
41 person or entity allowing another person or entity to use its equipment
42 or facilities to provide local telecommunications services or ~~internet access~~
43 ~~services~~, or any person or entity securing rights to select an alternative

1 service provider for a property owner or developer, and does not include
 2 a local exchange carrier providing service within its commission-approved
 3 local exchange service area.

4 (B) “Alternative technology” means any technology that offers local
 5 telecommunications service and functionality comparable to that pro-
 6 vided through an existing alternative service provider’s facilities, and may
 7 include a technology that does not require the use of any public right-of-
 8 way.

9 (C) “Greenfield area” means an area that requires entirely new con-
 10 struction of local loops, in addition to the deployment of any necessary
 11 switching and other network equipment, to serve new real property
 12 developments.

13 (D) “Local telecommunications service” means two-way voice service
 14 capable of being originated and terminated within a local exchange service
 15 area, regardless of the technology used to provision the voice service.

16 (E) “Owner or developer” means the owner or developer of a busi-
 17 ness or residential property, any condominium association or homeown-
 18 ers’ association thereof, any other person or entity having ownership in,
 19 or control over, the property, or any person acting on behalf of such owner
 20 or developer.

21 (F) “Real property” includes, but is not limited to, any single tenant
 22 or multi-tenant business or residential property, subdivisions, condomin-
 23 iums, apartments, office buildings or office parks.

24 (2) A local exchange carrier obligated by this section to serve as the
 25 carrier of last resort is hereby relieved of that obligation, and shall not be
 26 obligated to provide basic local telecommunications service to any occu-
 27 pants of real property if the owner or developer of the real property, or
 28 a person acting on behalf of the owner or developer of real property,
 29 engages in any of the following acts:

30 (A) Permits ~~only one~~ **an** *alternative service provider to install its fa-*
 31 *ilities or equipment used to provide local telecommunications service* ~~or~~
 32 ~~internet access service, to the~~ **based on a condition of** *exclusion of the*
 33 *local exchange carrier, during the construction phase of the real property;*

34 (B) *accepts or agrees to accept incentives or rewards from an alter-*
 35 *native service provider that are contingent upon the provision of any or*
 36 *all local telecommunications services* ~~or internet access service~~ *by one or*
 37 *more alternative service providers to the exclusion of the local exchange*
 38 *carrier; or*

39 (C) *collects from the occupants or residents of the real property* **man-**
 40 **datory** *charges for the provision of any local telecommunications service*
 41 ~~or internet access service,~~ *provided by an alternative service provider to*
 42 *the occupants or residents in any manner, including, but not limited to,*
 43 *collection through rent, fees or dues;* ~~or~~

1 ~~—(D) enters into an agreement with an alternative service provider~~
2 ~~which grants incentives or rewards to such owner or developer contingent~~
3 ~~upon restriction or limitation of the local exchange carrier's access to the~~
4 ~~real property.~~

5 (3) The local exchange carrier relieved of its carrier of last resort
6 obligation to provide basic local telecommunications service to the occu-
7 pants of the real property, pursuant to subsection (c), shall notify the
8 commission of that fact ~~in a timely manner~~ **within 120 days after re-**
9 **ceiving knowledge of the existence of such fact.**

10 (4) A local exchange carrier that is not automatically relieved of its
11 carrier of last resort obligation pursuant to paragraph ~~(1)~~ **(2)** of subsection
12 (c) may seek a waiver of its carrier of last resort obligation from the
13 commission for good cause shown based on the facts and circumstances
14 of **the** provision of local telecommunications service or internet access
15 service to a particular real property, ~~including arrangements such as those~~
16 ~~described in paragraph (1) of subsection (c) for the provision of video~~
17 ~~service to the occupants of the real property.~~ Upon petition for such relief,
18 notice shall be given by the local exchange carrier at the same time to the
19 relevant owner or developer. The commission shall make a determination
20 concerning the petition on or before 90 days after such petition is filed.

