Approved: February 4, 2010
Date

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Pat Apple at 1:30 p.m. on January 27, 2010, in Room 548-S of the Capitol.

All members were present
Senator Emler, excused
Senator Brownlee, excused.

Committee staff present:
Kristen Kellems, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Raney Gilliland, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Ann McMorris, Committee Assistant
Jeannine Wallace, Sen. Apple's Office Assistant

JAN 27

Conferees appearing before the Committee:
Janet Buchanan, KCC

Others attending: See attached list.

Senators Lee, Francisco and Apple introduced their pages.

The members of the committee had requested additional information regarding the telecommunicaitons industry which Janet Buchanan of KCC provided in a January 27, 2010 letter to Chair Apple and the letter was distributed to the entire committee. (Attachment 1)

Informational Hearing on Kansas Universal Service Fund (KUSF)
Janet Buchanan of KCC, discussed the Kansas Universal Service Fund which provides funds to maintain and enhance universal service. She reviewed the background of the Kansas statutes that sets the rules for KUSF. The KCC must set an assessment rate to be implemented on March 1 of each year. An illustration of the calculation of the KUSF assessment was provided. (Attachment 2)

Summary of Kansas Telecom Legislation

Cindy Lash of Kansas Legislative Research, provided a listing of telecommunications bills passed from 1996 thru 2009. She summarized the provisions in each bill. (Attachment 3)

Approval of Minutes

Moved by Senator Reitz, seconded by Senator Lee, to approve the minutes of the meetings of the Senate Utilities Committee held on January 12, 2010; January 13, 2010; and January 14, 2010. Motion carried.

The next meeting is scheduled for January 28, 2010.

The meeting was adjourned at 2:15 p.m.

Respectfully submitted,

Ann McMorris
Committee Assistant

Attachments - 3

SENATE UTILITIES
COMMITTEE GUEST LIST
JANUARY 27, 2010

NAME	REPRESENTING
DAN JACOBSEN	AT&T
JANET BUCHANAN	KCC
CHRISTINE AARNES	KCC
TOM DAY	KCC
DON LOW	KCC
Brad Williams	Kansas Board of Regents
Nelson Krueger	SureWest
Stacey Harden	CURB
Colleen Jamison	Cox
DICK CARTER	The Carter Group
Jim Gartner	AT&T
Shirley Allen	KRTC
Corey Mohn	KDOC
Mike Hutfles	Rural Ind. Telephone Cos
Dan Murray	Federico Consulting
Mike Murray	CenturyLink
Mike Reecht	Sprint

KANSAS
CORPORATION COMMISSION

Mark Parkinson, Governor
Thomas E. Wright, Chairman
Michael C. Moffet, Commissioner
Joseph F. Harkins, Commissioner

January 27, 2010

The Honorable Senator Pat Apple
Chairman, Senate Utilities Committee
State Capitol
300 SW 10th
Topeka, KS 66612

Dear Senator Apple:

During the presentation providing an overview of the telecommunications industry in Kansas on January 14, 2010, members of the Senate Utilities Committee (Committee) requested several additional pieces of information. The Commission was asked to provide a map of ATT service areas that distinguishes between those exchanges for which price deregulation was granted and those that remain under price cap regulation. Mr. Tom Day provided the Committee with those maps. In addition, the Committee requested information regarding the gain or loss of access lines for competitive local exchange carriers that will become available when the Commission files its report on price deregulation as required by K.S.A. 66-2005(q)(7). That information is provided below. Finally, the Committee requested information about the broadband deployment of incumbent local exchange carriers. The Commission gathers information about the availability of broadband services by exchange on its Annual Report. Carriers have designated the exchange level information as confidential; however, the Commission is able to provide the information averaged for each company as a whole. That information is also attached.

Please do not hesitate to contact me if you need additional information. I can be reached at 785-271-3293 or j.buchanan@kcc.ks.gov.

Sincerely,

Janet Buchanan

Janet Buchanan
Utilities Division Deputy Director
Kansas Corporation Commission

Senate Utilities Committee
January 27, 2010
Attachments 1-1

Table 9: Percentage Change in Access Line Count

Carrier Name	2004	2005	2006	2007	2008
AT&T / TCG* (CLEC)	19.73%	-13.67%	-15.89%	-19.25%	12.71%
Birch	-29.56%	-22.47%	-37.97%	-21.16%	-17.05%
Cox	165.49%	105.64%	40.29%	70.84%	19.62%
SureWest (formerly Everest)	26.49%	4.04%	11.82%	6.15%	21.90%
MCI	-10.17%	-18.89%	-4.27%	-19.26%	-17.29%
Nex-Tech	29.74%	5.35%	1.06%	5.06%	0.49%
NuVox	-7.76%	-27.53%	-1.03%	21.97%	11.67%
Sage	-12.59%	-19.80%	-11.25%	-26.08%	-25.72%
Time Warner Cable	No Data[1]	131.36%	46.94%	28.11%	7.11%
WorldNet, LLC	No Data	No Data	18.13%	2.17%	2.60%
SWBT (AT&T)	**-7.11%**	**-4.00%**	**-4.94%**	**-5.84%**	**-9.01%**

1 The carrier did not provide service in the prior year to enable a calculation to be made.

* AT&T & TCG merged with SWBT

ILECs Reporting 100% Availability of Broadband in 2008
BLUE VALLEY TELE-COMMUNICATIONS, INC
COLUMBUS TELEPHONE CO, INC
COUNCIL GROVE TELEPHONE CO
FAIRPOINT COMMUNICATIONS (CASS COUNTY)
GOLDEN BELT TELEPHONE ASSN
GORHAM TELEPHONE CO, INC
HAVILAND TELEPHONE CO, INC
JBN TELEPHONE CO, INC
KANOKLA TELEPHONE ASSN, INC
LA HARPE TELEPHONE CO, INC
MADISON TELEPHONE, LLC
MO-KAN DIAL, INC
MUTUAL TELEPHONE CO
PEOPLES TELECOMMUNICATIONS, LLC
PIONEER COMMUNICIATIONS
RAINBOW TELECOMMUNICATIONS ASSN
S & A TELEPHONE CO
S & T TELEPHONE COOPERATIVE ASSN
TRI-COUNTY TELEPHONE ASSN, INC

ILECS Reporting 99%-90% Availability of Broadband in 2008
BLUESTEM TELEPHONE CO
ELKHART TELEPHONE CO, INC
HOME TELEPHONE CO, INC
RURAL TELEPHONE SERVICE CO, INC
SOUTHERN KANSAS TELEPHONE CO, INC
SUNFLOWER TELEPHONE CO
UNITED TELEPHONE ASSN, INC
WAMEGO TELECOMMUNICATIONS CO, INC
WHEAT STATE TELEPHONE, INC

ILECS Reporting 89%-80% Availability of Broadband in 2008
CRAW-KAN TELEPHONE COOPERATIVE, INC
MOUNDRIDGE TELEPHONE CO, INC
SOUTH CENTRAL TELEPHONE ASSN, INC
TOTAH TELEPHONE CO, INC
UNITED SOUTHEAST KANSAS d/b/a CENTURYLINK
UNITED OF EASTERN KANSAS d/b/a CENTURYLINK

ILECS Reporting 79%-70% Availability of Broadband in 2008
TWIN VALLEY TELEPHONE, INC
UNITED TELEPHONE OF KANSAS d/b/a CENTURYLINK
UNITED OF SOUTHCENTRAL KANSAS d/b/a CENTURYLINK

ILECS Reporting 69% or less Availability of Broadband in 2008
AT&T
CUNNINGHAM TELEPHONE CO, INC
H & B COMMUNICATIONS, INC
ZENDA TELEPHONE CO, INC

KANSAS
CORPORATION COMMISSION

Mark Parkinson, Governor
Thomas E. Wright, Chairman
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Joseph F. Harkins, Commissioner

Briefing on the Kansas Universal Service Fund

Before the Senate Utilities Committee
January 27, 2010
Janet Buchanan, Utilities Division Deputy Director
On behalf of the Kansas Corporation Commission

Chairman Apple and members of the Senate Utilities Committee:

Thank you for the opportunity to discuss the Kansas Universal Service Fund with you. As you are aware, both the Kansas Telecommunications Act of 1996 (KTA) and Federal Telecommunications Act of 1996 (FTA) contain provisions to develop universal service funds to maintain and enhance universal service. The FTA allows states to develop their own universal service funds as long as the funding policies are consistent with those of the federal fund. The funds are known as the Kansas Universal Service Fund (KUSF) and the Universal Service Fund (USF). The KUSF is in its thirteenth year of providing support to local telephone service providers to assist in making universal service available in high cost areas of the state, to provide dual-party relay service and telecommunications equipment for persons with disabilities and to provide assistance to those with lower incomes through the Lifeline program. For the last several years, the KUSF has also provided funding for Kan-Ed. Currently, the fund is meeting requirements totaling approximately $66 million.

Background

Kansas statute, K.S.A. 66-2008(a)[1], dictated that KUSF support would initially be available to incumbent local exchange carriers in an amount equal to revenue that would be lost when access charge reductions were implemented as required by K.S.A. 66-2005(c). Recall that access charges are the prices long distance carriers pay local carriers for the origination and termination of long distance calls. These charges were historically higher than the actual cost of providing the service and the revenue from these charges contributed to keeping rates for local service lower than they otherwise would have been. When local carriers were not allowed to provide interLATA long distance services, there was less pressure to move rates to a level that reflected the cost of providing access service. However, with the passage of the FTA, local service providers would have an opportunity to enter the long distance market and long distance providers feared these carriers would have a cost advantage if access charges were not modified. The Federal Communications Commission (FCC) and the Kansas Legislature believed that access charges should be reduced but neither believed it should be done if universal service would be compromised by increases to basic local rates. Therefore, as access charges were reduced, local carriers were allowed to recover at least some portion of lost access revenue from the federal Universal Service Fund (FUSF) and the KUSF. In Kansas, price-cap carriers such as

[1] K.S.A 66-2008 has been amended and subsection (a) no longer reflects this requirement.

Senate Utilities Committee
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Attachments 2-1

ATT and CenturyLink have moved intrastate access charges toward parity with interstate access charges on two occasions. Independent local carriers are required by statute to mirror interstate access charges every two years.

While the initial amount of KUSF support was set to replace lost revenues, K.S.A 66-2008(c) requires that the Commission periodically review the KUSF to determine if the cost to provide service of local carriers eligible to receive such funds justifies modification of support. The Commission has answered this requirement by mirroring efforts by the FCC to meet a similar charge. For carriers like ATT, the FCC determined that support should be based on the cost to provide service if the network were being built given current technology rather than based on historical costs. A model was developed to determine the forward looking cost of providing service and support for large carriers. For smaller, independent carriers, the FCC maintained support based on a company's historical cost of service. The Commission followed suit. Support for ATT and CenturyLink was modified based on a forward looking cost model. Support available to independent carriers is being determined through rate of return audits of each company. The Commission has completed audits for all but three of the independent carriers.

<u>KUSF Assessment</u>
The Commission must set an assessment rate to be implemented March 1st of each year. The Commission gathers information regarding the anticipated expenditures from the fund and the estimated revenues of carriers contributing to the fund. The assessment is calculated by dividing the anticipated expenditures by the estimated revenues. Carriers are permitted, but not obligated, to pass the assessment to consumers on each bill. The incumbent local exchange carriers place an assessment on their bills that is calculated by dividing the projected assessment by the number of lines served by each carrier and is a fixed amount. All other carriers calculate an assessment rate based on the revenue generated by each customer. As an illustration of the calculation of the KUSF assessment, an exhibit from Staff's testimony filed in December 2009 supporting the new KUSF assessment is attached to this presentation.

The history of the size of the KUSF is provided as an attachment to this presentation. The fund was established in 1997 with funding requirements of $70,468,892. At its highest, the KUSF funding requirement was approximately $100 million. The highest assessment rate was 9%. The lowest funding requirement was approximately $60 million and the lowest assessment rate was 3.7%. In the current year, the funding requirement is approximately $66 million and the assessment rate is 5.03%. On January 14, 2010, the Commission issued an order adopting an assessment rate for year fourteen of the fund which begins March 1, 2010. The new funding requirement is approximately $70 million and the new assessment rate will be 6.06 %.

