

## SENATE BILL No. 120

By Committee on Utilities

1-27

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9 AN ACT relating to telecommunications; concerning regulation thereof;  
10 amending K.S.A. 66-2005 and 66-2008 and repealing the existing  
11 sections.  
12

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

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

39 (b) In order to protect universal service, facilitate the transition to  
40 competitive markets and stimulate the construction of an advanced tel-  
41 ecommunications infrastructure, each local exchange carrier shall file a  
42 regulatory reform plan at the same time as it files the network infrastruc-  
43 ture plan required in subsection (a). As part of its regulatory reform plan,

1 a local exchange carrier may elect traditional rate of return regulation or  
 2 price cap regulation. Carriers that elect price cap regulation shall be ex-  
 3 empt from: rate base, rate of return and earnings regulation; *and regu-*  
 4 *lation of depreciation rates of assets for all regulatory purposes.* However,  
 5 the commission may resume such regulation upon finding, after a hearing,  
 6 that a carrier that is subject to price cap regulation has: violated minimum  
 7 quality of service standards pursuant to subsection (1) of K.S.A. 66-2002,  
 8 and amendments thereto; been given reasonable notice and an oppor-  
 9 tunity to correct the violation; and failed to do so.

10 Regulatory reform plans also shall include:

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

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

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

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

43 (2) any portion of rural telephone company reductions in intrastate

**WHAT THE REVISION DOES**  
 Makes clear that the Commission does not have the authority to approve or disapprove a price cap company's depreciation rates. A price cap company should be free to set depreciation rates to reflect the true value of its assets.

**WHY THE REVISION IS NEEDED**  
 Sprint is a local telephone company subject to price cap regulation. This form of regulation guarantees Sprint's customers that their basic service rates will always be capped at a level lower than the annual rate of inflation. Sprint can not seek a rate increase to recover higher costs. In turn (and by law), the Commission can not examine or regulate Sprint's costs and earnings. In spite of the plain language of the law, the Commission staff contends that the Commission has the authority to approve or disapprove of Sprint's depreciation rates. By setting lower depreciation rates, staff could attempt to reduce the amount of support Sprint currently receives from the Kansas Universal Service Fund, which is contrary to price cap regulation rules.

**WHAT THE REVISION DOESN'T DO**  
 The revision will have no impact on the rates Sprint charges its customers. The revision will in no way result in additional revenue to Sprint from the state universal service fund or otherwise.

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

7 (3) no rural company shall be required at any time to reduce its in-  
8 trastate switched access rates below the level of its interstate switched  
9 access rates.

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

30 (e) For purposes of determining sufficient KUSF support, an afford-  
31 able rate for local exchange service provided by a rural telephone com-  
32 pany subject to traditional rate of return regulation shall be determined  
33 as follows:

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

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

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

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

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

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

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

41 (5) A rural telephone company which raises one or more local service  
42 rates on application made after February 20, 2002, and pursuant to sub-  
43 section (b) of K.S.A. 66-2007, and amendments thereto, shall have the

1 level of its affordable rate increased by an amount equal to the amount  
2 of the increase in such rate.

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

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

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

21 (f) For regulatory reform plans in which price cap regulation has been  
22 elected, price cap plans shall have three baskets: (1) Residential and sin-  
23 gle-line business, including touch-tone, *but excluding residential and sin-*  
24 *gle-line business when combined with a packaged or bundled offering of*  
25 *two or more telecommunications or other services that are offered for a*  
26 *single price, provided that the services in such packages must be made*  
27 *available individually; (2) switched access services; and (3) miscellaneous*  
28 *services. Any new telecommunications service offered after August 1,*  
29 *2005, and packaged or bundled offerings defined by this subsection are*  
30 *price deregulated and not subject to price regulation by the commission.*