21 (5) If all conditions described in paragraph ~~(1)~~ **(2) or (4)** of subsec-
22 tion (c) cease to exist at the property, and the owner or developer requests
23 in writing that the local exchange carrier make local telecommunications
24 service available to occupants of the real property and confirms in writing
25 that all conditions described in paragraph ~~(1)~~ **(2) or (4)** of subsection (c)
26 have ceased to exist at the property ~~and the owner or developer has not~~
27 ~~arranged and does not intend to arrange with another alternative service~~
28 ~~provider to make local telecommunications service or internet access serv-~~
29 ~~ice available to customers at the property,~~ the carrier of last resort obli-
30 gation under this section shall again apply to the local exchange carrier
31 at the real property, ~~except that the~~. **The local exchange carrier shall**
32 **provide notice to the commission that it is assuming the carrier-of-**
33 **last-resort obligation. The** local exchange carrier may require that the
34 owner or developer pay to the local exchange carrier in advance a rea-
35 sonable fee to recover costs that exceed the costs that would have been
36 incurred to construct or acquire facilities to serve customers at the real
37 property initially, ~~and the~~. **The commission may verify that the fee**
38 **enables the local exchange carrier to recover its costs that exceed**
39 **the costs that would have been incurred to construct or acquire**
40 **facilities to serve customers at the real property initially, including,**
41 **but not limited to, amounts necessary to install or retrofit any fa-**
42 **cilities or equipment, to cut or trench sidewalks and streets and to**
43 **restore roads, sidewalks, block walls or landscapes to original con-**

1 **ditions. The local exchange carrier shall have a reasonable period of time**
2 **following the request from the owner or developer to make arrangements**
3 **for local telecommunications service availability. [If a local exchange**
4 **carrier is relieved of its carrier of last resort obligation under par-**
5 **agraph (2) or (4) of subsection (c), the owner or developer shall**
6 **notify all occupants and any subsequent owner of the specific real**
7 **property of the following: (1) That the incumbent local exchange**
8 **carrier does not have facilities installed to serve the specific real**
9 **property, and that such carrier has been relieved of its carrier of**
10 **last resort obligations; and (2) the name of the person that will be**
11 **providing local telecommunications service to the real property,**
12 **and the type of technology that will be used to provide such service.]**
13 *An incumbent local exchange carrier may meet the carrier's obligations*
14 *under this section using any available alternative technology. If any con-*
15 *ditions described in paragraph ~~(2)~~ (2) or (4) of subsection (c) again exist*
16 *at the real property, the relief in paragraph ~~(2)~~ (2) or (4) of subsection*
17 *(c) shall again apply.*
18 (6) *When real property is located in a greenfield area, a carrier of*
19 *last resort shall not automatically be excused from its obligations under*
20 *paragraph ~~(2)~~ (2) of subsection (c) unless the alternative service provider*
21 *possesses or shall possess at the time of commencement of service the*
22 *capability to provide local telecommunications service or the functional*
23 *equivalent of such service through any form of technology.*
24 [(7) **If an owner or developer of real property permits an al-**
25 **ternative service provider to install its facilities or equipment used**
26 **to provide local telecommunications service to such property**
27 **based on a condition of exclusion of the local exchange carrier, the**
28 **owner or developer must provide written notice to the purchaser**
29 **of any such real property that there is an exclusion of that local**
30 **exchange carrier, and that the alternative service provider is the**
31 **exclusive provider of service to such property.]**
32 [Sec. 2. K.S.A. 2007 Supp. 66-2005 is hereby amended to read
33 as follows: 66-2005. (a) Each local exchange carrier shall file a net-
34 work infrastructure plan with the commission on or after January
35 1, 1997, and prior to January 1, 1998. Each plan, as a part of uni-
36 versal service protection, shall include schedules, which shall be
37 approved by the commission, for deployment of universal service
38 capabilities by July 1, 1998, and the deployment of enhanced uni-
39 versal service capabilities by July 1, 2003, as defined pursuant to
40 subsections (p) and (q) of K.S.A. 66-1,187, and amendments
41 thereto, respectively. With respect to enhanced universal service,
42 such schedules shall provide for deployment of ISDN, or its tech-
43 nological equivalent, or broadband facilities, only upon a firm cus-

