

SENATE BILL No. 72

By Committee on Utilities

1-28

1 AN ACT concerning telecommunications; relating to price deregulation;
2 amending K.S.A. 2010 Supp. 66-2005 and repealing the existing
3 section.
4

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

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

31 (b) In order to protect universal service, facilitate the transition to
32 competitive markets and stimulate the construction of an advanced
33 telecommunications infrastructure, each local exchange carrier shall file a
34 regulatory reform plan at the same time as it files the network
35 infrastructure plan required in subsection (a). As part of its regulatory
36 reform plan, a local exchange carrier may elect traditional rate of return

1 regulation or price cap regulation. Carriers that elect price cap regulation
2 shall be exempt from rate base, rate of return and earnings regulation and
3 shall not be subject to the provisions of K.S.A. 66-136 and 66-127, and
4 amendments thereto, except as otherwise provided in such sections.
5 However, the commission may resume such regulation upon finding, after
6 a hearing, that a carrier that is subject to price cap regulation has: violated
7 minimum quality of service standards pursuant to subsection (l) of K.S.A.
8 66-2002, and amendments thereto; been given reasonable notice and an
9 opportunity to correct the violation; and failed to do so. Regulatory
10 reform plans also shall include:

11 (1) A commitment to provide existing and newly ordered point-to-
12 point broadband services to: Any hospital as defined in K.S.A. 65-425,
13 and amendments thereto; any school accredited pursuant to K.S.A. 72-
14 1101 et seq., and amendments thereto; any public library; or other state
15 and local government facilities at discounted prices close to, but not
16 below, long-run incremental cost; and

17 (2) a commitment to provide basic rate ISDN service, or the
18 technological equivalent, at prices which are uniform throughout the
19 carrier's service area. Local exchange carriers shall not be required to
20 allow retail customers purchasing the foregoing discounted services to
21 resell those services to other categories of customers.
22 Telecommunications carriers may purchase basic rate ISDN services, or
23 the technological equivalent, for resale in accordance with K.S.A. 66-
24 2003, and amendments thereto. The commission may reduce prices
25 charged for services outlined in provisions (1) and (2) of this subsection,
26 if the commitments of the local exchange carrier set forth in those
27 provisions are not being kept.

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

42 (1) Any reduction of a rural telephone company's cost recovery due
43 to reduction of its interstate access revenue shall be recovered from the

1 KUSF;

2 (2) any portion of rural telephone company reductions in intrastate
3 switched access rates which would result in an increase in KUSF
4 recovery in a single year which exceeds .75% of intrastate retail revenues
5 used in determining sums which may be recovered from Kansas
6 telecommunications customers pursuant to subsection (a) of K.S.A. 66-
7 2008, and amendments thereto, shall be deferred until March 1 of the
8 next following odd-numbered year; and

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

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

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

36 (1) For residential service, an affordable rate shall be the arithmetic
37 mean of residential local service rates charged in this state in all
38 exchanges served by rural telephone companies and in all exchanges in
39 rate groups 1 through 3 as of February 20, 2002, of all other local
40 exchange carriers, weighted by the number of residential access lines to
41 which each such rate applies, and thereafter rounded to the nearest
42 quarter-dollar, subject to the following provisions:

43 (A) If a rural telephone company's present residential rate, including

1 any separate charge for tone dialing, is at or above such weighted mean,
2 such rate shall be deemed affordable prior to March 1, 2007.

3 (B) If a rural telephone company's present residential rate, including
4 any separate charge for tone dialing, is below such average: (i) Such rate
5 shall be deemed affordable prior to March 1, 2003; (ii) as of March 1,
6 2003, and prior to March 1, 2004, a rate \$2 higher than the company's
7 present residential monthly rate, but not exceeding such weighted mean,
8 shall be deemed affordable; (iii) as of March 1, 2004, and prior to March
9 1, 2005, a rate \$4 higher than the company's present residential monthly
10 rate, but not exceeding such weighted mean, shall be deemed affordable;
11 and (iv) as of March 1, 2005, and prior to March 1, 2006, a rate \$6 higher
12 than the company's present residential monthly rate, but not exceeding
13 such weighted mean, shall be deemed affordable.