<u>KUSF Support Amounts</u>
As indicated above, the KUSF provides support for several uses all of which are intended to promote universal service. The largest portion of the support is provided to carriers who serve in high cost areas of the state. In Kansas, areas are usually viewed as high cost because of the low population density. In other states, geography can also contribute to the high cost nature of the service. In addressing the high cost to provide service in some areas, the KTA and FTA make universal service fund support available to competitive carriers that meet certain qualifications.

State Commissions were given the responsibility for determining whether competitive carriers were eligible for such support and for monitoring whether such carriers have used support appropriately. The Commission has reviewed applications from competitive carriers wishing to receive FUSF support and determined that eighteen were eligible. The Commission has reviewed applications from competitive carriers wishing to receive KUSF support and determined that nine were eligible. Attached to this presentation is a history of KUSF support amounts paid to carriers since the inception of the fund. In total, approximately $472 million in support has been provided to companies to assist in making service available to consumers at reasonable rates.

The fund also provides support for telecommunications relay services, telecommunications equipment, Lifeline and Kan-Ed.

Relationship to USF

The USF also provides support for universal service in Kansas. Carriers receive support for serving in high cost areas and support for low-income consumers is also provided through the USF. By far, the most significant relationship between the KUSF and USF is in support for high cost service. For the incumbent carriers, the Commission takes into account the amount of USF a carrier receives in determining the amount of KUSF support necessary for the carrier. Thus, changes in USF support amounts have a direct effect on KUSF support.

As of 2008, Kansas ranks third in receipt of high cost support from the USF. Only Mississippi and Texas receive more high cost support. In 2009, carriers received approximately $253 million in high cost support for Kansas service areas. From 1998 to 2008, carriers have received approximately $1.4 billion in high cost support for Kansas service areas. The total benefit to Kansans would be reflected by subtracting out the contributions made by Kansas consumers. Once contributions are subtracted, Kansas is still a net receiver of support from the USF.

The majority of the high cost USF support for Kansas is paid to incumbent local exchange carriers. However, fifteen competitive carriers are eligible for high cost support from the USF. Competitive carriers were estimated to receive $86 million. The majority of the competitive carriers are wireless carriers. Until recently, competitive carriers received the same amount of support per line as provided to the incumbent carrier. However, the FCC is considering whether this method of providing support is appropriate along with other considerations to reform the USF. The FCC has placed a cap on the amount of support available to competitive carriers until it makes a final determination on how to reform the USF.

Certification of Use of KUSF and USF

The FCC requires State Commissions to certify that carriers in their state are using USF support appropriately. In determining that a carrier eligible to receive support, known as an ETC, has used support appropriately, the Commission requires ETCs to file data and narrative each year explaining how support was used and indicating where support was spent. In addition, the Commission has determined that this data should also be used to determine whether KUSF support is being used appropriately. As a result of this review, the Commission has required an audit of one ETC to conduct a more in-depth review of whether support has been used appropriately. The company is required to submit its filing by February 15, 2010.

ATTACHMENT 1

2-4

Line	Description	Explanation		Year 14
	KUSF Obligations:			
1	Rural LECs	Estimated KUSF support for rural LECs. Reflects KUSF support as of 12/1/09, revenue increases from rebalancing to target rates, and other known or estimated changes. (Attachment A)	$	25,630,287
2	SWBT	Estimated KUSF support for SWBT. Based on 9/30/2009 lines, the high-cost model adopted in Order Nos. 10 and 16, Docket No. 99-GIMT-326-GIT, and the remainder of LWC cost KUSF support for Nex-Tech and Sage. (confidential Attachment B)		7,021,093
3	United-Kansas d/b/a CenturyLink	Estimated KUSF support for the United Telephone of Kansas Companies d/b/a CenturyLink. [Dec. 30, 1999 Order, Docket No. 99-GIMT-326-GIT] and 9/30/2009 lines. (confidential Attachment C)		15,769,929
4	Nex-Tech, Inc.	Estimated KUSF support for Nex-Tech, Inc. under LWC. (confidential Attachment D)		44,304
5	Sage Telecom, Inc.	Estimated KUSF support for Sage under LWC. (confidential Attachment E).		70,980
6	H&B Cable	Estimated KUSF Support for H&B Cable. (confidential Attachment F)		32,856
7	Nex-Tech Wireless	Estimated KUSF Support for Nex-Tech Wireless. (confidential Attachment G)		4,299,228
8	Epic Touch Co.	Estimated KUSF Support for Epic Touch (confidential Attachment H)		76,486
9	United Wireless Communications	Estimated KUSF support for United Wireless Communications (confidential Attachment I)		776,964
10	Kansas Relay Service Inc. (KRSI)	KRSI budget as submitted by administrator to Staff. (Attachment J)		1,891,315
11	Telecommunications Access Program (TAP)	TAP budget as submitted by administrator to Staff (Attachment J). See also July 1998 Order, Docket No.96-GIMT-345-MIS.		827,123
12	Lifeline	Based on historical payments and 3% growth. (Attachment J)		2,745,255
13	Kan-Ed	Kan-Ed appropriations. (Attachment J)		10,000,000
14	Administration and Audits (GVNW, carrier audits, and third-party audits)	Based on KCC's contract with GVNW and estimated cost for GVNW's KUSF Carrier Revenue Audits (based on costs incurred July - November 2009) and WithumSmith + Brown Years 12 and 13 Financial Audits and Service Auditor's Reports, based on prior year's audit and report. (Attachment K)		552,424
15	**Gross KUSF Obligations**	The sum of lines 1 through 14.	$	69,738,244
16	Less: Projected Year 13 Ending	Estimated Reserve. (Attachment L)		(2,327,945)
17	**Adjusted KUSF Obligations**	KUSF to collect prior to Contingency Fund. Sum of Lines 15 and 16.	$	67,410,299
18	Plus: Contingency Allowance	Per Jan. 19, 2000 Year 4 Order, Docket 00-GIMT-236-GIT, the Contingency Allowance is 7.5% of Adjusted Funds		5,055,772
19	**Net KUSF To Collect**	Line 17 plus Line 18.	$	72,466,071

2.5

Calculation of Year 14 KUSF Assessable Revenue
(3/1/10 thru 2/28/11)

Line	Description	Explanation	Year 14
	RETAIL REVENUES:		(3-1-2010)
1	Rural LECs	Provided by GVNW. Revenues revenues reported by Rural LECs and projected .05% Revenue Growth. (Attachments A, M, & Q)	$ 29,523,790
2	SWBT	Provided by GVNW. Based on revenues reported by SWBT and Staff projections. (confidential Attachment B, M, & Q.)	** **
3	United Telephone Companies of Kansas d/b/a CenturyLink	Provided by GVNW. Based on revenues reported by CenturyLink and Staff growth projections. (confidential Attachments C, M, & Q)	** **
4	Wireless Providers	Provided by GVNW. Based on revenues reported by cellular/wireless carriers & Staff projections. (confidential Attachment N and Q)	726,554,059
5	IXCs/Others	Provided by GVNW. Based on revenues reported by all carriers other than LECs, VoIP, and Wireless/Paging providers and Staff projected reductions. (confidential Attachment O & Q)	197,609,949
6	VoIP	Provided by GVNW. Based on revenues reported by companies registered as VoIP and Staff projections. (Attachments P & Q)	8,857,387
7	**Total Assessable Revenue**	**Sum of Lines 1-6.**	**$ 1,196,268,715**

2-6

ATTACHMENT 2

2-8

History of Kansas Universal Service Fund
(KUSF)
March 1997 - February 2004

Description	Year 1 3/1/1997	Year 2 Effective 6/1/1998	Year 3 3/1/1999	Year 4 3/1/2000	Year 5 3/1/2001	Year 6 3/1/2002	Year 7 3/1/2003
Order Date	12/27/1997	4/29/1998	1/29/1999	1/19/2000	1/19/2001	1/22/2002	1/24/2003
Docket No.	94-GIMT-478-GIT	94-GIMT-478-GIT	94-GIMT-478-GIT	00-GIMT-236-GIT	01-GIMT-235-GIT	02-GIMT-161-GIT	03-GIMT-284-GIT
Size of Fund [1]	$ 70,468,892	$ 100,452,021	$ 100,296,911	$ 63,071,500	$ 65,002,308	$ 60,134,748	$ 73,602,709
Amount toBe Collected [2]	77,788,220	68,756,420	85,824,741	60,270,500	58,760,820	49,073,331	65,739,179
Assessable Revenue [3]	$ 864,361,690	$ 1,006,520,487	$ 1,125,051,194	$ 1,225,326,005	$ 1,270,067,963	$ 1,326,562,228	$ 1,316,330,994
KUSF Rates:							
Assessment	9.00%	6.83%	7.63%	4.92%	4.85%	3.70%	4.99%
Surcharge	9.89%	7.33%	8.26%	4.66%	4.38%	3.34%	Adopted one rate for all companies.
Wireless Assessment		6.49%	7.24%	Adopted one rate for wireline companies and a reduced rate for wireless companies.			
Wireless Surcharge		6.94%	7.81%				
Wireless Reduction Factor [4]: *(effective 10/98 through 2/03)*		5.03%	5.03%	5.03%	9.69%	9.69%	N/A
Intrastate Safe Harbor							
Wireless			85.00%	85.00%	85.00%	85.00%	71.50%
Paging			88.00%	88.00%	88.00%	88.00%	
Analog SMR			99.00%	99.00%	99.00%	99.00%	88.00%
							99.00%
Per Line Amount [5]							
SWBT	$ 2.00	$ 1.99 b	$ 2.21 (c)	$ 1.51	$ 1.45	$ 1.19	$ 1.61
Sprint	1.35	1.37	1.55	0.97	1.15	0.98	1.43
Tri-County	1.07	0.87	0.96	0.33	0.54	0.42	0.70
Cass County	2.11	1.81	2.24	1.35	1.34	1.10	1.61
RLECs in Stipulation	1.43	1.41	1.50	0.79	0.63	0.49	0.77

Notes:
[1] The Size of the Fund reflects the sum of all monies needed to meet Fund obligations, plus monies for a contingency funding allowance.
[2] The Amount to Collect reflects the Size of the Fund, less any surplus reserve.
[3] The Assessable Revenue reflects the total intrastate retail revenue projected to be reported by carriers/companies to the KUSF during the Fiscal Year. The projections reflect intrastate access reductions, implemented consistent with KCC orders and state statute.
(4) Pursuant to K.S.A. 66-2008(b), the KCC reduced wireless providers' assessment by 5.03% effective 10/1/98. The Commission's July 9, 2002 Order, Docket 02-GIMT-161-GIT, adopted that all carriers will pay the same assessment rate,
(5) The Amount Per Line is the amount each Incumbent Local Exchange Carrier is authorized to collect from customers for Local Services.

History of Kansas Universal Service Fund
(KUSF)
March 2004 - February 2010

Effective Date:	Year 8 3/1/2004	Year 9 3/1/2005	Year 9 10/1/2005	Year 10 3/1/2006	Year 11 3/1/2007	Year 12 3/1/2008	Year 13 3/1/2009
Order Date	1/27/2004	1/27/2005	8/23/2005	1/23/2006	1/23/2007	1/22/2008	1/23/2009
Docket No.	04-GIMT-331-GIT	GIT	05-GIMT-260-GIT	06-GIMT-332-GIT	07-GIMT-276-GIT	08-GIMT-315-GIT	09-GIMT-272-GIT
Size of Fund [1]	$ 66,781,685	$ 61,517,756	$ 68,797,737	$ 73,159,583	$ 62,381,108	$ 65,162,614	$ 66,044,114
Amount to Collect [2]	62,059,381	54,445,408	63,236,241	73,159,583	51,852,824	57,899,871	61,951,654
Assessable Revenue [3]	$ 1,274,195,207	$ 1,260,383,952	$ 1,260,383,952	$ 1,204,705,741	$ 1,193,371,608	$ 1,245,225,528	$ 1,232,776,395
KUSF Assessment Rate	4.87%	4.32%	5.02%	6.07%	4.35%	4.65%	5.03%
Intrastate Safe Harbor							
Wireless/Cellular/PCS	71.50%	71.50%	71.50%	71.5%, Mar.-Sept.06 62.9%, Effective Oct. 06	62.90%	62.90%	62.90%
Paging	88.00%	88.00%	88.00%	88.00%	88.00%	88.00%	88.00%
Analog SMR	99.00%	99.00%	99.00%	99.00%	99.00%	99.00%	99.00%
Interconnected VoIP [4]	N/A	N/A	N/A	N/A	N/A	35.10%	35.10%
Per Line Amount [5]:							
SWBT f/k/a AT&T, SBC)	$ 1.50	$ 1.31	$ 1.52	$ 1.78	$ 1.30	$ 1.37	$ 1.52
Embarq (f/k/a Sprint)	1.54	1.36	1.58	1.82	1.21	1.36	1.49
RLECs in Stipulation [6]	0.87	0.79	0.92	1.14	0.88	1.01	1.15
Tri-County	0.76	0.96	1.11	1.25	0.88	N/A	N/A
Cass County	1.66	1.48	1.72	1.98	0.88	N/A	N/A

Notes:

[1] The Size of the Fund, or Gross KUSF Requirement, recognizes the total monies needed to meet Fund obligations. The KUSF reserve and contingency funding are excluded.