1 tomer order for such service, or for deployment of other enhanced
2 universal services by a local exchange carrier. After receipt of such
3 an order and upon completion of a deployment plan designed to
4 meet the firm order or otherwise provide for the deployment of
5 enhanced universal service, a local exchange carrier shall notify
6 the commission. The commission shall approve the plan unless the
7 commission determines that the proposed deployment plan is un-
8 necessary, inappropriate, or not cost effective, or would create an
9 unreasonable or excessive demand on the KUSF. The commission
10 shall take action within 90 days. If the commission fails to take
11 action within 90 days, the deployment plan shall be deemed ap-
12 proved. This approval process shall continue until July 1, 2000.
13 Each plan shall demonstrate the capability of the local exchange
14 carrier to comply on an ongoing basis with quality of service stan-
15 dards to be adopted by the commission no later than January 1,
16 1997.

17 [(b) In order to protect universal service, facilitate the transi-
18 tion to competitive markets and stimulate the construction of an
19 advanced telecommunications infrastructure, each local exchange
20 carrier shall file a regulatory reform plan at the same time as it
21 files the network infrastructure plan required in subsection (a). As
22 part of its regulatory reform plan, a local exchange carrier may
23 elect traditional rate of return regulation or price cap regulation.
24 Carriers that elect price cap regulation shall be exempt from rate
25 base, rate of return and earnings regulation. However, the com-
26 mission may resume such regulation upon finding, after a hearing,
27 that a carrier that is subject to price cap regulation has: violated
28 minimum quality of service standards pursuant to subsection (l) of
29 K.S.A. 66-2002, and amendments thereto; been given reasonable
30 notice and an opportunity to correct the violation; and failed to do
31 so. Regulatory reform plans also shall include:

32 [(1) A commitment to provide existing and newly ordered
33 point-to-point broadband services to: Any hospital as defined in
34 K.S.A. 65-425, and amendments thereto; any school accredited
35 pursuant to K.S.A. 72-1101 et seq., and amendments thereto; any
36 public library; or other state and local government facilities at dis-
37 counted prices close to, but not below, long-run incremental cost;
38 and

39 [(2) a commitment to provide basic rate ISDN service, or the
40 technological equivalent, at prices which are uniform throughout
41 the carrier's service area. Local exchange carriers shall not be re-
42 quired to allow retail customers purchasing the foregoing dis-
43 counted services to resell those services to other categories of cus-

1 tomers. Telecommunications carriers may purchase basic rate
2 ISDN services, or the technological equivalent, for resale in ac-
3 cordance with K.S.A. 66-2003, and amendments thereto. The com-
4 mission may reduce prices charged for services outlined in provi-
5 sions (1) and (2) of this subsection, if the commitments of the local
6 exchange carrier set forth in those provisions are not being kept.

7 [(c) Subject to the commission's approval, all local exchange
8 carriers shall reduce intrastate access charges to interstate levels
9 as provided herein. Rates for intrastate switched access, and the
10 imputed access portion of toll, shall be reduced over a three-year
11 period with the objective of equalizing interstate and intrastate
12 rates in a revenue neutral, specific and predictable manner. The
13 commission is authorized to rebalance local residential and busi-
14 ness service rates to offset the intrastate access and toll charge
15 reductions. Any remaining portion of the reduction in access and
16 toll charges not recovered through local residential and business
17 service rates shall be paid out from the KUSF pursuant to K.S.A.
18 66-2008, and amendments thereto. Each rural telephone company
19 shall adjust its intrastate switched access rates on March 1 of each
20 odd-numbered year to match its interstate switched access rates,
21 subject to the following:

22 [(1) Any reduction of a rural telephone company's cost recov-
23 ery due to reduction of its interstate access revenue shall be re-
24 covered from the KUSF;

25 [(2) any portion of rural telephone company reductions in in-
26 trastate switched access rates which would result in an increase in
27 KUSF recovery in a single year which exceeds .75% of intrastate
28 retail revenues used in determining sums which may be recovered
29 from Kansas telecommunications customers pursuant to subsec-
30 tion (a) of K.S.A. 66-2008, and amendments thereto, shall be de-
31 ferred until March 1 of the next following odd-numbered year; and