31 The commission shall establish price caps at the prices existing when the  
32 regulatory plan is filed subject to rate rebalancing as provided in subsec-  
33 tion (c) for residential services, including touch-tone services, and for  
34 single-line business services, including touch-tone services, within the res-  
35 idential and single-line business service basket. The commission shall es-  
36 tablish a formula for adjustments to the price caps. ~~The commission also~~  
37 ~~shall establish price caps at the prices existing when the regulatory plan~~  
38 ~~is filed for the miscellaneous services basket. The commission shall ap-~~  
39 ~~prove any adjustments to the price caps for the miscellaneous service~~  
40 ~~basket, as provided in subsection (g).~~

41 ~~—(g)—On or before January 1, 1997, the commission shall issue a final~~  
42 ~~order in a proceeding to determine the price cap adjustment formula that~~  
43 ~~shall apply to the price caps for the local residential and single-line busi-~~

**WHAT THE REVISION DOES**

Defines a local telephone company's packaged services as "competitive," so long as the individual services making up the package are offered separately and remain subject to existing regulatory rules. Local telephone companies can adjust prices for competitive services without regulatory approval.

**WHY THE REVISION IS NEEDED**

Price regulation of packages of services is unnecessary and costly. Local service providers have no incentive to price these packages higher than the total of their piece parts. If they do, customers won't buy them.

**WHAT THE REVISION DOESN'T DO**

The revision will not reduce customer choices.

**WHAT THE REVISION DOES**

Encourages local providers to introduce new and innovative services by defining new services as competitive.

**WHY THE REVISION IS NEEDED**

Eliminates unnecessary and costly regulation by removing pricing constraints on new services.

**WHAT THE REVISION DOESN'T DO**

Has no impact on the regulation of non-competitive basic services.

**WHAT THE REVISION DOES**

In conjunction with revisions to paragraphs (g) and (i) that follow, this revision reduces costly and contentious regulation (the size and cost of government) by simplifying current price cap rules. Specifically, the revision specifies the inflation factor to be used in the price cap formula for adjusting rates for basic local service. The revisions offers price cap companies predictability and stability as they make investment and other business decisions. Consumers continue to realize prices that rise less than the overall annual rate of inflation.

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**WHY THE REVISION IS NEEDED**

The Commission's price cap formula currently permits annual adjustments to basic service rates to reflect year-over-year changes in the rate of inflation, minus a productivity offset. These changes are measured by Gross Domestic Product Price Index (GDP-PI) as published by the United States Department of Commerce. The Commission then chooses a non-standard productivity offset to this inflation measure. The offset is intended to reflect that local telephone companies have historically been more productive than the economy as a whole. Choosing a non-standard productivity offset to the inflation measure is a highly contentious and unnecessary process that consumes time and other resources. Regulation can be reduced by specifying a widely accepted inflation measure that in itself recognizes the historical productivity of local telephone companies. Such a measure is the telephone service component of the Consumer Price Index (CPI-TS) as published by the United States Department of Commerce.

**WHAT THE REVISION DOES**

This revision reduces costly and contentious regulation (the size and cost of government) by simplifying current price cap rules. Specifically, the revision eliminates the price cap formula for adjusting non-basic rates. In place of the formula, which must be periodically reviewed and revised by the Commission, the revision permits price cap companies to adjust their non-basic rates in the aggregate by as much as 6% annually.

**WHY THE REVISION IS NEEDED**

The Commission's price cap formula currently permits annual adjustments to non-basic service rates to reflect year-over-year changes in the rates of inflation. These changes are measured by the Gross Domestic Product Price Index (GDP-PI) as published by the United States Department of Commerce. The Commission then chooses a non-standard offset to this inflation measure. The offset is intended to reflect that local telephone companies have historically been more productive than the economy as a whole. Continued...

1 ness and the miscellaneous services baskets and for sub-categories, if any,  
2 within those baskets. In determining this formula, the commission shall  
3 balance the public policy goals of encouraging efficiency and promoting  
4 investment in a quality, advanced telecommunications network in the  
5 state. The commission also shall establish any informational filing require-  
6 ments necessary for the review of any price cap tariff filings, including  
7 price increases or decreases within the caps, to verify such caps would  
8 not be exceeded by any proposed price change. The adjustment formula  
9 shall apply to the price caps for the local residential and single-line busi-  
10 ness basket after December 31, 1999, and to the miscellaneous services  
11 basket after December 31, 1997. The price cap formula, but not actual  
12 prices, shall be reviewed every five years.