[2] The Amount to Collect, or Net Adjusted KUSF Requirement, reflects the total monies to collect from carriers. It includes all identified KUSF payments, the reserve, and contingency funding. In Year 10, the Size of the Fund and the Amount to Collect were the same, due to a minimal surplus balance and recognition of a liability resulting from Bluestem et. al. vs. KCC

[3] The Assessable Revenue reflects the total intrastate retail revenue projected to be reported by carriers/companies to the KUSF during the Fiscal Year. The projections reflect intrastate access reductions, implemented consistent with KCC orders and state statute.

[4] The September 2008 Order, Docket No. 07-GIMT-432-GIT, implemented the requirement for Interconnected VoIP providers to report to the KUSF, effective January 2009. Interconnected VoIP providers are allowed to apply the inverse of the FCC's Safe Harbor, or 35.10% to determine Kansas revenue for KUSF purposes

[5] The Amount Per Line is the amount each Incumbent Local Exchange Carrier is authorized to collect from customers for Local Service:

[6] See Commission's December 4, 2006 Order Granting Tri-County's and FairPoint Missouri's Motion to participate in RLEC Stipulation, approved Dec. 27, 1996 in Docket No. 94-GIMT-478-GIT. Effective March 1, 2007, the Per Line Assessment is the same for all Rural LECs.

1/29/2009

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ATTACHMENT 3

Kansas Universal Service Fund (KUSF) Support
Paid to Carriers
(3/1/1997 to 2/2002)

Carrier	Year 1 (3/97-2/98)	Year 2 (3/98-2/99)	Year 3 (3/99-2/00)	Year 4 (3/00-2/01)	Year 5 (3/01-2/02)	Total (3/97-2/02)
Bluestem	$ 169,316	$ 169,317	$ 169,685	$ 259,455	$ 235,750	$ 1,003,523
Blue Valley	475,153	468,889	467,017	979,180	1,098,319	3,488,558
Cass County	31,172	31,960	33,850	58,081	57,576	212,639
Columbus	97,111	67,999	41,409	167,398	149,070	522,987
Council Grove	17,773	-	-	86,993	75,616	180,382
CrawKan	295,743	295,743	295,743	2,123,826	1,830,363	4,841,418
Cunningham	533,448	533,448	533,448	651,858	709,793	2,961,995
Elkhart	-	-	-	312,432	365,950	678,382
Golden Belt	883,514	883,514	883,514	1,230,320	1,246,952	5,127,814
Gorham	36,702	36,610	36,567	55,972	57,656	223,507
Haviland	464,305	373,765	357,275	614,830	593,323	2,403,498
H & B	544,720	522,616	518,031	572,322	577,968	2,735,657
Home	529,392	515,264	526,675	689,102	689,475	2,949,908
JBN	509,790	509,790	522,661	833,711	828,153	3,204,105
KanOkla	642,033	643,230	644,595	767,240	769,137	3,466,235
LaHarpe	33,740	31,184	31,184	69,366	74,128	239,602
Madison	269,088	269,088	269,310	356,767	346,070	1,510,323
MoKan Dial	24,984	-	-	453,667	906,758	1,385,409
Moundridge	422,819	422,819	431,891	776,796	778,901	2,833,226
Mutual	23,692	24,984	24,984	80,125	81,154	234,939
Peoples	123,890	122,157	125,402	262,387	281,361	915,197
Pioneer	878,953	581,177	513,194	2,079,796	1,810,975	5,864,095
Rainbow	135,563	135,562	145,335	247,133	256,326	919,919
Rural	3,476,180	3,661,706	3,661,706	4,624,650	4,613,181	20,037,423
S & A	551,184	549,700	549,433	619,889	625,196	2,895,402
S & T	1,044,350	1,403,205	1,403,205	1,677,901	1,678,931	7,207,592
South Central	534,381	514,742	514,742	530,641	533,030	2,627,536
Southern KS	41,372	-	-	3,699,981	3,903,478	7,644,831
Southwestern Bell a/k/a AT&T	40,025,600	65,042,907	65,042,907	17,521,452	13,024,477	200,657,343
Sprint/United of KS	7,790,640	14,349,993	14,349,993	11,072,784	11,402,510	58,965,920
Sunflower	1,319,910	1,257,238	1,267,970	1,483,997	1,343,593	6,672,708
Totah	273,766	273,067	274,727	347,578	353,041	1,522,179
Tri-County	232,502	234,027	235,244	418,309	428,022	1,548,104
Twin Valley	693,262	701,928	705,395	893,489	920,038	3,914,112
United Telephone Assn	316,056	201,435	182,462	617,429	761,197	2,078,579
Wamego	-	-	-	218,254	308,190	526,444
Wheat State	667,876	671,600	671,600	911,281	935,539	3,857,896
Wilson	833,350	835,895	835,895	1,170,703	1,011,399	4,687,242
Zenda	81,924	81,923	82,145	98,119	104,897	449,008
						-
Western Wireless [b]	N/A	N/A	N/A	30,031	31,135	61,166
Total	$ 65,025,254	$ 96,418,482	$ 96,349,194	$ 59,665,245	$ 55,798,628	$ 373,256,803

Notes:
[a] Year 1 KUSF Support amounts are prior to any offset for rebalancing rates to the statewide average.
[b] Reflects actual KUSF support paid to Western Wireless.

2-11

Kansas Universal Service Fund (KUSF) Support
Paid to Carriers
(3/2002 to 2/2007)

Carrier	Year 6 (3/02-2/03)	Year 7 (3/03-2/04)	Year 8 (3/04-2/05)	Year 9 (3/05-2/06)	Year 10 (3/06 - 2/07)	Total (3/02-2/07)
Bluestem	$ 50,478	$ 139,350	$ -	$ 15,038	$ 15,038	$ 219,904
Blue Valley	909,228	684,835	612,211	788,998	795,824	3,791,096
Cass County [a]	58,019	66,248	57,704	56,908	-	238,879
Columbus [b]	50,704	-	-	-	-	50,704
Council Grove	74,289	103,550	711,715	1,177,670	1,177,670	3,244,894
CrawKan	1,459,344	2,194,637	1,855,253	2,013,935	2,013,935	9,537,104
Cunningham	708,202	770,021	736,248	628,476	587,495	3,430,442
Elkhart	350,868	468,078	468,078	495,326	206,334	1,988,684
FairPoint Missouri [c]						-
Golden Belt [d]	1,245,661	1,739,144	540,416	-	-	3,525,221
Gorham	57,217	85,483	77,515	78,352	144,343	442,910
Haviland	585,618	869,262	1,006,772	1,178,004	1,178,004	4,817,660
H & B	571,520	635,224	616,159	620,200	682,936	3,126,039
Home	646,200	820,852	806,494	841,912	841,912	3,957,370
JBN	711,788	321,347	321,347	383,489	383,489	2,121,460
KanOkla	767,665	938,894	892,252	942,699	941,891	4,483,401
LaHarpe	73,325	209,389	199,633	249,527	249,527	981,401
Madison	346,515	377,970	373,888	374,845	374,845	1,848,063
MoKan Dial [e]	909,633	1,189,640	-	22,384	22,384	2,144,041
Moundridge [f]	779,830	469,635	-	-	-	1,249,465
Mutual	80,677	112,288	112,288	119,826	119,826	544,905
Peoples	283,429	360,109	358,500	367,052	367,052	1,736,142
Pioneer	2,878,119	3,401,527	3,032,983	3,068,660	3,068,660	15,449,949
Rainbow	252,460	385,588	344,398	367,989	367,989	1,718,424
Rural	4,039,753	4,252,626	4,068,765	4,267,840	4,347,471	20,976,455
S & A	623,319	498,970	444,855	451,257	451,257	2,469,658
S & T	1,405,968	1,015,774	986,605	1,052,515	1,052,515	5,513,377
South Central	541,608	637,931	612,755	880,421	426,166	3,098,881
Southern KS	974,650	1,487,371	1,363,147	1,387,409	1,387,409	6,599,986
Southwestern Bell a/k/a A'	10,500,596	9,397,260	8,913,467	8,451,477	8,286,106	45,548,906
Sunflower [g]	7,057	43,233	-	-	-	50,290
Totah	352,609	522,967	489,127	460,182	342,946	2,167,831
Tri-County	427,764	606,215	528,531	1,356,399	1,868,783	4,787,692
Twin Valley [h]	920,040	1,051,368	1,401,878	1,441,078	3,035,316	7,849,680
United Telephone Assn	760,680	1,153,348	829,107	308,588	308,588	3,360,311
United of KS d/b/a Embar(	11,436,996	11,660,366	10,717,734	11,149,865	9,523,877	54,488,838
Wamego	290,051	498,973	385,493	494,482	519,484	2,188,483
Wheat State	928,574	1,027,316	897,767	935,551	935,551	4,724,759
Wilson	929,030	1,002,941	951,359	967,216	967,216	4,817,762
Zenda	104,830	123,771	120,487	128,970	128,970	607,028
						-
H&B Cable	N/A	N/A	31	11,528	11,617	23,176
Nex-Tech, Inc.	N/A	2,978	15,957	14,404	34,409	67,748
Nex-Tech Wireless	N/A	N/A	N/A	N/A	193,562	193,562
Sage Telecom	N/A	N/A	N/A	N/A	43,906	43,906
Western Wireless [i]	76,796	285,934	269,816	423,280	-	1,055,826
Total	$ 48,171,110	$ 51,612,413	$ 46,120,735	$ 47,973,752		$ 241,282,313

Notes:
[a] Effective 3/1/2006, Cass County no longer received KUSF support, pursuant to Docket No. 05-GIMT-094-GIT.
[b] Effective 3/1/2003, Columbus no longer received KUSF support, pursuant to Docket No. 03-CBST-778-TAR.
[c] FairPoint Missouri purchased Cass County and doees not receive KUSF support, pursuant to Docket No. 05-GIMT-094-GIT.
[d] Effective 7/1/2004, Golden Belt no longer received KUSF support, pursuant to Docket No. 04-GNBT-130-AUD.
[e] Effective 3/1/2004, MoKan did not receive KUSF support, per Docket No. 04-MKNT-364-AUD and then received support due to intrastate access rate adjustments.
[f] Effective 8/1/2003, Moundridge no longer received KUSF support, pursuant to Docket No. 04-MRGT-1117-AUD.
[g] Effective 6/1/2003, Sunflower no longer received KUSF support, pursuant to Docket No. 01-SFLT-879-AUD.
[h] Effective 3/1/2006, Twin Valley's KUSF support includes support for the exchanges purchased from Embarq, per Docket No. 09-TWVT-069-KSF.
[i] Reflects actual KUSF support paid to Western Wireless', see Docket No. 08-GIMT-315-GIT. Effective 1/1/2006, KUSF support was no longer paid for the property since it was purchased by U.S. Cellular.