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

35 [(d) Beginning March 1, 1997, each rural telephone company
36 shall have the authority to increase annually its monthly basic local
37 residential and business service rates by an amount not to exceed
38 \$1 in each 12-month period until such monthly rates reach an
39 amount equal to the statewide rural telephone company average
40 rates for such services. The statewide rural telephone company
41 average rates shall be the arithmetic mean of the lowest flat rate
42 as of March 1, 1996, for local residential service and for local busi-
43 ness service offered by each rural telephone company within the

1 state. In the case of a rural telephone company which increases its
2 local residential service rate or its local business service rate, or
3 both, to reach the statewide rural telephone company average rate
4 for such services, the amount paid to the company from the KUSF
5 shall be reduced by an amount equal to the additional revenue
6 received by such company through such rate increase. In the case
7 of a rural telephone company which elects to maintain a local res-
8 idential service rate or a local business service rate, or both, below
9 the statewide rural telephone company average, the amount paid
10 to the company from the KUSF shall be reduced by an amount
11 equal to the difference between the revenue the company could
12 receive if it elected to increase such rate to the average rate and
13 the revenue received by the company.

14 [(e) For purposes of determining sufficient KUSF support, an
15 affordable rate for local exchange service provided by a rural tel-
16 ephone company subject to traditional rate of return regulation
17 shall be determined as follows:

18 [(1) For residential service, an affordable rate shall be the ar-
19 ithmetic mean of residential local service rates charged in this state
20 in all exchanges served by rural telephone companies and in all
21 exchanges in rate groups 1 through 3 as of February 20, 2002, of
22 all other local exchange carriers, weighted by the number of res-
23 idential access lines to which each such rate applies, and thereafter
24 rounded to the nearest quarter-dollar, subject to the following
25 provisions:

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

30 [(B) If a rural telephone company's present residential rate,
31 including any separate charge for tone dialing, is below such av-
32 erage: (i) Such rate shall be deemed affordable prior to March 1,
33 2003; (ii) as of March 1, 2003, and prior to March 1, 2004, a rate
34 \$2 higher than the company's present residential monthly rate, but
35 not exceeding such weighted mean, shall be deemed affordable;
36 (iii) as of March 1, 2004, and prior to March 1, 2005, a rate \$4
37 higher than the company's present residential monthly rate, but
38 not exceeding such weighted mean, shall be deemed affordable;
39 and (iv) as of March 1, 2005, and prior to March 1, 2006, a rate \$6
40 higher than the company's present residential monthly rate, but
41 not exceeding such weighted mean, shall be deemed affordable.

42 [(C) As of March 1, 2007, and each two years thereafter, an
43 affordable residential service rate shall be the weighted arithmetic

1 mean of local service rates determined as of October 1 of the pre-
2 ceding year in the manner hereinbefore specified, except that any
3 increase in such mean exceeding \$2 may be satisfied by increases
4 in a rural telephone company's residential monthly service rate
5 not exceeding \$2 per year, effective March 1 of the year when such
6 mean is determined, with the remainder applied at the rate of \$2
7 per year, but not to exceed the affordable rate.

8 [(2) For single line business service at any time, an affordable
9 rate shall be the existing rate or an amount \$3 greater than the
10 affordable rate for residential service as determined under pro-
11 vision (1) of this subsection, whichever is higher, except that any
12 increase in the business service affordable rate exceeding \$2 may
13 be satisfied by increases in a rural telephone company's business
14 monthly service rate not exceeding \$2 per year, effective March 1
15 of the year when such rate is determined, with the remainder ap-
16 plied at the rate of \$2 per year, but not to exceed the affordable
17 rate.

18 [(3) Any flat fee or charge imposed per line on all residential
19 service or single line business service, or both, other than a fee or
20 charge for contribution to the KUSF or imposed by other govern-
21 mental authority, shall be added to the basic service rate for pur-
22 poses of determining an affordable rate pursuant to this
23 subsection.

24 [(4) Not later than March 1, 2003, tone dialing shall be made
25 available to all local service customers of each rural telephone
26 company at no charge additional to any increase in the local serv-
27 ice rate to become effective on that date. The amount of revenue
28 received as of March 1, 2002, by a rural telephone company from
29 the provision of tone dialing service shall be excluded from reduc-
30 tions in the company's KUSF support otherwise resulting pursuant
31 to this subsection.