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

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

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

37 (4) Not later than March 1, 2003, tone dialing shall be made
38 available to all local service customers of each rural telephone company
39 at no charge additional to any increase in the local service rate to become
40 effective on that date. The amount of revenue received as of March 1,
41 2002, by a rural telephone company from the provision of tone dialing
42 service shall be excluded from reductions in the company's KUSF
43 support otherwise resulting pursuant to this subsection.

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

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

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

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

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

38 (g) On or before January 1, 1997, the commission shall issue a final
39 order in a proceeding to determine the price cap adjustment formula that
40 shall apply to the price caps for the local residential and single-line
41 business and the miscellaneous services baskets and for sub-categories, if
42 any, within those baskets. In determining this formula, the commission
43 shall balance the public policy goals of encouraging efficiency and

1 promoting investment in a quality, advanced telecommunications network
2 in the state. The commission also shall establish any informational filing
3 requirements necessary for the review of any price cap tariff filings,
4 including price increases or decreases within the caps, to verify such caps
5 would not be exceeded by any proposed price change. The adjustment
6 formula shall apply to the price caps for the local residential and single-
7 line business basket after December 31, 1999, and to the miscellaneous
8 services basket after December 31, 1997. The price cap formula, but not
9 actual prices, shall be reviewed every five years.

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

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

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

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

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

42 (m) Unless the commission authorizes price deregulation at an
43 earlier date, intrastate toll services within the miscellaneous services

1 basket shall continue to be regulated until the affected local exchange
2 carrier begins to offer 1+ intraLATA dialing parity throughout its service
3 territory, at which time intrastate toll will be price deregulated, except
4 that prices cannot be set below the price floor.

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

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

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

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

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

1 individual telecommunication service components of such packages or
2 bundles shall remain available for purchase on an individual basis and
3 prices for packages or bundles shall not exceed the sum of the highest
4 prices of the ala carte components of the package or bundle;

5 (B) in any exchange in which there are 75,000 or more local
6 exchange access lines served by all providers, rates for all
7 telecommunications services shall be price deregulated;

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

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

32 (E) rates for lifeline services shall remain subject to price cap
33 regulation;

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

1 of one or more of the following: Call management services, intraLATA
2 long distance service or interLATA long distance service; and

3 (G) local exchange carriers shall offer a uniform price throughout
4 each such exchange for services subject to price deregulation, under this
5 subsection, including packages or bundles of services, except as provided
6 in subsection (1) or as otherwise approved by the commission.

7 (2) For the purposes of this subsection:

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

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

15 (C) telecommunications carriers offering only prepaid
16 telecommunications service shall not be considered entities providing
17 local telecommunications service.

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

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

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

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

42 (7) Prior to January 1, 2007, the commission shall determine the
43 weighted, statewide average rate of nonwireless basic local

1 telecommunications service as of July 1, 2006. Prior to January 1, 2007,
2 and annually thereafter, the commission shall determine the weighted,
3 average rate of nonwireless basic local telecommunications services in
4 exchanges that have been price deregulated pursuant to subsection (q)(1)
5 (B), (C) or (D). The commission shall report its findings on or before
6 February 1, 2007, and annually thereafter to the governor, the legislature
7 and each member of the standing committees of the house of
8 representatives and the senate which are assigned telecommunications
9 issues. The commission shall also provide in such annual report any
10 additional information it deems useful in determining the impact of price
11 deregulation on consumers and the competitive environment, including,
12 but not limited to, the rates recorded under paragraph (6) of this
13 subsection, the current rates for services in price deregulated exchanges,
14 changes in service offerings available in price deregulated exchanges and
15 the change in the number of competitors in price deregulated exchanges.
16 If the commission finds that the weighted, average rate of nonwireless
17 basic local telecommunications service, in exchanges that have been price
18 deregulated pursuant to subsection (q)(1)(B), (C) or (D) in any one year
19 period is greater than the weighted, statewide average rate of nonwireless
20 basic local telecommunications service as of July 1, 2008, multiplied by
21 one plus the percentage increase in the consumer price index for goods
22 and services for the study periods, or the commission believes that
23 changes in state law are warranted due to the status of competition, the
24 commission shall recommend to the governor, the legislature and each
25 member of the standing committees of the house of representatives and
26 the senate which are assigned telecommunications issues such changes in
27 state law as the commission deems appropriate and the commission shall
28 also send a report of such findings to each member of the legislature.