2-12

Kansas Universal Service Fund (KUSF) Support
Paid to Carriers
(3/2007 to 2/2010)

Carrier	Year 11 (3/07-2/08)	Year 12 (3/08-2/09)	Year 13 [Est.] (3/09-2/10)	Total (3/07-2/10)
Bluestem	$ -	$ -	$ -	$ -
Blue Valley	723,134	694,068	545,631	1,962,833
Columbus [a]	-	68,750	40,884	109,634
Council Grove	1,143,609	1,121,445	1,049,078	3,314,132
CrawKan	1,592,271	1,447,143	1,206,949	4,246,363
Cunningham	544,621	530,043	474,334	1,548,998
Elkhart	95,570	94,130	65,153	254,853
FairPoint Missouri	-	-	-	-
Golden Belt	-	-	-	-
Gorham	233,857	220,305	199,411	653,573
Haviland	1,144,711	1,103,203	1,038,595	3,286,509
H & B	789,509	779,873	742,998	2,312,380
Home	797,648	775,196	687,724	2,260,568
JBN	299,745	275,577	217,027	792,349
KanOkla	897,028	873,736	788,417	2,559,181
LaHarpe	242,820	238,164	195,524	676,508
Madison	306,220	270,348	249,060	825,628
MoKan Dial	-	-	-	-
Moundridge [b]	50,000	600,000	411,038	1,061,038
Mutual [c]	109,126	115,821	253,217	478,164
Peoples	303,766	252,126	214,920	770,812
Pioneer	2,739,308	2,573,744	2,173,177	7,486,229
Rainbow	353,456	333,799	248,322	935,577
Rural	4,246,848	4,134,153	3,770,795	12,151,796
S & A	436,826	426,602	400,660	1,264,088
S & T	1,000,349	973,445	881,266	2,855,060
South Central	392,404	375,220	321,782	1,089,406
Southern KS	1,439,576	1,380,260	1,324,601	4,144,437
Southwestern Bell d/b/a AT&T [d]	7,946,568	7,733,329	7,751,513	23,431,410
Sunflower	-	-	-	-
Totah	314,129	299,657	179,056	792,842
Tri-County	1,771,175	1,733,327	1,607,197	5,111,699
Twin Valley [e]	2,993,551	3,069,491	3,935,069	9,998,111
United Telephone Assn	182,774	120,218	72,009	375,001
United of KS d/b/a Embarq	9,811,242	12,391,763	14,257,689	36,460,694
Wamego	433,721	367,061	152,432	953,214
Wheat State	873,853	844,969	756,961	2,475,783
Wilson	918,092	893,156	843,679	2,654,927
Zenda	121,411	119,143	100,130	340,684
				-
Epic Touch	84,779	92,444	82,307	259,530
H&B Cable [f]	17,069	23,298	25,393	65,760
Nex-Tech, Inc.	49,060	40,948	42,090	132,098
Nex-Tech Wireless [g]	1,758,253	2,828,473	3,077,837	7,664,563
Sage Telecom [h]	58,849	55,287	66,550	180,686
United Wireless Communications [i]	-	-	-	-
Total	$ 47,216,928	$ 50,269,715	$ 50,450,475	$ 147,937,118

Notes:

[a] Columbus began receiving KUSF support, effective 4/1/2008. (3/27/2008 Order, Docket No. 08-CBST-400-KSF).

[b] Effective 2/1/2008, Moundridge receives $600,000 of annual KUSF support, determined in Docket No. 08-MRGT-221-KSF.

[c] Effective 1/1/2009, Mutual's annual KUSF support was increased $14,417 a month, for January and February 2008 data months, as determined in

[d] Includes KUSF support associated with Nex-Tech, Inc. and Sage Telecom provisioning service via LWC.

[e] Effective 2/1/2009, Twin Valley's KUSF support determined in Docket No. 08TWVT-069-KSF includes KUSF support for the exchanges purchased

[f] H&B Cable received KUSF support for the period March 2007 - February 2009 in Docket No. 09-GIMT-272-GIT.

[g] Includes supplemental KUSF support approved in Docket Nos. 08-NTWZ-1084-KSF, 09-NTWZ-176-KSF, and 09-NTWZ-418-KSF. Total subject to change based on company's request for supplemental KUSF, effective 1/2009, in Docket No. 09-NTWZ-665-KSF

[h] Sage received KUSF support, retroactive to July 2006, in Docket No. 08-SAGT-617-KSF.

[i] United Wireless Communications filed a request for KUSF support, retroactive to August 2007, in Docket No. 08-UWCC-1101-KSF.

Summary of KUSF Support
Paid to Companies
(March 1997 to Feb. 2007)

Company		Gross KUSF Support Payable to Company [a]		Total Assessment Owed by Company [b]		Net KUSF Paid to Company [c]
Incumbent LECs:						
Columbus	$	561,148	$	74,280	$	486,868
Bluestem		1,095,734		124,248		971,486
Mutual		1,258,011		56,260		1,201,751
Gorham		1,309,992		35,394		1,274,598
Zenda		1,396,720		27,107		1,369,613
LaHarpe		1,897,511		44,003		1,853,508
FairPoint Missouri		2,956,058		179,539		2,776,519
Peoples		3,422,350		191,338		3,231,012
Council Grove		3,467,348		165,242		3,302,106
MoKan Dial		3,529,450		347,031		3,182,419
Wamego		3,643,139		633,989		3,009,150
Madison		4,184,014		92,983		4,091,031
Totah		4,552,852		160,891		4,391,961
Moundridge		5,143,729		322,560		4,821,169
Rainbow		5,813,865		232,951		5,580,914
United Telephone Assn		5,813,893		564,095		5,249,798
S & A		6,629,148		103,143		6,526,005
Elkhart		6,647,289		179,369		6,467,920
Sunflower		6,722,998		448,011		6,274,987
South Central		6,815,823		848,809		5,967,014
CrawKan		7,671,637		205,092		7,466,545
H & B		8,174,078		90,699		8,083,379
JBN		8,550,037		313,172		8,236,865
Golden Belt		8,653,035		738,960		7,914,075
Blue Valley		9,388,134		338,712		9,049,422
Home		10,496,035		200,148		10,295,887
Haviland		10,507,663		376,146		10,131,517
KanOkla		10,508,816		271,786		10,237,030
Wheat State		11,058,436		285,960		10,772,476
Tri-County		11,447,494		337,349		11,110,145
Wilson		12,159,931		274,671		11,885,260
S & T		15,576,029		338,231		15,237,798
Cunningham		15,927,520		1,563,440		14,364,080
Southern KS		18,389,254		464,691		17,924,563
Twin Valley		21,761,908		360,106		21,401,802
Pioneer		28,800,273		1,488,796		27,311,477
Rural		53,196,418		1,334,697		51,861,721
United of KS/CenturyLink		149,915,452		26,009,015		123,906,437
SW Bell		269,655,904		255,957,795		13,698,109
Total-ILECs	$	758,699,126	$	295,780,708	$	462,918,418
Competitive ETCs:[d]						
H&B Cable	$	85,079	$	32,931	$	52,148
Nex-Tech, Inc.		201,195		653,834		(452,639)
Epic Touch		204,398		91,660		112,739
Western Wireless		1,148,371		149,124		999,247
Sage Telecom, Inc.		1,247,551		1,471,473		(223,921)
United Wireless Communications		1,496,925		433,112		1,063,813
Nex-Tech Wireless		8,356,038		1,132,850		7,223,189
Total-Competitive ETCs	$	12,739,558	$	3,964,983	$	8,774,575
Grand Total	**$**	**771,438,684**	**$**	**299,745,691**	**$**	**471,692,992**

Notes:

[a] Gross KUSF Support reflects the amount paid to each company during the KUSF Fiscal Years, March 1997 through February 2009 and total projected support to be paid to each company March 2009-February 2010.

[b] The Net KUSF assessment owed by a company reflects only the assessment paid for operations that receive support. For the ILECs, the rural LECs' net assessments owed are based on the reported local service assessable lines as of 9/30 each year. For SWBT, CenturyLink, Nex-Tech Inc., Sage, it is based on each company's reported local service revenues and the approved assessment rate. For Epic Touch, H&B Cable, Nex-Tech Wireless and United Wireless, the net assessment reflects the reported amount owed for all company operations. For Western Wireless, no assessment is recognized for March 2000-February 2001 since company did not separately report revenues or assessments. The assessment owed for March 2001-February 2002 is annualized, based on KUSF-supported operation revenues that were separately reported October 2001-February 2002. Effective March 2002, the assessment owed reflects that reported by the company for its ETC operations.

[c] The Net KUSF Support paid to company is the Gross KUSF Payable less the assessment owed by the company.

[d] The Net Assessment owed by a competitive ETC is only recognized for periods in which the company qualified to receive KUSF support. Thus, monies paid into the KUSF in periods prior to when the company received KUSF support is not reflected.

2-14

Summaries of Telecommunications Bills 1996 - 2009
(excludes broadband, internet, 911)

1996

Policy Framework for Telecommunications

Senate Sub. for Sub. for H.B. 2728 articulates the policy framework for telecommunications in Kansas. The bill includes the following provisions:

- **Public Policy Objectives.** The bill articulates public policy objectives of: ensuring that every Kansan has access to a first class telecommunications infrastructure that provides excellent services at an affordable price and that will support applications, such as public safety, telemedicine, services for persons with special needs, distance learning, public library services, access to Internet providers, and others; ensuring that Kansans realize the benefits of competition; promoting consumer access to a full range of telecommunications services; and protecting consumers of telecommunications services from fraudulent business practices.
- **Definitions.** The bill defines key terms throughout the bill, including "universal service" and "enhanced universal service." The term "universal service" refers to: single party, two-way voice grade calling; stored program controlled switching with vertical service capability; E911 capability; tone dialing; access to operator services; access to directory assistance; and equal access to long distance services. The term "enhanced universal service" refers to: SS7 capability (including CLASS services, such as Caller ID); basic and primary rate ISDN services, or technological equivalent, (these services are capable of providing customers with high quality voice and simultaneous data communications); full-fiber interconnectivity (or technological equivalent) between central offices; and broadband capable facilities to schools, hospitals, public libraries, and state and local government facilities.
- **Responsibilities of the Kansas Corporation Commission.** The bill assigns several responsibilities to the Kansas Corporation Commission (KCC). Many of those responsibilities are addressed in greater detail below. Other responsibilities, which are not addressed below, include direction to the KCC to: establish funding mechanisms for telecommunications equipment for Kansans with speech, hearing, and visual impediments and other special needs; review the 1996 Federal Telecommunications Act (hereafter referred to as the federal act) and adopt additional standards and guidelines as necessary for enforcing slamming restrictions; periodically review or modify, if necessary, the definitions of "universal service" and "enhanced universal service"; initiate and complete a proceeding on or before January 1, 1997 to establish minimum quality of service standards, to be applied to local exchange carriers (providers of switched telecommunications service within a local exchange area in Kansas) and telecommunications carriers (interexchange or long distance carriers and competitive access providers) on an equitable basis; and prepare and submit a report to the Kansas Legislature on January 1, 2000, regarding the effectiveness of the regulatory framework.