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

37 [(6) Upon motion by a rural telephone company, the commis-
38 sion may determine a higher affordable local residential or busi-
39 ness rate for such company if such higher rate allows the company
40 to provide additional or improved service to customers, but any
41 increase in a rural telephone company's local rate attributable to
42 the provision of increased calling scope shall not be included in
43 any subsequent recalculation of affordable rates as otherwise pro-

1 vided in this subsection.

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

9 [(8) The provisions of this subsection relating to the implemen-
10 tation of an affordable rate shall not apply to rural telephone com-
11 panies which do not receive KUSF support. When recalculating
12 affordable rates as provided in this subsection, the rates used shall
13 include the actual rates charged by rural companies that do not
14 receive KUSF support.

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

30 [(g) On or before January 1, 1997, the commission shall issue
31 a final order in a proceeding to determine the price cap adjust-
32 ment formula that shall apply to the price caps for the local resi-
33 dential and single-line business and the miscellaneous services bas-
34 kets and for sub-categories, if any, within those baskets. In
35 determining this formula, the commission shall balance the public
36 policy goals of encouraging efficiency and promoting investment
37 in a quality, advanced telecommunications network in the state.
38 The commission also shall establish any informational filing
39 requirements necessary for the review of any price cap tariff fil-
40 ings, including price increases or decreases within the caps, to ver-
41 ify such caps would not be exceeded by any proposed price change.
42 The adjustment formula shall apply to the price caps for the local
43 residential and single-line business basket after December 31,

1 1999, and to the miscellaneous services basket after December 31,
2 1997. The price cap formula, but not actual prices, shall be re-
3 viewed every five years.

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

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

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

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

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

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

1 **price floor.**

2 [(n) On or before July 1, 1997, the commission shall establish
3 guidelines for reducing regulation prior to price deregulation of
4 price cap regulated services in the miscellaneous services basket,
5 the switched access services basket, and the residential and single-
6 line business basket.

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

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

33 [(q) (1) Beginning July 1, 2006, price regulation of telecom-
34 munications services in the residential and single-line business
35 service basket and the miscellaneous services basket for local
36 exchange carriers subject to price cap regulation shall be as
37 follows:

38 [(A) Packages or bundles of services shall be price deregulated
39 statewide, however the individual telecommunication service com-
40 ponents of such packages or bundles shall remain available for
41 purchase on an individual basis at prices subject to price cap reg-
42 ulation in any exchange in which the standards in subsection
43 (q)(1)(B), (C) or (D) have not been met. If standards in subsection

- 1 (q)(1)(B), (C) or (D) have been met, the individual telecommuni-
2 cation service components of such packages or bundles shall re-
3 main available for purchase on an individual basis and prices for
4 packages or bundles shall not exceed the sum of the highest prices
5 of the ala carte components of the package or bundle;
- 6 [(B) in any exchange in which there are 75,000 or more local
7 exchange access lines served by all providers, rates for all telecom-
8 munications services shall be price deregulated;
- 9 [(C) in any exchange in which there are fewer than 75,000 local
10 exchange access lines served by all providers, the commission shall
11 price deregulate all business telecommunication services upon a
12 demonstration by the requesting local telecommunications carrier
13 that there are two or more nonaffiliated telecommunications car-
14 riers or other entities, that are nonaffiliated with the local
15 exchange carrier, providing local telecommunications service to
16 business customers, regardless of whether the entity provides local
17 service in conjunction with other services in that exchange area.
18 One of such nonaffiliated carriers or entities shall be required to
19 be a facilities-based carrier or entity and not more than one of
20 such nonaffiliated carriers or entities shall be a provider of com-
21 mercial mobile radio services in that exchange;
- 22 [(D) in any exchange in which there are fewer than 75,000 local
23 exchange access lines served by all providers, the commission shall
24 price deregulate all residential telecommunication services upon
25 a demonstration by the requesting local telecommunications car-
26 rier that there are two or more nonaffiliated telecommunications
27 carriers or other entities, that are nonaffiliated with the local
28 exchange carrier, providing local telecommunications service to
29 residential customers, regardless of whether the entity provides
30 local service in conjunction with other services in that exchange
31 area. One of such nonaffiliated carriers or entities shall be re-
32 quired to be a facilities-based carrier or entity and not more than
33 one of such nonaffiliated carriers or entities shall be a provider of
34 commercial mobile radio services in that exchange;
- 35 [(E) rates for lifeline services shall remain subject to price cap
36 regulation;
- 37 [(F) *up to and continuing until July 1, 2008*, rates for the initial
38 residential local exchange access line and up to four business local
39 exchange access lines at one location shall remain subject to price
40 cap regulation. Such rates shall not be affected by purchase of one
41 or more of the following: Call management services, intraLATA
42 long distance service or interLATA long distance service; and
- 43 [(G) local exchange carriers shall offer a uniform price

