

SESSION OF 2002

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR HOUSE BILL NO. 2754**

As Further Amended by Senate Committee on
Commerce

Brief*

Sub. for HB 2754 amends the Kansas Telecommunications Act of 1996 (referred to as the Kansas Act). The substitute bill amends and repeals various statutes, particularly KSA 2001 Supp. 66-2005 and 66-2008, that deal with the Kansas Universal Service Fund (KUSF), telephone rate rebalancing, and adjustments to intrastate switched access rates. Major components of the bill are as follows:

Intrastate Switched Access Rates

Sub. for HB 2754 clarifies adjustments to intrastate access rates for rural telephone companies. Under the bill, each rural telephone company is required to adjust its intrastate switched access rates to match its interstate switched access rates. The bill specifies that rural telephone companies are not required to reduce their intrastate access rates below the level of their interstate access rates, and that any reduction of a company's cost recovery due to lowering a company's access rates is required to be recovered from the KUSF. However, any portion of rural company reductions in intrastate switched access rates resulting in an increase in KUSF recovery exceeding .75 percent of intrastate retail revenues used to determine KUSF contributions in a single year would be deferred until March 1 of the following odd-numbered year.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/cgi-bin/fulltext/bills.cgi>

Affordable Rates and the Kansas Universal Service Fund (KUSF)

Sub. for HB 2754 amends KSA 2001 Supp. 66-2005 to establish procedures by which affordable local telephone rates for both residential service and for business service could be reached and still provide sufficient KUSF support.

Residential Service. Under the bill, an affordable rate for residential service would be the arithmetic mean of local service rates weighted by the number of access lines to which each rate applies, and rounded to the nearest quarter-dollar. That rate formula would be deemed affordable on certain dates according to whether a rural telephone company's present residential rate is above (March 2007), or below (March 2003, with additional incremental stipulations) the weighted mean. After March 1, 2007, and each 2-year segment following, an affordable rate would be arrived at in a similar way, except that any increase over the weighted mean exceeding \$2 would be satisfied by corresponding increases in a rural telephone company's monthly service rate.

Business Service. Under the bill, an affordable rate for single line business service would be the existing rate, or \$3 more than the residential service affordable rate. The exception to this would be that any increase in the business affordable rate exceeding \$2 would be satisfied by corresponding increases in the company's business monthly service rate.

Additional components of establishing affordable rates and provisions defining contributions to KUSF, under the bill, are the following:

- ! Any fee imposed per line for both residential and business service rates, other than a fee for a contribution to the KUSF, is required to be added to the basic service rate.
- ! Touchtone dialing is required to be made available to all local service customers at no additional charge to the local service rate.
- ! The Kansas Corporation Commission (KCC) may determine a higher affordable local residential or business rate for a company if the higher rate allows the company to provide additional or improved service to its customers.

- ! A uniform rate for both residential and business service would be deemed affordable if it generates revenue equal to what would be generated by application of affordable residential and business rates.
- ! The bill's provisions relating to implementation of an affordable rate shall not apply to rural telephone companies which do not receive KUSF support.

Embedded Cost vs Cost Monitored

Sub. for HB 2754 also amends KSA 2001 Supp. 66-2008 by specifying that rural telephone companies, in calculating their revenue requirements and determining their support for the KUSF, are required to calculate any adjustment using the actual embedded cost rather than the cost monitored, prior to June of 2006.

Background

Sub. for HB 2754 was introduced by the House Committee on Utilities. It represents the coming together of rural telephone companies, the KCC, and Citizen's Utility Ratepayer Board (CURB), to achieve an agreement on a standard of affordable local rates for residential and business service customers of rural telephone companies. Sub. for HB 2754 clarifies what is intended in the Kansas Act with regard to access rate reductions for rural telephone companies. Such biennial rate access reductions would reduce the cost of the in-state toll calling just as they were under the Kansas Act. The idea, as testified by proponents, is that parity is maintained with regard to interstate switched access rates.

Proponents of the bill included the Independent Telecommunications Group, the Kansas Rural Independent Telephone Companies, Sprint, the Citizens' Utility Ratepayer Board, Pioneer Communications, and the State Independent Telephone Association. The proponents testified that the substitute bill strikes a good compromise, benefits telephone ratepayers by restraining rate increases, benefits other companies' ratepayers by reducing the amount of KUSF they are required to pay, and reduces the amount and intensity of regulation of

how rural telephone companies calculate their daily access rates based on actual costs. There were no opponents to the substitute bill, but there were opponents, such as Sprint, Western Wireless, Alltel, the Kansas Corporation Commission, Eagle Communications, and Verizon Wireless, to provisions in the original bill. Those opponents testified that the original bill would have hindered wireless technology from becoming a viable alternative to wireline service in rural, high-cost areas of Kansas. After the agreement was reached, the opponents' concerns were addressed and they supported the substitute bill.

The original bill was not supported by all parties involved, so an agreement was forged after much discussion between the rural telephone industry, the KCC, and CURB. The agreement centered around the reasoning used to define affordable rates. The definition of an affordable rate was arrived at by averaging the rates of all customers; *i.e.*, all the rates paid by rural company customers, and all the rates paid by rate groups 1, 2, and 3 for Southwestern Bell Company and Sprint customers. Those group rates are comparable to the rates of rural customers. For rural telephone company customers the residential rate would be \$12 a month, which would be an increase over the supported rate of more than \$6 under the Kansas Act. The agreement reached preserved the differential between the business and residential rates so that the resulting figure for the business rate would be \$15. The agreement went beyond that to deal with a number of individual circumstances, such as touchtone dialing, that would be made available to all customers as part of the basic service cost. Proponents testified that the agreement more closely approximates what is paid by customers of rural companies with that paid by customers of other companies. Using the actual embedded cost rather than the cost monitored, as specified in the bill, is consistent with the Federal Communications Commission with regard to federal support, until June 2006. Just as federal rules are silent after that date, so are the provisions of this bill on the issue of using actual embedded costs.

The Senate Committee amended the substitute bill to impose a cap on moneys collected for the KUSF.

The Senate Committee further amended the substitute bill to remove the earlier cap on moneys collected for the KUSF and to add a provision requiring that any portion of rural company reductions in intrastate switched access rates resulting in an increase in KUSF recovery exceeding .75 percent of intrastate retail revenues used to

determine KUSF contributions in a single year would be deferred until March 1 of the following odd-numbered year.

A fiscal note from the Division of Budget was not available for Sub. for HB 2754. However, it was testified that the bill's provisions negatively impact KUSF's revenue projections. The Kansas Universal Service Fund is not part of the state budget, but falls under KCC's oversight regulatory duties. The National Exchange Carrier Association manages the fund for annual fee based on a contract made with the KCC every 2 years. The amount is based on how many companies make payments to the fund and are reimbursed from the fund. However, with the exception of the touchtone dialing revenue, the impact would be a decrease in Kansas Universal Service Funds received by each rural company. This means that there would be no additional revenue going to rural companies as a result of these rate increases. For every dollar increase in rates, that much would be offset by the amount received by the telephone companies. By the time all of the provisions of the bill fall into place in March of 2005, there would be reductions to the KUSF approaching \$7.0 million per year, which is a little less than one quarter of the amount that is presently received by rural telephone companies to support their present rates. The \$7.0 million is paid by all Kansas telephone customers in portions of their phone rates and toll rates.