Senate Utilities Committee
January 27, 2010
Attachments 3-1

- **Obligations of Local Exchange Carriers -- Resale, Unbundling, Interconnection, Number Portability, and Dialing Parity.** The bill requires a local exchange carrier to offer to allow reasonable resale of its retail telecommunications services and to sell unbundled local loop, switch, and trunk facilities (the requisite components of a switched telecommunications network) to telecommunications carriers, and specifies the terms and conditions under which resale may occur. Also included are provisions related to: interconnection (the connection of a local exchange carrier to a telecommunications carrier); number portability (the ability of customers of telecommunications services to retain, at the same location, existing telecommunications numbers when switching from one telecommunications carrier to another); and dialing parity (the ability of a customer to route calls automatically, without the use of any access code, to the telecommunications carrier of the customer's designation from among two or more telecommunications carriers, including local exchange carriers).
- **Rural Entry.** The bill provides for exemptions to rural telephone companies (independent telephone companies in Kansas, excluding Southwestern Bell and United) with respect to the duty to negotiate interconnection, unbundled access, resale, notice of change, and collocation. In addition, the KCC is required to adopt guidelines no later than December 31, 1996, which will, among other provisions, address the criteria for designation of a telecommunications carrier seeking to provide exchange access or local exchange service in an area already served by a rural telephone company. Such criteria will include a telecommunications carrier's infrastructure commitment and will be considered, among other issues, by the KCC in its certification process.
- **Network Infrastructure Plan.** The bill requires each local exchange carrier (Southwestern Bell, United, and each independent telephone company) to file a network infrastructure plan in 1997. Each plan must include schedules for deployment of universal service capabilities by July 1, 1998, and enhanced universal service capabilities by July 1, 2001, in addition to a demonstrated capability to comply on an ongoing basis with quality of service standards to be adopted by the KCC.
- **Regulatory Reform Plan.** The bill requires each local exchange carrier to file a regulatory reform plan at the same time as it files a network infrastructure plan. In its regulatory reform plan, a local exchange carrier may elect traditional rate of return regulation or price cap regulation. Such plan also must include a commitment to provide both point-to-point broadband services to hospitals, schools, public libraries, or other state and local government facilities and basic rate ISDN services (or technological equivalent) at prices uniform throughout a carrier's service area.
- **Rate Rebalancing -- Local Exchange Carriers.** The bill authorizes local exchange carriers (Southwestern Bell and United) to reduce intrastate switched access charges to interstate levels over a three-year period and authorizes the KCC to increase local residential and business service rates to offset reductions in intrastate access and toll charges (the intent is to bring intrastate access rates, considered to be priced above cost, and local rates, considered to be priced below cost, nearer to actual cost, to enable incumbent local exchange carriers to compete more effectively with telecommunications carriers). Any reductions in access and toll which are not recovered through increased local rates will be recovered from the Kansas Universal Service Fund (KUSF), discussed below.
- **Rate Rebalancing -- Rural Telephone Companies.** The bill requires rural telephone companies to reduce intrastate switched access rates to interstate

levels on March 1, 1997, and every two years thereafter. Any reductions in such rates will be recovered from the KUSF. Rural telephone companies also are authorized to increase their aggregate monthly rates for basic local services to an amount not to exceed $1.00 annually until such monthly rates reach an amount equal to the average of all rural telephone companies in the state for such services. (The KUSF will be used as a means of encouraging companies to realize that objective.) Although not specifically related to rate rebalancing, rural telephone companies that are subject to rate of return regulation are authorized, but not required, to increase their monthly basic local service rates by a total of not more than $1.50 per access line in any one year subject to a 15 percent protest procedure. The intent of this provision is to require the KCC to grant such rate increase requests in an expeditious manner.

- **Price Caps.** The bill specifies the structure and features of price cap plans, requiring the KCC to establish price caps at the prices existing when the regulatory plan is filed (taking into account rate rebalancing), and authorizing the KCC to determine the price cap adjustment formula and review it every five years.
- **Reduced Regulation, Price Deregulation, and Price Reregulation.** The bill requires the KCC, on or before July 1, 1997, to establish guidelines for reducing regulation prior to price deregulation of all services subject to price caps. Procedures are outlined in the bill to effectuate promotional services, individual customer pricing, reduced regulation, and price deregulation. A procedure is also outlined in the bill for resumption of price regulation of a price deregulated service.
- **Exemptions From Rate of Return/Earnings Regulation.** The bill prohibits the performance of audits, earnings reviews, or rate cases with reference to the initial prices of services subject to price caps. Moreover, carriers subject to price cap regulation will be exempt from rate base, rate of return and earnings regulation of any kind, unless a carrier, after due process, has failed to correct a quality of service standard violation and the KCC elects to resume such regulation. The KCC will still retain authority to perform cost studies in response to complaints and request information necessary to execute any of the obligations assigned to it in the bill.
- **Conditions for Telecommunications Carriers to Provide Switched Local Service.** The bill provides that telecommunications carriers will not be subject to price regulation, except that access charge reductions must be passed through to consumers by reductions in basic intrastate toll prices, and basic toll prices must remain geographically averaged statewide. All telecommunications carriers providing switched local exchange services must receive a certificate of convenience. The criteria governing such certification are outlined in the bill.
- **Kansas Lifeline Service Program.** The bill requires the KCC to establish, on or before January 1, 1997, the Kansas Lifeline Service Program to ensure that persons with low income can afford residential local service rates.
- **Kansas Universal Service Fund.** The bill requires the KCC to establish, on or before January 1, 1997, the Kansas Universal Service Fund (KUSF), and provides that the initial amount of the KUSF will be comprised of revenues lost due to rate rebalancing activities outlined above. Revenues will be recovered on a revenue neutral basis through a calculation to be based on the volumes and revenues for the period October 1, 1995 to September 30, 1996, adjusted for any rate changes. Every telecommunications carrier, telecommunications public utility, and wireless telecommunications service provider that provides intrastate services: must contribute to the KUSF on an equitable and nondiscriminatory manner; will be allowed to collect those contributions from

their respective customers; and is authorized to receive funding from the KUSF, provided that certain infrastructure and service delivery commitments are met. Provisions are also included in the bill for supplemental and additional supplemental KUSF funding and the purposes for which such funding may be authorized are delineated. All local exchange carriers that provided switched local exchange service in Kansas prior to January 1, 1996 will be eligible to receive funding from the KUSF. The KCC must use a competitive bidding process to select an administrator for the KUSF; the administrator's responsibilities are outlined in the bill.

- **Internet Access.** The bill requires that, on or after July 1, 1996 and prior to October 1, 1996, all local exchange carriers file tariffs, and rural telephone companies file concurring tariffs, to offer Internet access to an intraLATA Internet service provider of a customer's choice in those locations of the state where local (7-digit) Internet access is not available on October 1, 1996. Such access must support at least 14.4 kilobits per second with no more than 5 percent blockage during the busiest hour of the service. The tariffs filed with the KCC must provide for two flat-rate dial-up plans -- $15 per line per month for off-peak usage and $30 per line per month for unlimited usage. All Internet service providers operating in Kansas must register with the KCC. Finally, the KCC must report to the 1999 Legislature any proposed revisions related to the Internet provisions of the bill, which are due to technological innovation or market changes in the telecommunications industry.
- **Extension of KANS-A-N Services.** The bill amends the law to authorize the Secretary of Administration to provide KANS-A-N services to hospitals or public nonprofit corporations determined to be performing a state function on an ongoing basis. (Private nonprofits already have such authority.)
- **Impact Assessment of TeleKansas**. The bill requires the KCC to review the capital expenditures made by Southwestern Bell for the extension of TeleKansas I (TeleKansas II), as required by statute, and issue an order establishing a schedule for completion of such capital expenditures if the company's commitments have not been met.
- **Certification Requirements.** The bill amends the law to provide that Western Resources may obtain approval from the KCC as a precondition for issuing stock, certificates, bonds, notes, or other evidences of indebtedness due in more than 12 months. Prior law required all public utilities and common carriers to obtain such approval. Also amended is a law that prohibited common carriers and public utilities from purchasing or acquiring, taking, or holding any part of the capital stock, bonds, or other forms of indebtedness of any competing public utility or common carrier unless authorized by the KCC. The amendment exempts resellers and interexchange carriers from that prohibition. Finally, the bill repeals a statute requiring a public utility to obtain an order and certificate prior to placing liens on any public utility property in Kansas.
- **Clarification.** The bill clarifies that certain taxpayers, such as cable companies, may not be defined as public utilities for purposes of property valuation unless such companies transmit telephone messages.
- **Preemption.** The bill prohibits the KCC from enforcing any provision of this bill or any order entered in accordance with this bill if the provision or order is specifically preempted by the federal act.

1997

Changes in Regulatory Authority of Kansas Corporation Commission

S.B. 333 addresses several issues concerning the regulation of the Kansas Corporation Commission (hereafter referred to as the Commission):

- the assessment of expenses incurred by the Commission and the Citizens' Utility Ratepayer Board (CURB);
- the time period allowed the Commission to respond to requests or petitions for reconsideration of an order;
- investigations of various public utilities and common carriers by the Commission;
- exemptions granted to public utilities under certain circumstances from filing tariffs;
- requirements governing the issuance of securities by investor-owned electric public utilities;
- establishment of thermal efficiency standards;
- the time period authorized the Commission for making a determination on the rate requests of public utilities or common carriers; and
- the regulation of gas gathering services.

The explanation below addresses these components of the bill in greater detail. A severability clause is included at the end of the bill.

Investigations by the Commission. The bill amends several statutes concerning investigations of electric, telecommunications, natural gas, and miscellaneous public utilities and common carriers by the Commission at its own initiative or upon complaint. Specifically, the bill clarifies that all complaint-initiated hearings will be subject to provisions of the Kansas Administrative Procedure Act. However, with respect to general investigations, the Commission will not have to adhere to provisions of the Act. Furthermore, the bill authorizes but does not require the Commission to initiate an investigation in response to any complaint about rates and services of a public utility or common carrier. Prior law required the Commission to initiate an investigation.

Exemption from Tariff Filing Requirements. The bill authorizes the Commission to exempt from filing tariffs any jurisdictional public utility or common carrier not subject to price regulation. After a utility or common carrier has been exempted, such utility or common carrier may be required to file tariffs when necessary to protect consumers from fraudulent business practices, practices that are inconsistent with public interest, convenience, and necessity, or any other situation the Commission deems necessary.

1998

Telecommunications Services—Universal Service and Slamming

House Sub. for S.B. 212 amends the Kansas Telecommunications Act of 1996 (Kansas Act) by: reducing the size of the Kansas Universal Service Fund (KUSF); reducing KUSF assessments for

contributions by wireless providers; and clarifying the Kansas Corporation Commission's (KCC) authority to implement the Kansas Act as it relates to Internet access. The bill also establishes the
KUSF working committee which is to report its recommendations to the 1999 Legislature. Finally,
the bill amends the Kansas Consumer Protection Act to prohibit "slamming"—the practice of a telephone company switching a consumer's long distance or local telephone company without obtaining the consumer's express authorization. The following describes the provisions of the bill.

Size of KUSF. The bill curbs the size of the KUSF as follows:

- Deployment of enhanced universal services will be conditioned upon the completion by a local telephone company of a deployment plan which is subject to the KCC's approval or rejection. If the KCC takes no action on the plan within 90 days of receipt of the plan, the plan will be considered approved. The approval process will continue until July 1, 2000. Moreover, the schedule for statewide deployment of enhanced universal service capabilities is delayed from July 1, 2001 to July 1, 2003.

- The requirement in the Kansas Act for local telephone companies to provide dialup Internet access on and after July 1, 1999 to support 28.8 kilobit per second service is modified in the bill to 19.2 kilobit per second service capability by that date. The KCC must increase the 19.2 kilobit per second requirement when the KCC determines that more advanced technology is both technically and economically feasible.

- Prior to January 1, 2000, no telecommunications company may collect from customers an amount in excess of 8.89 percent of its intrastate retail revenues. Contributions collected in excess of distributions in a given year must be applied to offset the estimated contribution determined for the following year.

Wireless Providers. The bill reduces the assessment for KUSF contributions by wireless telecommunications service providers by subtracting the percentage minutes of usage of service
initiated and terminated entirely over the wireless network. The KCC will have to establish the assessment rate for wireless providers no later than December 31, 1998. That rate will take effect
prior to January 1, 2000. The effect of this provision will be to assess wireless providers at a lower
rate than the rate of contribution to be applied to wireline providers.

Clarification of KCC Authority. The bill requires the KCC to monitor the adequacy of connectivity to Internet service and provides the KCC staff with grounds for removing Internet service providers from the Internet service provider registry. The bill also outlines the obligations of local telephone companies offering discounted Internet access service plans once a new Internet service provider establishes a local presence. Under prior law, no procedure existed for addressing the transition to a competitive market with respect to Internet access service.

KUSF Working Committee. The bill requires the KCC to establish a KUSF working committee with the following composition and tasks:

- The working committee will include 22 members including: representatives from various segments of the telecommunications industry; an Internet service provider; a representative from the Citizens' Utility Ratepayer Board; a Kansas university faculty member with expertise in telecommunication technology; a representative of: elementary and secondary schools, a public library, a large business, and a small business; and eight legislators (four House members, two from each party; four Senate members; two from each party).

- The bill requires the working committee to discuss, identify, and develop recommendations regarding technology issues, KUSF funding regulatory procedures, modifications to enhanced universal service, and other issues identified by the committee, including, but not limited to the definition of enhanced universal service; how and when enhanced universal service should be deployed; the most appropriate mechanism for recovering capital costs; and how to address Internet access in light of changing technology.

- The bill requires the working committee, on or before December 1, 1998, to submit to the Legislature a report and recommendations based on the committee's activities. The report will be prepared by legislative staff.

Slamming. The following anti-slamming provisions are included in the bill:

- The telephone company requesting a change of carrier will have the burden of proving express authorization by a preponderance of the evidence. "Express authorization" is defined in the bill as an express, affirmative act by a consumer 199 clearly agreeing to the change in the consumer's telecommunications (long distance) carrier or local exchange carrier to another carrier.