1 throughout each such exchange for services subject to price de-
2 regulation, under this subsection, including packages or bundles
3 of services, except as provided in subsection (1) or as otherwise
4 approved by the commission.

5 [(2) For the purposes of this subsection:

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

9 [(B) a provider of local telecommunications service that re-
10 quires the use of a third party, unaffiliated broadband network or
11 dial-up internet network for the origination of local voice service
12 shall not be considered a local telecommunications service
13 provider;

14 [(C) telecommunications carriers offering only prepaid tele-
15 communications service shall not be considered entities providing
16 local telecommunications service.

17 [(3) If the services of a local exchange carrier are classified as
18 price deregulated under this subsection, the carrier may thereaf-
19 ter adjust its rates for such price deregulated services upward or
20 downward as it determines appropriate in its competitive environ-
21 ment, with tariffs for such services deemed effective upon filing
22 with the commission. Price deregulated services shall be subject
23 to the price floor in subsection (k), and shall not be unreasonably
24 discriminatory or unduly preferential within an exchange.

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

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

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

41 [(7) Prior to January 1, 2007, the commission shall determine
42 the weighted, statewide average rate of nonwireless basic local
43 telecommunications service as of July 1, 2006. Prior to January 1,

1 2007, and annually thereafter, the commission shall determine the
2 weighted, average rate of nonwireless basic local telecommuni-
3 cations services in exchanges that have been price deregulated
4 pursuant to subsection (q)(1)(B), (C) or (D). The commission shall
5 report its findings on or before February 1, 2007, and annually
6 thereafter to the governor, the legislature and each member of the
7 standing committees of the house of representatives and the sen-
8 ate which are assigned telecommunications issues. The commis-
9 sion shall also provide in such annual report any additional infor-
10 mation it deems useful in determining the impact of price
11 deregulation on consumers and the competitive environment, in-
12 cluding, but not limited to, the rates recorded under paragraph
13 (6) of this subsection, the current rates for services in price dereg-
14 ulated exchanges, changes in service offerings available in price
15 deregulated exchanges and the change in the number of compet-
16 itors in price deregulated exchanges. If the commission finds that
17 the weighted, average rate of nonwireless basic local telecommu-
18 nications service, in exchanges that have been price deregulated
19 pursuant to subsection (q)(1)(B), (C) or (D) in any one year period
20 is greater than the weighted, statewide average rate of nonwireless
21 basic local telecommunications service as of July 1, 2006, multi-
22 plied by one plus the percentage increase in the consumer price
23 index for goods and services for the study periods, or the commis-
24 sion believes that changes in state law are warranted due to the
25 status of competition, the commission shall recommend to the gov-
26 ernor, the legislature and each member of the standing commit-
27 tees of the house of representatives and the senate which are as-
28 signed telecommunications issues such changes in state law as the
29 commission deems appropriate.

