

## SENATE BILL No. 202

By Committee on Commerce

2-11

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AN ACT concerning telecommunications; relating to broadband deployment; incentive company regulation.

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

Section 1. As used in section 2, and amendments thereto, the following words and phrases shall have the following meanings:

(a) "Eligible access line" means an access line serving an end-user customer within a radius of 14,000, 26-gauge cable feet from an incentive company's central office.

(b) "Broadband service" means those services that, regardless of technology or medium used, provide the capability to transmit information in excess of 150 kilobits per second to or from the internet in at least one direction.

(c) "Price deregulated" means that the services deemed price deregulated shall not be subject to annual adjustment by the price cap formula determined by the commission pursuant to subsection (f) of K.S.A. 66-2005, and amendments thereto, or to any other pricing rule created by the commission.

Sec. 2. (a) A local exchange carrier that has elected price cap regulation may elect to be subject to incentive regulation as described in this section. Election of incentive regulation is at the discretion of the local exchange carrier and not subject to commission approval. A local exchange carrier may elect incentive regulation by informing the commission in writing that the local exchange carrier has chosen to be an incentive company pursuant to this section.

(b) An incentive company shall provide broadband service in any exchange it serves within 15 months of receiving a bona fide request for such service from the incentive company's customers within the exchange. An incentive company may petition the commission for an extension of time to deploy broadband service. The commission may grant for good cause an extension not to exceed six months. A bona fide request shall consist of commitments from customers, who represent 100 eligible access lines within an incentive company exchange, to order broadband service from the incentive company within 30 days of the service becoming available. The request shall be in writing and shall include the veri-

1 fiable name, address and telephone number associated with each eligible  
2 access line. An exchange of an incentive company shall not be subject to  
3 the requirements of this section if the exchange has two or more providers  
4 of broadband service, regardless of the method or technology used to  
5 provide such service, at the time the incentive company receives a bona  
6 fide request.

7 (c) A price cap company's services contained in its miscellaneous  
8 services basket pursuant to subsection (e) of K.S.A. 66-2005, and amend-  
9 ments thereto, shall be deemed price deregulated upon the company's  
10 election of incentive regulation. An incentive company may adjust prices  
11 of service deemed price deregulated at any time. The incentive company  
12 shall notify its customers and the commission 10 days in advance of the  
13 effective date of any rate increase. An incentive company shall notify the  
14 commission one day in advance of the effective date of any rate decrease.  
15 An incentive company shall not price any service subject to price dereg-  
16 ulation below either (1) the total long run incremental cost of the service  
17 or (2) the current tariff price on the date of entry into incentive regulation  
18 whichever is lower.

19 (d) Upon election of incentive regulation, an incentive company shall  
20 freeze rates for all services within the residential and single line business  
21 services basket as defined by subsection (e) of K.S.A. 66-2005, and  
22 amendments thereto, for a period of three years except for any previous  
23 or future revenue-neutral rate rebalancing plans approved by the com-  
24 mission and unless the price cap adjustment formula approved by the  
25 commission pursuant to subsection (f) of K.S.A. 66-2005, and amend-  
26 ments thereto, results in an overall price decrease. Beginning on the  
27 three-year anniversary of electing incentive regulation, an incentive com-  
28 pany shall adjust annually its residential and single-line business services  
29 basket according to the price cap adjustment formula determined by the  
30 commission pursuant to subsection (f) of K.S.A. 66-2005, and amend-  
31 ments thereto, except that in determining such price cap adjustment for-  
32 mula the commission shall not require that an incentive company be sub-  
33 ject to any productivity offset factor, or any other factor that has the effect  
34 of reducing the measure of inflation contained in the price cap adjustment  
35 formula, or any other factor or method that results in an incentive com-  
36 pany reducing its annual productivity gains.

37 (e) An incentive company may classify as price deregulated any bun-  
38 dle of services offered for a single price to consumers. Bundles of such  
39 services may include basic local exchange service. If an incentive company  
40 chooses to bundle services in such a manner, the incentive company shall  
41 continue to make available basic local exchange service as a stand-alone  
42 service. The price of stand-alone basic local exchange service shall be  
43 capped and adjusted pursuant to subsection (d).

1 (f) Upon complaint or request, the commission may investigate an  
2 incentive company's compliance with requirements contained in subsec-  
3 tion (b). The commission may re-regulate services deemed price dereg-  
4 ulated if the commission determines, after gathering evidence and con-  
5 ducting a hearing, that the requirements of subsection (b) are not being  
6 met. If the commission makes such a determination, the commission shall  
7 resume price cap regulation by placing price deregulated services in the  
8 miscellaneous service basket. The miscellaneous services basket shall be  
9 subject to the annual price cap adjustment formula pursuant to subsection  
10 (f) of K.S.A. 66-2005, and amendments thereto, except that no adjustment  
11 shall be made for any previous time period that the services were deemed  
12 price deregulated.

13 Sec. 3. This act shall take effect and be in force from and after its  
14 publication in the statute book.

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