- Any telephone company or any third-party verification entity is prohibited from soliciting or verifying changes from one telephone company to another if the solicitation or verification could be potentially misleading, deceptive, or confusing. Another prohibition includes the use of a box to collect sweepstakes, contests, or drawings to gather authorization for change in telephone companies or change or addition to telecommunications services. Verification procedures for changing telephone companies may not be used if they are not approved by the Federal Communications Commission or the KCC.

- Any telephone company in violation of the Act will be subject to a civil penalty of not less than $5,000, nor more than $20,000, for each violation. The bill also authorizes the KCC to pursue any other sanctions deemed necessary to respond to a telephone company's violations of the Act. Moreover, the Attorney General is authorized to pursue violations of the other sections of the Kansas Consumer Protection Act.

- All local telephone companies must annually notify their consumers of the option to specify, in writing, that they do not desire to change long distance companies regardless of any orders to the contrary submitted by a third party.

1999

Certificates of Convenience and Necessity

H.B. 2056 requires the State Corporation Commission to charge and collect an application fee of $250 from companies seeking certificates of convenience and necessity to provide competitive local services or long distance telecommunications services in Kansas.

2001

Bundled Telecommunications Services—Taxation

SB 1 provides a system for taxing bundled telecommunications services. Under this system, a retailer with the ability to break down the cost of bundled telecommunications services remits tax for only those services which are taxable. If the retailer's bookkeeping system does not allow for a breakdown of the cost of taxable and nontaxable services, then the combined cost is deemed to be attributable to the taxable services and, as such, the combined total is taxed.

The bill places the burden of proving that a receipt or charge is not taxable on the telecommunications retailer. The bill also provides that, upon request from the customer, the retailer is required to disclose the selling price of taxable services (if a breakdown is provided) and of taxable and nontaxable services (if billed on a combined basis).

The bill also requires that such retailers offering taxable and nontaxable bundled services enter into a written agreement with the Secretary of Revenue identifying the records to be used in determining the taxable portion of the selling price of the combined services within 90 days of billing.

2002

Kansas Open Records Act and Security Measures

Sub. for SB 112 amends the Kansas Open Records Act (KORA). The bill exempts from KORA all records that pose a substantial likelihood of revealing security measures that protect systems, facilities, or equipment used in the production, transmission, or distribution of:

- energy;
- water;
- communications services; or
- sewer or wastewater treatment systems, facilities, or equipment.

Security measures are those that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion, or affect the operation of government by disruptions of public services, mass destruction, assassination, or kidnapping.

Kansas No-Call Act and Telemarketing

Sub. for SB 296 establishes the Kansas No-call Act and redefines what constitutes an unsolicited telephone call in the State of Kansas. The bill authorizes the Attorney General to contract with the Direct Marketing Association (DMA) to maintain the no-call list of Kansas consumers. The list is to be part of the DMA's national do-not-call list and maintained by the DMA's Telephone Preference Service. The bill does the following:

No-Call Lists

- The DMA is to supply the Attorney General with a national no-call list free of charge and to update the list on a quarterly basis.
- A telephone solicitor has 30 days to delete a consumer's number after the list's publication. Consumers are admonished that it may be up to 150 days from the time the consumer registered to be on the no-call list before the consumer and the Attorney General are able to enforce the provisions of the act.
- Telephone solicitors will be provided updates of the no-call lists on January 1, April 1, July 1, and October 1 as part of the contract between the Attorney General and the DMA.
- Telephone solicitors, prior to accessing no-call list, are to submit a fee and complete a subscription agreement.
- The DMA shall comply with any lawful subpoena or court order directing disclosure of list.
- Attorney General may contract with the DMA for a national no-call list establishing certain conditions. The Attorney General also may contract, under the competitive bidding process, with another vendor to establish and maintain the no-call list, provided the DMA does not agree to enter into a contract.
- The DMA is prohibited from using the list for any other purpose than as directed by the Attorney General.
- The time period prior to the date of the next quarterly update in which consumers must register in order to appear on the next quarterly update of the no-call list is not to exceed 30 days.
- The Attorney General may designate the federal trade commission no-call list as the Kansas No-Call List.

Registration

- The DMA must offer consumers one free method of registration valid for five years.
- Consumers may contact the DMA, vendor, or Attorney General to register. The Attorney General may compile a list of numbers of consumers desiring to register and shall forward to the DMA within 15 days, and no fee shall be charged to the Attorney General by DMA for submitting the list.
- The Attorney General and the DMA are to notify consumers that telephone

numbers may not be added to the no-call list for up to 120 days.

Violations

- Telephone solicitors are prohibited from using the list for any other purpose than to remove consumer's telephone number.
- Telephone solicitors are liable for violations of the act if consumers who have their numbers on no-call list are contacted, unless the telephone solicitor can demonstrate non-liability due to certain conditions. The conditions for an affirmative defense to a violation are that the consumer listed to the public that the consumer's residential number was a business number; the telephone solicitor had knowledge that the consumer listed it as a business number; and the purpose of the call was directly related to the consumer's business.
- A telephone solicitor can use an affirmative defense only once every 12 months.
- Violations are considered an unconscionable act under the Kansas Consumer Protection Act.
- The DMA is to furnish information on all alleged violations to the Attorney General at no cost.
- Penalties and fees recovered from prosecution are to be paid to the Attorney General.
- Attorney General may convene a meeting with consumers to notify, educate, and promote the availability of the no-call list and solicitors' obligations.
- The DMA will consent to subject itself to the jurisdiction of the Kansas courts. The DMA will designate a resident agent for service of process.

Reporting Requirements

- The Attorney General is to report to the Legislature on the status of implementation of the act.

Other Requirements

- The bill defines an established business relationship as it applies to unsolicited telephone calls. Such a relationship is defined as one that is formed by a voluntary two-way communication between a telemarketer and consumer with or without an exchange of consideration. The communication must be based on an application, purchase, or transaction by the consumer, within the preceding 36 months. At any time, the consumer can object to a continuation of the relationship and can request that the telephone solicitor cease calling.
- Telephone solicitors' telephone numbers are not to be required to be displayed from a caller identification service prior to January 1, 2005.

Mobile Telecommunications Sourcing Act

SB 372 conforms Kansas law to the federal Mobile Telecommunications Sourcing Act (MTSA). The MTSA will be in effect as of August 1, 2002. It provides for a uniform method of sourcing tax revenues from the sales of mobile transactions, thereby avoiding multiple taxation of a customer's purchase of wireless telecommunications services. Two key components of the law are establishment of a "place of primary use" and the creation of state databases assigning street addresses to state and local taxing jurisdictions.

Under the law, tax revenues from sales of wireless telecommunications services are sourced to the customer's place of primary use. This is defined as the residential or business street address of the customer, regardless of the state where the individual's calls originate, terminate, or pass through. This address also must be within the licensed service area of the customer's home service provider.

In order to facilitate the new method of sourcing, the MTSA allows for states to create a state-level database assigning each street address within the state to the appropriate set of taxing jurisdictions. Carriers using a state database are held harmless for mistakes in assigning street addresses to taxing jurisdictions. If a state chooses not to create the database, a carrier may develop a database that assigns street addresses to taxing jurisdictions using a nine-digit zip code methodology. So long as the carrier exercises due diligence in creating and maintaining the database, the carrier is held harmless under the law for any under-collected tax liability arising from a good faith mistake in matching street addresses to taxing jurisdictions.

The effective date of the bill is August 1, 2002, to correspond with the effective date of the federal law.

New and Separate City Franchise Procedure for Telecommunications Local Exchange Service Providers

SB 397 creates a new and separate city franchise procedure for telecommunications local exchange service providers (hereafter referred to as telecommunications providers). Major components of the new system are as follows:

Contract Franchise

Under the bill, cities may require a telecommunications provider intending to provide local exchange services in the city to enter into a contract franchise ordinance. The contract franchise ordinance must be adopted by the governing body of a city absent a compelling public interest necessitated by public health, safety and welfare. The contract franchise is required to be competitively neutral and may not be unreasonable or discriminatory. Furthermore, no contract franchise ordinance may be denied or revoked without reasonable notice and an opportunity for a public hearing before the city governing body. The denial or revocation of a contract franchise ordinance may be appealed to the district court.

Under the bill, contract franchises are subject to the following requirements:

- All contract franchises or extensions will be made by ordinance.
- No contract franchise may be extended for more than 20 years from the date of the ordinance or extension.
- No telecommunications provider may be granted an exclusive contract franchise.
- No contract franchise is effective until the ordinance granting it has been legally adopted, and all expenses associated with publishing the ordinance will be paid

by the applicant.

Application Fees

Under the bill, a city may assess a one-time application fee to recover its costs associated with the review and approval of a contract franchise as long as the application fee reimburses the city for its reasonable, actual and verifiable costs of reviewing and approving the contract franchise. Likewise, the application fee must be competitively neutral and may not be unreasonable or discriminatory.

The city has 90 days to process and submit the application and contract franchise proposal to the city's governing body. The governing body is required to take a final vote concerning the contract franchise unless the telecommunications provider and the city agree otherwise. In considering the adoption and passage of a telecommunications contract franchise ordinance, the city may not regulate telecommunications providers based on the content, nature, or type of communications service or signal to be provided, or the quality of service provided to customers.

Access Line Fee and Gross Receipts Fee

The governing body of a city may require telecommunications providers to collect and remit an access line fee or, alternatively, a gross receipts fee to the city.

Access Line Fee. An access line fee of up to $2.00 per month, per access line is authorized under the bill. The bill defines "access line" to include a variety of residential and business lines, but specifically excludes a number of items including wireless telecommunications services. The access line fee would be based on the access line count, which is the number of access lines serving consumers within the corporate boundaries of the city on the last day of each month. The maximum fee possible will be increased to $2.25 in 2006, $2.50 in 2009, and $2.75 in 2012 and thereafter.

Gross Receipts Fee. As an alternative to the access line fee, the governing body of a city may require telecommunications providers to collect and remit a fee of up to 5 percent of gross receipts. The bill defines "gross receipts" as receipts collected from within the corporate boundaries of the city, derived from the following:

- Recurring local exchange service for business and residence, including basic exchange service, touch tone, optional calling features, and measured local calls;
- Recurring local exchange access line services for pay phone lines provided by a telecommunications provider to all pay phone service providers;
- Local directory assistance revenue;
- Line status verification/busy interrupt revenue;
- Local operator assistance revenue; and
- Nonrecurring local exchange service revenue which does not include customer service for installation of lines, reconnection of service and charge for duplicate bills.

Subject to notification requirements, cities may elect to adopt an increased access line fee or gross receipts fee beginning January 1, 2004, and every 36 months thereafter. A city may require a telecommunications provider to collect or remit an access line fee or a gross receipts fee on those access line that have been resold to another telecommunications provider, but if this is done, the city may not require such collection or remittance from the reseller and may not require the reseller to enter into a franchise contract ordinance.

The bill lists a number of restrictions which cities may not place on telecommunications providers, including requiring that particular business offices or other telecommunications facilities be located in the city.

Pass Through of Fees

Under the bill, a telecommunications provider that is assessing, collecting and remitting an application fee, access line fee or gross receipts fee must add a corresponding surcharge to its customers' bills.

Authority to Use Public Rights-of-Way

Under the bill, any local exchange carrier or telecommunications carrier as defined by statute has the right to construct, maintain and operate poles, conduit, cable, switches and related items in, above, or under any public right-of-way in Kansas. This use of the right-of-way is required to be done in such a way as not to obstruct or hinder the usual travel or public safety or obstruct the legal use by other utilities.

The bill allows cities to exercise home rule powers in the administration and regulation of the public right-of-way so long as this exercise is competitively neutral and not unreasonable or discriminatory. The bill also gives cities the authority to prohibit the use or occupation of a specific portion of public right-of-way by a provider due to a reasonable public interest necessitated by public health, safety and welfare as long as the authority is exercised in a competitively neutral manner and is not unreasonable or discriminatory. The bill provides a list of permissible public interests.

"Hold Harmless" Provision

Under the bill, providers are required to indemnify and hold the city and its officers and employees harmless against claims resulting from the negligence of the provider while installing, repairing or maintaining facilities in a public right-of-way.