30 [(8) For the purposes of this subsection:

31 [(A) “Packages or bundles of services” means the offering of a
32 local telecommunications service with one or more of the follow-
33 ing, subscribed together, as one service option offered at one
34 price, one or more call management services, intraLATA long dis-
35 tance service, interLATA long distance service, internet access,
36 video services or wireless services. Packages or bundles of services
37 shall not include only a single residential local exchange access line
38 or up to four business local exchange access lines at one location
39 and intraLATA long distance service or interLATA long distance
40 service, or both;

41 [(B) “local telecommunications service” means two-way voice
42 service capable of being originated and terminated within the
43 exchange of the local exchange telecommunications company

1 seeking price deregulation of its services, regardless of the tech-
2 nology used to provision the voice service;

3 [(C) “broadband network” means a connection that delivers
4 services at speeds exceeding two hundred kilobits per second in
5 both directions;

6 [(D) “prepaid telecommunications service” means a local serv-
7 ice for which payment is made in advance that excludes access to
8 operator assistance and long distance service;

9 [(E) “facilities based carrier” means a telecommunications car-
10 rier or entity providing local telecommunications service either
11 wholly or partially over its own network. Facilities based carrier
12 shall not include any radio communication services provider li-
13 censed by the federal communications commission to provide com-
14 mercial mobile radio services; and

15 [(F) “call management services” means optional telecommu-
16 nications services that allow a customer to manage call flow gen-
17 erated over the customer’s local exchange access line.

18 [(r) (1) Upon complaint or request, the commission may inves-
19 tigate a price deregulated service.

20 [(2) The commission shall resume price cap regulation of a
21 service provided in any exchange area by placing it in the appro-
22 priate service basket, as approved by the commission, upon a de-
23 termination by the commission that the conditions in subsection
24 (q)(1)(C) or (D) are no longer satisfied in that exchange area.

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

39 [(4) The commission shall resume price cap regulation of res-
40 idential services in any exchange meeting the conditions of sub-
41 section (q)(1)(B) by placing it in the appropriate service basket, as
42 approved by the commission, upon a determination by the com-
43 mission that the following condition is not met: There are at least

1 two or more nonaffiliated telecommunications carriers or other
2 entities, that are nonaffiliated with the local exchange carrier, pro-
3 viding local telecommunications service to residential customers,
4 regardless of whether the entity provides local service in conjunc-
5 tion with other services in that exchange area. One of such non-
6 affiliated carriers or entities shall be required to be a facilities-
7 based carrier or entity and not more than one such nonaffiliated
8 carriers or entities shall be a provider of commercial mobile radio
9 services in that exchange.

10 [(s) The commission shall require that for all local exchange
11 carriers all such price deregulated basic intraLATA toll services
12 be geographically averaged statewide and not be priced below the
13 price floor established in subsection (k).

14 [(t) Cost studies to determine price floors shall be performed
15 as required by the commission in response to complaints. In ad-
16 dition, notwithstanding the exemption in subsection (b), the com-
17 mission may request information necessary to execute any of its
18 obligations under the act. In response to a complaint that a price
19 deregulated service is priced below the price floor set forth in
20 subsection (k), the commission shall issue an order within 60 days
21 after the filing of the complaint unless the complainant agrees to
22 an extension.

23 [(u) A local exchange carrier may petition for individual cus-
24 tomer pricing. The commission shall respond expeditiously to the
25 petition within a period of not more than 30 days subject to a 30-
26 day extension.

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

29 [(w) Telecommunications carriers shall not be subject to price
30 regulation, except that: Access charge reductions shall be passed
31 through to consumers by reductions in basic intrastate toll prices;
32 and basic toll prices shall remain geographically averaged state-
33 wide. As required under K.S.A. 66-131, and amendments thereto,
34 and except as provided for in subsection (c) of K.S.A. 66-2004, and
35 amendments thereto, telecommunications carriers that were not
36 authorized to provide switched local exchange telecommunica-
37 tions services in this state as of July 1, 1996, including cable tele-
38 vision operators who have not previously offered telecommunica-
39 tions services, must receive a certificate of convenience based
40 upon a demonstration of technical, managerial and financial via-
41 bility and the ability to meet quality of service standards estab-
42 lished by the commission. Any telecommunications carrier or other
43 entity seeking such certificate shall file a statement, which shall be