13 ~~(h)~~ (g) The price caps for the residential and single-line business serv-  
14 ice basket shall be capped at their initial level until January 1, 2000, except  
15 for any increases authorized as a part of the revenue neutral rate rebal-  
16 ancing under subsection (c). The price caps for this basket and for the  
17 categories in this basket, if any, shall be adjusted annually after December  
18 31, 1999, based on the formula determined by the commission under  
19 subsection (g) based upon the change in the telephone service component  
20 of the consumer price index (CPI-TS) as published by the United States  
21 department of commerce or its successor agency for the preceding 12  
22 months and any exogenous event as approved by the commission. For  
23 purposes of this subsection, "exogenous event" means an event that is  
24 outside of the local exchange carrier's control and has a disproportionate  
25 effect on the industry so that its effect is not reflected by the CPI-TS.

26 ~~(i)~~ (h) The price cap for the switched access service basket shall be  
27 set based upon the local exchange carrier's intrastate access tariffs as of  
28 January 1, 1997, except for any revenue neutral rate rebalancing author-  
29 ized in accordance with subsection (c). Thereafter, the cap for this basket  
30 shall not change except in connection with any subsequent revenue neu-  
31 tral rebalancing authorized by the commission under subsection (c).

32 ~~(j)~~ (i) The price caps for the miscellaneous services basket shall may  
33 be adjusted annually after December 31, 1997, based on the adjustment  
34 formula determined by the commission under subsection (g), at the dis-  
35 cretion of the telecommunications carrier such that the total basket in-  
36 crease does not exceed 6%.

37 ~~(k)~~ (j) A price cap is a maximum price for all services taken as a whole  
38 in a given basket. Prices for individual services may be changed within  
39 the service categories, if any, established by the commission within a  
40 basket. An entire service category, if any, within the residential and single-  
41 line business basket or miscellaneous services basket may be priced below  
42 the cap for such category. Unless otherwise approved by the commission,  
43 no service shall be priced below the price floor which will be long-run

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Choosing a non-standard offset to the inflation measure is a highly contentious and unnecessary process that consumes time and other resources. Regulation can be reduced by eliminating the formula for non-basic services and, instead, allow price cap companies additional pricing flexibility for these discretionary and more competitive services.

**WHAT THE REVISION DOESN'T DO**

The revision will not force consumers to pay higher prices for discretionary and more competitive services. After all, if the services are priced too high, consumers won't buy them or they'll choose lower cost options.

1 incremental cost and imputed access charges. Access charges equal to  
2 those paid by telecommunications carriers to local exchange carriers shall  
3 be imputed as part of the price floor for toll services offered by local  
4 exchange carriers on a toll service basis.

5 ~~(j)~~ (k) A local exchange carrier may offer promotions within an  
6 exchange or group of exchanges. All promotions shall be approved by the  
7 commission and shall apply to all customers in a nondiscriminatory man-  
8 ner within the exchange or group of exchanges.

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

15 ~~(n)~~ (m) On or before July 1, 1997, the commission shall establish  
16 guidelines for reducing regulation prior to price deregulation of price cap  
17 regulated services in the miscellaneous services basket, the switched ac-  
18 cess services basket, and the residential and single-line business basket.

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

26 ~~(p)~~ (o) A local exchange carrier may petition the commission to des-  
27 ignate an individual service or service category, if any, within the miscel-  
28 laneous services basket, the switched access services basket or the resi-  
29 dential and single-line business basket for reduced regulation. The  
30 commission shall act upon a petition for reduced regulation within 21  
31 days, subject to a suspension period of an additional 30 days, and upon a  
32 good cause showing of the commission in the suspension order, or within  
33 such shorter time as the commission shall approve. The commission shall  
34 issue a final order within the 21-day period or within a 51-day period if  
35 a suspension has been issued. Following an order granting reduced reg-  
36 ulation of an individual service or service category, the commission shall  
37 act on any request for price reductions within seven days subject to a 30-  
38 day suspension. The commission shall act on other requests for price cap  
39 adjustments, adjustments within price cap plans and on new service of-  
40 ferings within 21 days subject to a 30-day suspension. Such a change will  
41 be presumed lawful unless it is determined the prices are below the price  
42 floor or that the price cap for a category, if any, within the entire basket  
43 has been exceeded.