Affordable Telecommunications and Utility Rates

Sub. for HB 2754 amends portions of the Kansas Telecommunications Act of 1996 (referred to as the Kansas Act) that deal with universal service protection, telephone rate rebalancing, intrastate switched access rates, and the Kansas Universal Service Fund (KUSF). Major components of the bill are as follows:

Intrastate Switched Access Rates

The bill 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 0.75 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.

Affordable Rates and the KUSF

The bill amends the Kansas Act by establishing 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. An affordable rate for residential service is 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 is 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 will be arrived at in a similar way, except that any increase over the weighted mean exceeding $2 will be satisfied by corresponding increases in a rural telephone company's monthly service rate.

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

The bill contains additional components of establishing affordable rates and provisions defining contributions to KUSF:

- 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 is 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 do not apply to rural telephone companies that do not receive KUSF support.

Calculating Support for the KUSF

The bill amends the KUSF statute by specifying that rural telephone companies, in calculating their revenue requirements and determining their support for the KUSF, are required to base their calculations on actual embedded costs, rather than the cost monitored, prior to June of 2006. Included with a carrier's embedded costs are also revenue requirements, investments and expenses.

2006

Telecommunications Price Deregulation

SB 350 amends 2005 Supp. KSA 66-2005 to remove the Kansas Corporation Commission's (KCC) discretion to price deregulate telecommunications services in an exchange. The bill establishes thresholds for price deregulation for local exchange carriers currently subject to price cap regulation. Those thresholds are as follows:

- Packages or bundles are price deregulated statewide;

- With certain exceptions, individual components of bundles are price deregulated where there are 75,000 or more local exchange access lines served by all providers in an exchange;

- Where there are fewer than 75,000 local access lines served by all providers in an exchange, all business services are price deregulated when an applicant demonstrates to the KCC that two or more non-affiliated telecommunications carriers or other entities, (with one being facilities-based), provide service to business customers and that none of the competitors are affiliated with the incumbent local exchange carrier;

- Where there are fewer than 75,000 local access lines served by all providers, all residential services are price deregulated when an applicant demonstrates to the KCC that two or more non-affiliated telecommunications carriers or other entities (with one being facilities-based), provide service to residential customers, and that none of the competitors are affiliated with the incumbent local exchange carrier.

The KCC has 21 days or up to 51 days, if an extension order is issued, to act upon a petition filed by a carrier seeking price deregulation in the smaller exchanges.

The carrier of services that is price deregulated pursuant to the bill may adjust its rates upward or downward, subject to the price floor, as it determines appropriate in its competitive environment. The bill requires that prices for deregulated services not be unreasonably discriminatory or unduly preferential within an exchange. With the exception of promotions already authorized by law, carriers are required to provide uniform pricing for price deregulated services throughout an exchange unless other pricing is approved by the KCC.

Rates for lifeline services, the initial residential local exchange access line and up to four business local exchange access lines at one location remain subject to price cap regulation. Price cap regulation continues to apply if those lines are purchased with one or more call management or long distance services.

The bill permits the KCC to resume price cap regulation if:

- Thresholds for price deregulation of business or residential telecommunications services are no longer satisfied;

- The KCC finds, after a hearing, that the carrier has violated minimum quality of service standards and the carrier has been given reasonable notice and an opportunity to correct the violation and has failed to correct the violation.

The bill requires the KCC to resume price cap regulation in the larger exchanges if:

- The exchange is no longer served by at least two nonaffiliated telecommunications carriers one of which is facilities-based and no more than one of which is a provider of wireless telephone service.

The KCC is required to record the cost of individual telecommunication services in each exchange prior to deregulation of the service and annually thereafter. The KCC also is required to determine the weighted, statewide average rate of wireline, basic local telecommunications service as of July 1, 2006. By January 1, 2007, and annually thereafter, the KCC is required to determine the weighted statewide average rate of those services in exchanges that have been price deregulated and report its findings to the Governor, the Legislature, and to members of the standing committees of the House and Senate to which telecommunication issues are assigned. If the more recent average rate is greater than the 2006 average multiplied by one plus the percentage increase in the consumer price index, or if the KCC believes that changes in state law are warranted due to the status of competition, the KCC is required to recommend appropriate changes to state law. The KCC also is required to include in the annual report any additional information deemed useful in determining the effect of price deregulation on consumers and the competitive environment.

The bill requires the KCC to issue an order within 60 days of the filing of a complaint that a price deregulated service is being offered below the price floor established in accordance with existing law. The time allowed for the KCC to issue its order can be extended if the complainant agrees to an extension.

The bill defines "packages or bundles of services" to mean the offering of a local telecommunications service with one or more of the following, subscribed together, as one service option offered at one price: one or more call management services; long distance service; internet access; and video services or wireless services. A combination of only a local exchange access line and long distance service, or up to four business lines at one location and long distance service, is specifically excluded from the definition of "package or bundle."

The bill defines "facilities based carrier" to mean a telecommunications carrier or entity providing local telephone service either wholly or partially over its own network but does not include wireless service providers.

The bill defines "call management services" to be optional telephone services that allow a customer to manage call flow generated over the customer's local exchange access line.

In the context of the price deregulation provisions of the bill, a telecommunications service provider includes any entity providing voice service regardless of whether such entity is subject to regulation by the KCC. Unaffiliated wireless carriers and Voice over Internet Protocol providers that offer service over their own broadband facilities are considered competitors for purposes of the thresholds established by the bill for smaller exchanges. Services that require the use of a third party, unaffiliated broadband network or dial-up internet network for the origination of local voice service or carriers offering only prepaid telecommunications service are not considered telecommunication services providers for price deregulation threshold purposes.

2008

Voice over Internet Protocol (VoIP) Contributions to the Kansas Universal Service Fund

SB49 requires interconnected voice over internet protocol (VoIP) service providers to contribute to the Kansas Universal Service Fund (KUSF) to the extent that such a requirement is not prohibited by federal law. The requirement is included in the statute which requires every telecommunications public utility and wireless telecommunications service provider of intrastate telecommunications services to contribute to the KUSF on an equitable and nondiscriminatory basis.

Telecommunications Mergers and Broadband Service Inventories

SB 570 removes the requirement for the Kansas Corporation Commission (KCC) to approve or deny mergers or acquisitions solely between telecommunications companies that have elected price cap regulation in Kansas. Embarq and AT&T are the only price-cap regulated telecommunications companies in Kansas.

The bill also requires broadband service providers to submit a report to the KCC containing information about the geographic areas where service is available from the provider. This report is required by October 1, 2008.

The KCC is required to report to the Legislature by January 15, 2009, and every year following, on the state's broadband service. This report includes a report of census tracts where broadband service is available and how many providers service each census tract. Starting in 2010, the report will document changes in the number of providers and areas where broadband service is available. The KCC will report the names of providers that fail to comply with the reporting requirement. The KCC is required to protect the confidentiality of the information submitted by each provider and to prevent disclosure of trade secrets from the providers while collecting information for the report. These requirements sunset on July 1, 2013.

Utility Statute Amendments

HB2637 amends existing law:

- Related to price regulations for basic local telecommunications service;
- Regarding local telecommunications carrier of last resort responsibilities;
- Regarding protection of underground water and wastewater utilities;
- Regarding the state One-Call notification center; and
- Regarding procurement of services by the Citizens' Utility Ratepayer Board.

Telecommunication Price Regulation Amendments

In regard to telecommunications services, existing law is amended to authorize local exchange carriers, after July 1, 2008, to adjust the rates for the initial telephone line and up to four business lines at a single location without approval from the Kansas Corporation Commission (KCC) provided that the rates are not increased in a one-year period by more than the percentage increase in the consumer price index for all urban consumers, nor adjusted below the statutory price floor.

In addition, the bill requires the KCC to use data from July 1, 2008, rather than from July 1, 2006, as the reference point when comparing the weighted, average rate for deregulated nonwireless basic service to the weighted, average rate for all nonwireless basic service. The bill also amends existing law to require that reports from the KCC recommending changes in state law warranted due to the status of telecommunication competition be submitted to all members of the Legislature in addition to the Governor.

Existing law related to the lifeline service program also is amended by the bill. Local telecommunication carriers that have been price deregulated are required to automatically enroll in the program those customers who are eligible for lifeline services. Other carriers also may automatically enroll their eligible customers in the lifeline program. This enrollment will be based on a list of eligible customers provided to the companies by the Department of Social and Rehabilitation Services (SRS). The companies will have to enter into a confidentiality agreement with SRS prior to receiving customers' information. Customers must consent to the release of their personal information. Upon a customer's request, a carrier must discontinue the lifeline service.

The KCC is authorized to approve a wireline service provider's application for eligible telecommunications carrier designation in nonrural service areas in order that the carrier may receive federal Universal Service Fund support equal to that received in the carrier's own service area.

Telecommunication Service Providers—Carrier of Last Resort Amendments

The bill relieves a local exchange carrier of its responsibility as carrier of last resort to occupants of real property if the owner or developer of the real property does any of the following:

- Permits an alternative service provider, during construction of the property, to install its local telecommunications services based on a condition of exclusion of the local exchange carrier; or

- Accepts incentives from an alternative service provider contingent on one or more alternative service providers providing local telecommunications service to the exclusion of the local exchange carrier; or

- Collects from occupants or residents of the real property mandatory charges for local telecommunications service provided by an alternative service provider, including collection through rent, fees, or

When the new development is located in an area that requires entirely new construction of local loops and other network equipment in order to serve the new development, a carrier of last resort would not automatically be relieved of its obligations. In that instance, relief will be allowed only if the alternative service provider possesses, or will possess when service begins, the capability to provide local telecommunications service, or the functional equivalent of that service.

A local exchange carrier that is relieved of its responsibility to provide local telecommunication services as a result of this provision is required to notify the KCC within 120 days. In addition, a local exchange carrier is allowed to petition the KCC to be relieved of its responsibility as carrier of last resort for good cause.

If a local exchange carrier is relieved of its carrier of last resort obligations for the reasons described above, the owner or developer of the property will be required to provide all occupants and any subsequent owner of the property with the following information:

- The incumbent local exchange carrier does not have facilities installed to serve theproperty and has been relieved of its carrier of last resort obligations; and

- The name of the person that will be providing local telecommunications service to theproperty and the type of technology that will be used.

If the conditions described above cease to exist, and if the developer of the real property makes a written request for service, a local exchange carrier's obligation to serve as carrier of last resort will again apply. The carrier is required to notify the KCC that it is resuming that obligation. The local exchange carrier is allowed to require the developer to pay a reasonable fee, in advance, to allow the carrier to recover the costs that exceed the costs that would have been incurred to provide service initially. The KCC is authorized to verify that the fee enables recovery of excess costs.

If an owner or developer of real property has an exclusive relationship with an alternative provider of telecommunication services, written notice must be provided to any purchaser of the property. The written notice must state that the local exchange carrier is excluded and that the alternative service provider is the exclusive provider of service to such property.

2009

Kelsey Smith Act

Senate Sub. for HB 2126 enacts the Kelsey Smith Act, which requires wireless telecommunications carriers to provide information about the location of the telecommunications device of a user of the carriers' services, if requested by a law enforcement agency in order to respond to a call for emergency services or to respond in an emergency situation that involves risk of death or serious physical harm. Wireless carriers are authorized, but not required, to establish protocols for voluntary disclosure of call location information. The provision of information as required by the bill does not create a cause of action against a telecommunications carrier acting in good faith and in accordance with the provisions of the Act.

To facilitate requests from law enforcement for call location information, the Kansas Bureau of Investigation is required to obtain the contact information for all wireless telecommunications carriers doing business in Kansas, and to distribute that information to public safety answering points quarterly or any time a change in the information occurred. The Bureau is required to adopt rules and regulations to implement the Act by July 1, 2010.

Short Summaries of Telecommunications Bills, 1996 - 2009 (excludes broadband, internet, 911)

1996

Policy Framework for Telecommunications

Senate Sub. for Sub. for H.B. 2728 articulates the policy framework for telecommunications in Kansas. The bill includes the following provisions:

- **Public Policy Objectives.** The bill articulates public policy objectives of: ensuring that every Kansan has access to a first class telecommunications infrastructure that provides excellent services at an affordable price and that will support applications, such as public safety, telemedicine, services for persons with special needs, distance learning, public library services, access to Internet providers, and others; ensuring that Kansans realize the benefits of competition; promoting consumer access to a full range of telecommunications services; and protecting consumers of telecommunications services from fraudulent business practices.