1 **subject to the commission’s approval, specifying with particularity**
2 **the areas in which it will offer service, the manner in which it will**
3 **provide the service in such areas and whether it will serve both**
4 **business customers and residential customers in such areas. Any**
5 **structurally separate affiliate of a local exchange carrier that pro-**
6 **vides telecommunications services shall be subject to the same reg-**
7 **ulatory obligations and oversight as a telecommunications carrier,**
8 **as long as the local exchange carrier’s affiliate obtains access to**
9 **any services or facilities from its affiliated local exchange carrier**
10 **on the same terms and conditions as the local exchange carrier**
11 **makes those services and facilities available to other telecommu-**
12 **nications carriers. The commission shall oversee telecommunica-**
13 **tions carriers to prevent fraud and other practices harmful to con-**
14 **sumers and to ensure compliance with quality of service standards**
15 **adopted for all local exchange carriers and telecommunications**
16 **carriers in the state.**

17 **[Sec. 3. K.S.A. 66-2006 is hereby amended to read as follows:**
18 **66-2006. (a) On or before January 1, 1997, the commission shall**
19 **establish the Kansas lifeline service program, hereinafter referred**
20 **to as the KLSP. The purpose of the KLSP shall be to promote the**
21 **provision of universal service by local exchange carriers to persons**
22 **with low income. The KLSP shall be targeted to maintain afford-**
23 **able rates for residential local exchange service. The commission**
24 **shall approve a means test to determine the eligibility of customers**
25 **for such low-income assistance.**

26 *[(b) Every local exchange carrier providing residential local telecom-*
27 *munications services that have been price deregulated in this state pur-*
28 *suant to subsection (q) of K.S.A. 66-2005, and amendments thereto, shall,*
29 *and any other local exchange carrier or telecommunications carrier may,*
30 *automatically enroll its existing and eligible customers in the KLSP, sub-*
31 *ject to the following:*

32 *[(1) On or before January 1, 2009, the department of social and re-*
33 *habilitation services, hereinafter referred to as the department, or any*
34 *other successor state agency, may provide each participating carrier a list*
35 *of those persons residing in the state that participate in programs which*
36 *also qualify such persons to receive KLSP services. This listing shall con-*
37 *sist of those persons who have consented to the release of their personal*
38 *information to the KLSP carrier to receive KLSP services and include at*
39 *a minimum the name, address and telephone number of such persons.*
40 *Every six months thereafter, the department may provide to each partic-*
41 *ipating carrier an updated list of persons consenting to such KLSP serv-*
42 *ices. The secretary of the department may adopt rules and regulations to*
43 *coordinate the acquisition and provision of the information to be provided*

1 pursuant to this subsection (b).

2 [(2) The participating carrier shall use the list for the sole purpose of
3 identifying those of its existing customers to whom it is currently provid-
4 ing telephone service.

5 [(3) The participating carrier shall discontinue providing KLSP serv-
6 ices to an eligible customer if the eligible customer notifies the partici-
7 pating carrier that the customer wishes to discontinue receiving those
8 services.

9 [(4) Each participating carrier receiving customer information pur-
10 suant to this subsection (b) shall execute a confidentiality agreement with
11 the department prior to receiving non-public customer eligibility infor-
12 mation. The agreement will specify that the customer information is re-
13 leased by the department to the participating carrier for the sole purpose
14 of providing KLSP to eligible customers, and that the information cannot
15 be released or used by the carrier for any other purpose unless authorized
16 by the customer or otherwise required by law.

17 [(c) To generate and facilitate participation in the lifeline service pro-
18 gram, provide choice for Kansas consumers, and allow collection of federal
19 lifeline program reimbursements, the KCC shall approve a wireline (non-
20 CMRS) facilities-based telephone service provider's application for eligi-
21 ble telecommunications carrier, hereinafter referred to as the ETC, des-
22 ignation in a nonrural service area for the purpose of receiving
23 low-income federal universal service fund support for participation in the
24 lifeline service program, for the area equal to the applicant provider's own
25 service area, provided the applicant provider meets all other ETC eligi-
26 bility requirements. The commission, however, may condition that such
27 designation remain consistent with the guidelines of the federal program.]

28 Sec. ~~4.~~ [4.] K.S.A. [66-2006 and] 66-2009 ~~is~~ [and K.S.A. 2007
29 **Supp. 66-2005 are**] hereby repealed.

30 Sec. ~~5.~~ [5.] This act shall take effect and be in force from and after
31 its publication in the statute book.