1     ~~(q)~~ (p) The commission ~~may shall~~ price deregulate within an  
2 exchange area, ~~or at its discretion on a statewide basis~~, any individual  
3 residential service or service category upon a ~~finding demonstration~~ by  
4 the ~~commission~~ requesting local telecommunications carrier that there is  
5 ~~a at least one~~ telecommunications carrier or ~~an alternative provider other~~  
6 ~~entity~~ providing a comparable product or service, considering both func-  
7 ~~tion and price~~, basic local telecommunications service to residential cus-  
8 tomers in that exchange area. The commission shall price deregulate  
9 within an exchange area any individual business service or service cate-  
10 gory upon a demonstration by the requesting local telecommunications  
11 carrier that there is at least one telecommunications carrier or other entity  
12 providing basic local telecommunication service to business customers in  
13 that exchange. For the purposes of this subsection, (i) basic local telecom-  
14 munications service shall mean two-way voice service capable of being  
15 originated or terminated within the exchange of the local exchange tele-  
16 communications company seeking price deregulation of its services, re-  
17 gardless of the technology used to provision the voice service; (ii) any  
18 entity providing voice service shall be considered as a basic local telecom-  
19 munications service provider regardless of whether such entity is subject  
20 to regulation by the commission; and (iii) telecommunications carriers  
21 offering only prepaid telecommunications service shall not be considered  
22 entities providing basic local telecommunications service. If the services  
23 of a local exchange carrier are classified as price deregulated under this  
24 subsection, the carrier may thereafter adjust its rates for such price de-  
25 regulated services upward or downward as it determines appropriate in  
26 its competitive environment. Customer-specific pricing is authorized on  
27 an equal basis for all telecommunications carriers for services which have  
28 been price deregulated. The commission shall act upon a petition for price  
29 deregulation within 21 days, subject to a suspension period of an addi-  
30 tional 30 days, and upon a good cause showing of the commission in the  
31 suspension order, or within such shorter time as the commission shall  
32 approve; provided that no such petition shall be filed prior to July 1997,  
33 unless the commission otherwise authorizes. The commission shall issue  
34 a final order within the 21-day period or within a 51-day period if a sus-  
35 pension has been issued.

36     ~~(r)~~ (q) Upon complaint or request, the commission may investigate a  
37 price deregulated service. The commission shall resume price regulation  
38 of a service provided in any exchange area by placing it in the appropriate  
39 service basket, as approved by the commission, upon a determination by  
40 the commission that there is no longer a telecommunications carrier or  
41 alternative provider providing a comparable product or service, consid-  
42 ering both function and price, in that exchange area.

43     ~~(s)~~ (r) The commission shall require that for all local exchange carriers

← WHAT THE REVISIONS DO

Clearly identifies where and when local telephone service competition exists and permits local telephone companies to respond quickly.

- Competition is defined as a provider (not affiliated with the existing local telephone company) offering local voice service.
- The KCC must verify that competition exists.
- Where competition exists, local telephone companies can raise and lower their prices for competitive services without first seeking KCC approval.
- The revision recognizes that competitors may not be required to gain certification by the KCC.
- The revisions recognize that a variety of technologies can be used to provide local voice service.
- Permits local providers in competitive areas to tailor services to specific business customers and market segments.

WHY THE REVISIONS ARE NEEDED

The distinction between services has virtually disappeared. Wireline, wireless, Internet and cable telephony are easily substituted for each other. One technology can completely replace another. All local service providers should be treated equally. Consumers will be the big winners with lower prices and services that meet their individual needs.

WHAT THE REVISIONS DON'T DO

The revision does not tilt the market in favor of one provider over another.