- **Responsibilities of the Kansas Corporation Commission.** The bill assigns several responsibilities to the Kansas Corporation Commission (KCC). Many of those responsibilities are addressed in greater detail below. Other responsibilities, which are not addressed below, include direction to the KCC to: establish funding mechanisms for telecommunications equipment for Kansans with speech, hearing, and visual impediments and other special needs; review the 1996 Federal Telecommunications Act (hereafter referred to as the federal act) and adopt additional standards and guidelines as necessary for enforcing slamming restrictions; periodically review or modify, if necessary, the definitions of "universal service" and "enhanced universal service"
- *initiate and complete a proceeding on or before January 1, 1997 to establish minimum quality of service standards, to be applied to local exchange carriers (providers of switched telecommunications service within a local exchange area in Kansas) and telecommunications carriers (interexchange or long distance carriers and competitive access providers) on an equitable basis;*

- **Obligations of Local Exchange Carriers -- Resale, Unbundling, Interconnection, Number Portability, and Dialing Parity.** The bill requires a local exchange carrier to offer to allow reasonable resale of its retail telecommunications services and to sell unbundled local loop, switch, and trunk facilities (the requisite components of a switched telecommunications network) to telecommunications carriers, and specifies the terms and conditions under which resale may occur.

- **Rural Entry.** The bill provides for exemptions to rural telephone companies (independent telephone companies in Kansas, excluding Southwestern Bell and United) with respect to the duty to negotiate interconnection, unbundled access, resale, notice of change, and collocation.

- **Network Infrastructure Plan.** The bill requires each local exchange carrier (Southwestern Bell, United, and each independent telephone company) to file a network infrastructure plan in 1997 including schedules for deployment of universal service capabilities, enhanced universal service capabilities, and a demonstrated capability to comply on an ongoing basis with quality of service standards to be adopted by the KCC.

- **Regulatory Reform Plan.** The bill requires each local exchange carrier to file a regulatory reform plan at the same time as it files a network infrastructure plan. In its regulatory reform plan, a local exchange carrier may elect traditional rate of return regulation or price cap regulation.

- **Rate Rebalancing -- Local Exchange Carriers.** The bill authorizes local exchange carriers (Southwestern Bell and United) to reduce intrastate switched access charges to interstate levels over a three-year period and authorizes the KCC to increase local residential and business service rates to offset reductions in intrastate access and toll charges. Any reductions in access and toll which are not recovered through increased local rates will be recovered from the Kansas Universal Service Fund (KUSF).

- **Rate Rebalancing -- Rural Telephone Companies.** The bill requires rural telephone companies to reduce intrastate switched access rates to interstate levels on March 1, 1997, and every two years thereafter. Any reductions in such rates will be recovered from the KUSF.

- **Price Caps.** The bill specifies the structure and features of price cap plans, requiring the KCC to establish price caps at the prices existing when the regulatory plan is filed (taking into account rate rebalancing), and authorizing the KCC to determine the price cap adjustment formula and review it every five years.

- **Exemptions From Rate of Return/Earnings Regulation.** The bill prohibits the performance of audits, earnings reviews, or rate cases with reference to the initial prices of services subject to price caps. Moreover, carriers subject to price cap regulation will be exempt from rate base, rate of return and earnings regulation of any kind, unless a carrier, after due process, has failed to correct a quality of service standard violation and the KCC elects to resume such regulation. The KCC will still retain authority to perform cost studies in response to complaints and request information necessary to execute any of the obligations assigned to it in the bill.

- **Conditions for Telecommunications Carriers to Provide Switched Local Service.** The bill provides that telecommunications carriers will not be subject to price regulation, except that access charge reductions must be passed through to consumers by reductions in basic intrastate toll prices, and basic toll prices must remain geographically averaged statewide. All telecommunications carriers providing switched local exchange services must receive a certificate of convenience. The criteria governing such certification are outlined in the bill.

- **Kansas Lifeline Service Program.** The bill requires the KCC to establish, on or before January 1, 1997, the Kansas Lifeline Service Program to ensure that persons with low income can afford residential local service rates.

- **Kansas Universal Service Fund.** The bill requires the KCC to establish, on or before January 1, 1997, the Kansas Universal Service Fund (KUSF), and provides that the initial amount of the KUSF will be comprised of revenues lost due to rate rebalancing activities outlined above.

- **Internet Access.** The bill requires that, on or after July 1, 1996 and prior to

October 1, 1996, all local exchange carriers file tariffs, and rural telephone companies file concurring tariffs, to offer Internet access to an intraLATA Internet service provider of a customer's choice in those locations of the state where local (7-digit) Internet access is not available on October 1, 1996.

1997

Changes in Regulatory Authority of Kansas Corporation Commission

S.B. 333 addresses several issues concerning the regulation of the Kansas Corporation Commission. Among other things, the bill amends several statutes concerning investigations of electric, telecommunications, natural gas, and miscellaneous public utilities and common carriers by the Commission at its own initiative or upon complaint.

1998

Telecommunications Services—Universal Service and Slamming

House Sub. for S.B. 212 amends the Kansas Telecommunications Act of 1996 (Kansas Act) by: reducing the size of the Kansas Universal Service Fund (KUSF); reducing KUSF assessments for contributions by wireless providers; and clarifying the Kansas Corporation Commission's (KCC) authority to implement the Kansas Act as it relates to Internet access. The bill also establishes the KUSF working committee which is to report its recommendations to the 1999 Legislature. Finally,the bill amends the Kansas Consumer Protection Act to prohibit "slamming"—the practice of a telephone company switching a consumer's long distance or local telephone company without obtaining the consumer's express authorization.

1999

Certificates of Convenience and Necessity

H.B. 2056 requires the State Corporation Commission to charge and collect an application fee of $250 from companies seeking certificates of convenience and necessity to provide competitive local services or long distance telecommunications services in Kansas.

2001

Bundled Telecommunications Services—Taxation

SB 1 provides a system for taxing bundled telecommunications services. Under this system, a retailer with the ability to break down the cost of bundled telecommunications services remits tax for only those services which are taxable. If the retailer's bookkeeping system does not allow for a breakdown of the cost of taxable and nontaxable services, then the combined cost is deemed to be attributable to the taxable services and, as such, the combined total is taxed.

2002

Kansas No-Call Act and Telemarketing

Sub. for SB 296 establishes the Kansas No-call Act and redefines what constitutes an unsolicited telephone call in the State of Kansas. The bill authorizes the Attorney General to contract with the Direct Marketing Association (DMA) to maintain the no-call list of Kansas consumers. The list is to be part of the DMA's national do-not-call list and maintained by the DMA's Telephone Preference Service.

Mobile Telecommunications Sourcing Act

SB 372 conforms Kansas law to the federal Mobile Telecommunications Sourcing Act (MTSA). The MTSA will be in effect as of August 1, 2002. It provides for a uniform method of sourcing tax revenues from the sales of mobile transactions, thereby avoiding multiple taxation of a customer's purchase of wireless telecommunications services. .

New and Separate City Franchise Procedure for Telecommunications Local Exchange Service Providers

SB 397 creates a new and separate city franchise procedure for telecommunications local exchange service providers (telecommunications providers). Major components of the new system are as follows:

- Under the bill, cities may require a telecommunications provider intending to provide local exchange services in the city to enter into a contract franchise ordinance;
- A city may assess a one-time application fee to recover its costs associated with the review and approval of a contract franchise;
- The governing body of a city may require telecommunications providers to collect and remit an access line fee or, alternatively, a gross receipts fee to the city; and
- Any local exchange carrier or telecommunications carrier as defined by statute has the right to construct, maintain and operate poles, conduit, cable, switches and related items in, above, or under any public right-of-way in Kansas.

Affordable Telecommunications and Utility Rates

Sub. for HB 2754 amends portions of the Kansas Telecommunications Act of 1996 that deal with universal service protection, telephone rate rebalancing, intrastate switched access rates, and the Kansas Universal Service Fund (KUSF). Major components of the bill are as follows:

- Each rural telephone company is required to adjust its intrastate switched access rates to match its interstate switched access rates;
- The bill establishing procedures by which affordable local telephone rates for both residential service and for business service could be reached and still provide sufficient KUSF support.
- The bill amends the KUSF statute by specifying that rural telephone companies, in calculating their revenue requirements and determining their support for the KUSF, are required to base their calculations on actual embedded costs, rather than the cost monitored, prior to June of 2006.

2006

Telecommunications Price Deregulation

SB 350 amends 2005 Supp. KSA 66-2005 to remove the Kansas Corporation Commission's (KCC) discretion to price deregulate telecommunications services in an exchange. The bill establishes thresholds for price deregulation for local exchange carriers currently subject to price cap regulation. Those thresholds are as follows:

- Packages or bundles are price deregulated statewide;
- With certain exceptions, individual components of bundles are price deregulated where there are 75,000 or more local exchange access lines served by all providers in an exchange;
- Where there are fewer than 75,000 local access lines served by all providers in an exchange, all business services are price deregulated when an applicant demonstrates to the KCC that two or more non-affiliated telecommunications carriers or other entities, (with one being facilities-based), provide service to business customers and that none of the competitors are affiliated with the incumbent local exchange carrier;
- Where there are fewer than 75,000 local access lines served by all providers, all residential services are price deregulated when an applicant demonstrates to the KCC that two or more non-affiliated telecommunications carriers or other entities (with one being facilities-based), provide service to residential customers, and that none of the competitors are affiliated with the incumbent local exchange carrier.

Rates for lifeline services, the initial residential local exchange access line and up to four business local exchange access lines at one location remain subject to price cap regulation.

The bill permits the KCC to resume price cap regulation under certain circumstances.

The bill clarifies who qualifies as a telecommunications service provider in the context of the price deregulation provisions of the bill.

2008

Voice over Internet Protocol (VoIP) Contributions to the Kansas Universal Service Fund

SB49 requires interconnected voice over internet protocol (VoIP) service providers to contribute to the Kansas Universal Service Fund (KUSF) to the extent that such a requirement is not prohibited by federal law. The requirement is included in the statute which requires every telecommunications public utility and wireless telecommunications service provider of intrastate telecommunications services to contribute to the KUSF on an equitable and nondiscriminatory basis.

Telecommunications Mergers and Broadband Service Inventories

SB 570 removes the requirement for the Kansas Corporation Commission (KCC) to approve or deny mergers or acquisitions solely between telecommunications companies that have elected price cap regulation in Kansas. Embarq and AT&T are the only price-cap regulated telecommunications companies in Kansas.

The bill also requires broadband service providers to submit a report to the KCC containing information about the geographic areas where service is available from the provider. This report is required by October 1, 2008.

The KCC is required to report to the Legislature by January 15, 2009, and every year following, on the state's broadband service.

Utility Statute Amendments

HB2637 amends existing law regarding price regulations for basic local telecommunications service and local telecommunications carrier of last resort responsibilities.

Telecommunication Price Regulation Amendments

Local exchange carriers, after July 1, 2008, are authorized to adjust the rates for the initial telephone line and up to four business lines at a single location without approval from the Kansas Corporation Commission (KCC), under certain circumstances.

Regarding the lifeline service program , local telecommunication carriers that have been price deregulated are required to automatically enroll in the program those customers who are eligible for lifeline services.

The KCC is authorized to approve a wireline service provider's application for eligible telecommunications carrier designation in nonrural service areas in order that the carrier may receive federal Universal Service Fund support equal to that received in the carrier's own service area.

Telecommunication Service Providers—Carrier of Last Resort Amendments

The bill relieves a local exchange carrier of its responsibility as carrier of last resort to occupants of real property if the owner or developer of the real property does any of the following:

- Permits an alternative service provider, during construction of the property, to install its local telecommunications services based on a condition of exclusion of the local exchange carrier; or

- Accepts incentives from an alternative service provider contingent on one or more alternative service providers providing local telecommunications service to the exclusion of the local exchange carrier; or

- Collects from occupants or residents of the real property mandatory charges for local telecommunications service provided by an alternative service provider.

2009

Kelsey Smith Act

Senate Sub. for HB 2126 enacts the Kelsey Smith Act, which requires wireless telecommunications carriers to provide information about the location of the telecommunications device of a user of the carriers' services, if requested by a law enforcement agency in order to respond to a call for emergency services or to respond in an emergency situation that involves risk of death or serious physical harm.

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