29 (8) For the purposes of this subsection:

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

39 (B) "local telecommunications service" means two-way voice
40 service capable of being originated and terminated within the exchange of
41 the local exchange telecommunications company seeking price
42 deregulation of its services, regardless of the technology used to
43 provision the voice service;

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

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

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

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

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

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

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

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

1 such nonaffiliated carriers or entities shall be required to be a facilities-
2 based carrier or entity and not more than one such nonaffiliated carriers
3 or entities shall be a provider of commercial mobile radio services in that
4 exchange.

5 (s) The commission shall require that for all local exchange carriers
6 all such price deregulated basic intraLATA toll services be geographically
7 averaged statewide and not be priced below the price floor established in
8 subsection (k).

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

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

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

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

1 from its affiliated local exchange carrier on the same terms and
2 conditions as the local exchange carrier makes those services and
3 facilities available to other telecommunications carriers. The commission
4 shall oversee telecommunications carriers to prevent fraud and other
5 practices harmful to consumers and to ensure compliance with quality of
6 service standards adopted for all local exchange carriers and
7 telecommunications carriers in the state.

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

15 *(2) An electing carrier shall not be subject to price regulation and*
16 *shall be subject to nondiscriminatory regulation by the commission in the*
17 *same manner as and subject to no more regulation than other*
18 *telecommunications carriers operating in the state, except that the*
19 *carrier shall remain subject to:*

20 *(A) The reasonable resale of retail telecommunications services, as*
21 *well as unbundling and interconnection obligations as required by K.S.A.*
22 *66-2003, and amendments thereto;*

23 *(B) the requirements of subsection (c) concerning intrastate access*
24 *charges;*

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

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

28 *(3) Until July 1, 2014, an electing carrier's rates for single*
29 *residential local exchange access lines in its rural exchanges shall be no*
30 *higher than such rates for single residential local exchange access lines*
31 *in its urban exchanges.*

32 *(4) An electing carrier shall be relieved of the requirement to serve*
33 *as carrier of last resort, as required by K.S.A. 66-2009, and amendments*
34 *thereto, except that the carrier shall:*

35 *(A) Until July 1, 2014, in any exchange in which there are between*
36 *6,000 and 74,999 local exchange access lines served by all providers,*
37 *continue to serve as carrier of last resort for the provision of*
38 *telecommunications services using any technology that offers voice*
39 *communications service, notwithstanding the provisions of subsections*
40 *(p) and (q) of K.S.A. 66-1,187, and amendments thereto, and may include*
41 *a technology that does not require the use of any public right-of-way.*
42 *Such technology may be provided through any affiliate of the electing*
43 *carrier through any service arrangement. The use of any such alternative*

- 1 *technology shall not subject the technology, service or affiliate to the*
2 *jurisdiction of the commission; and*
- 3 *(B) in any rural exchange, continue to serve as carrier of last resort*
4 *for the provision of telecommunications services.*
- 5 *(5) For the purposes of this subsection:*
- 6 *(A) "Rural exchange" means any exchange in which there are fewer*
7 *than 6,000 local exchange access lines served by all providers; and*
- 8 *(B) "urban exchange" means any exchange in which there are*
9 *75,000 or more local exchange access lines served by all providers.*
- 10 Sec. 2. K.S.A. 2010 Supp. 66-2005 is hereby repealed.
- 11 Sec. 3. This act shall take effect and be in force from and after its
12 publication in the statute book.