1 all such price deregulated basic intraLATA toll services be geographically  
2 averaged statewide and not be priced below the price floor established  
3 in subsection ~~(k)~~ (j).

4 ~~(t)~~ (s) Cost studies to determine price floors shall be performed as  
5 required by the commission in response to complaints. In addition, not-  
6 withstanding the exemption in subsection (b), the commission may re-  
7 quest information necessary to execute any of its obligations under the  
8 act.

9 ~~(u)~~ (t) A local exchange carrier may petition for individual customer  
10 pricing. The commission shall respond expeditiously to the petition within  
11 a period of not more than 30 days subject to a 30-day suspension.

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

14 ~~(w)~~ (v) Telecommunications carriers shall not be subject to price reg-  
15 ulation, except that: Access charge reductions shall be passed through to  
16 consumers by reductions in basic intrastate toll prices; and basic toll prices  
17 shall remain geographically averaged statewide. As required under K.S.A.  
18 66-131, and amendments thereto, and except as provided for in subsec-  
19 tion (c) of K.S.A. 66-2004, and amendments thereto, telecommunications  
20 carriers that were not authorized to provide switched local exchange tel-  
21 ecommunications services in this state as of July 1, 1996, including cable  
22 television operators who have not previously offered telecommunications  
23 services, must receive a certificate of convenience based upon a dem-  
24 onstration of technical, managerial and financial viability and the ability  
25 to meet quality of service standards established by the commission. Any  
26 telecommunications carrier or other entity seeking such certificate shall  
27 file a statement, which shall be subject to the commission's approval,  
28 specifying with particularity the areas in which it will offer service, the  
29 manner in which it will provide the service in such areas and whether it  
30 will serve both business customers and residential customers in such ar-  
31 eas. Any structurally separate affiliate of a local exchange carrier that  
32 provides telecommunications services shall be subject to the same regu-  
33 latory obligations and oversight as a telecommunications carrier, as long  
34 as the local exchange carrier's affiliate obtains access to any services or  
35 facilities from its affiliated local exchange carrier on the same terms and  
36 conditions as the local exchange carrier makes those services and facilities  
37 available to other telecommunications carriers. The commission shall  
38 oversee telecommunications carriers to prevent fraud and other practices  
39 harmful to consumers and to ensure compliance with quality of service  
40 standards adopted for all local exchange carriers and telecommunications  
41 carriers in the state.

42 Sec. 2. K.S.A. 66-2008 is hereby amended to read as follows: 66-  
43 2008. On or before January 1, 1997, the commission shall establish the

1 Kansas universal service fund, hereinafter referred to as the KUSF.  
 2 (a) The commission shall require every telecommunications carrier,  
 3 telecommunications public utility and wireless telecommunications serv-  
 4 ice provider that provides intrastate telecommunications services to con-  
 5 tribute to the KUSF on an equitable and nondiscriminatory basis. Any  
 6 telecommunications carrier, telecommunications public utility or wireless  
 7 telecommunications service provider which contributes to the KUSF may  
 8 collect from customers an amount equal to such carrier’s, utility’s or pro-  
 9 vider’s contribution, but such carrier, provider or utility may collect a  
 10 lesser amount from its customer.  
 11 Any contributions in excess of distributions collected in any reporting  
 12 year shall be applied to reduce the estimated contribution that would  
 13 otherwise be necessary for the following year.  
 14 (b) Pursuant to the federal act, distributions from the KUSF shall be  
 15 made in a competitively neutral manner to qualified telecommunications  
 16 public utilities, telecommunications carriers and wireless telecommuni-  
 17 cations providers, that are deemed eligible both under subsection (e)(1)  
 18 of section 214 of the federal act and by the commission.  
 19 (c) The commission shall periodically review the KUSF *using costs*  
 20 *specific to the individual qualified telecommunications public utility, tel-*  
 21 *communications carrier or wireless telecommunications provider, which-*  
 22 *ever is applicable, receiving funds from the KUSF including costs arising*  
 23 *from fulfilling carrier of last resort obligations* to determine if the costs  
 24 of qualified telecommunications public utilities, telecommunications car-  
 25 riers and wireless telecommunications service providers to provide local  
 26 service justify modification of the KUSF. If the commission determines  
 27 that any changes are needed, the commission shall modify the KUSF  
 28 accordingly.  
 29 (d) Any qualified telecommunications carrier, telecommunications  
 30 public utility or wireless telecommunications service provider may re-  
 31 quest supplemental funding from the KUSF based upon a percentage  
 32 increase in access lines over the 12-month period prior to the request.  
 33 The supplemental funding shall be incurred for the purpose of providing  
 34 services to and within the service area of the qualified telecommunica-  
 35 tions carrier, telecommunications public utility or wireless telecommu-  
 36 nications service provider. Supplemental funding from the KUSF shall  
 37 be used for infrastructure expenditures necessary to serve additional cus-  
 38 tomers within the service area of such qualifying utility, provider or car-  
 39 rier. All affected parties shall be allowed to review and verify a request  
 40 of such a qualified utility, carrier or provider for supplemental funding  
 41 from the KUSF, and to intervene in any commission proceeding regard-  
 42 ing such request. The commission shall issue an order on the request  
 43 within 120 days of filing. Additional funding also may be requested for:

**WHAT THE REVISION DOES**  
 Makes clear that the Commission is to include “carrier of last resort” obligations when determining the appropriate size of the state universal service fund.

**WHY THE REVISION IS NEEDED**  
 As a Kansas local telephone company, Sprint has an obligation to provide service in its territory to anyone who requests it. That’s why we’re known as a “carrier of last resort.” But in some rural and sparsely populated areas, local service would be unaffordable if we set rates high enough to cover the actual cost of providing service. To fulfill our “carrier of last resort” obligations and keep local rates affordable, we receive financial support from the Kansas Universal Service Fund. The Kansas Corporation Commission is required by law to periodically determine if the state universal service fund is adequate to support the provision of local service in high cost areas. However, in past reviews, the Commission has not taken into account the cost to fulfill “carrier of last resort” obligations. Taking into account “carrier of last resort” obligations will ensure that affordable local telephone service continues to be available to all Kansans, especially in areas where costs are very high. Kansas law will be consistent with recent state court decisions.

**WHAT THE REVISION DOESN’T DO**  
 The revision is not intended to increase the size of the Kansas Universal Service Fund. The revision is intended to prevent harmful reductions in the amount carriers of last resort receive from the fund.

1 The recovery of shortfalls due to additional rebalancing of rates to con-  
2 tinue maintenance of parity with interstate access rates; shortfalls due to  
3 changes to access revenue requirements resulting from changes in federal  
4 rules; additional investment required to provide universal service and en-  
5 hanced universal service, deployed subject to subsection (a) of K.S.A. 66-  
6 2005, and amendments thereto; and for infrastructure expenditures in  
7 response to facility or service requirements established by any legislative,  
8 regulatory or judicial authority. Such requests shall be subject to simpli-  
9 fied filing procedures and the expedited review procedures, as outlined  
10 in the stipulation attached to the order of November 19, 1990 in docket  
11 no. 127,140-U (Phase IV).

12 (e) Prior to June 30, 2006, for each local exchange carrier electing  
13 pursuant to subsection (b) of K.S.A. 66-2005, and amendments thereto,  
14 to operate under traditional rate of return regulation, all KUSF support,  
15 including any adjustment thereto pursuant to this section shall be based  
16 on such carrier's embedded costs, revenue requirements, investments and  
17 expenses.

18 (f) Additional supplemental funding from the KUSF, other than as  
19 provided in subsection (d), may be authorized at the discretion of the  
20 commission. However, the commission may require approval of such  
21 funding to be based upon a general rate case filing. With respect to any  
22 request for additional supplemental funding from the KUSF, the com-  
23 mission shall act expeditiously, but shall not be subject to the 120 day  
24 deadline set forth in subsection (d).

25 Sec. 3. K.S.A. 66-2005 and 66-2008 are hereby repealed.

26 Sec. 4. This act shall take effect and be in force from and after its  
27 publication in the statute book.