

SENATE BILL No. 384

By Committee on Utilities

1-15

9 AN ACT concerning telecommunications; modifying requirements for
10 telecommunications carriers and local exchange carriers; amending
11 K.S.A. 2009 Supp. 66-2005 and repealing the existing section.
12

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

14 Section 1. K.S.A. 2009 Supp. 66-2005 is hereby amended to read as
15 follows: 66-2005. (a) Each local exchange carrier shall file a network in-
16 frastructure plan with the commission on or after January 1, 1997, and
17 prior to January 1, 1998. Each plan, as a part of universal service protec-
18 tion, shall include schedules, which shall be approved by the commission,
19 for deployment of universal service capabilities by July 1, 1998, and the
20 deployment of enhanced universal service capabilities by July 1, 2003, as
21 defined pursuant to subsections (p) and (q) of K.S.A. 66-1,187, and
22 amendments thereto, respectively. With respect to enhanced universal
23 service, such schedules shall provide for deployment of ISDN, or its tech-
24 nological equivalent, or broadband facilities, only upon a firm customer
25 order for such service, or for deployment of other enhanced universal
26 services by a local exchange carrier. After receipt of such an order and
27 upon completion of a deployment plan designed to meet the firm order
28 or otherwise provide for the deployment of enhanced universal service,
29 a local exchange carrier shall notify the commission. The commission shall
30 approve the plan unless the commission determines that the proposed
31 deployment 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 shall not
4 be subject to the provisions of K.S.A. 66-136 and 66-127, and amend-
5 ments thereto, except as otherwise provided in such sections. However,
6 the commission may resume such regulation upon finding, after a hearing,
7 that a carrier that is subject to price cap regulation has: violated minimum
8 quality of service standards pursuant to subsection (l) of K.S.A. 66-2002,
9 and amendments thereto; been given reasonable notice and an oppor-
10 tunity to correct the violation; and failed to do so. Regulatory reform plans
11 also shall include:

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

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

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

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

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

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

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

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

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

42 (A) If a rural telephone company's present residential rate, including
43 any separate charge for tone dialing, is at or above such weighted mean,

- 1 such rate shall be deemed affordable prior to March 1, 2007.
- 2 (B) If a rural telephone company's present residential rate, including
3 any separate charge for tone dialing, is below such average: (i) Such rate
4 shall be deemed affordable prior to March 1, 2003; (ii) as of March 1,
5 2003, and prior to March 1, 2004, a rate \$2 higher than the company's
6 present residential monthly rate, but not exceeding such weighted mean,
7 shall be deemed affordable; (iii) as of March 1, 2004, and prior to March
8 1, 2005, a rate \$4 higher than the company's present residential monthly
9 rate, but not exceeding such weighted mean, shall be deemed affordable;
10 and (iv) as of March 1, 2005, and prior to March 1, 2006, a rate \$6 higher
11 than the company's present residential monthly rate, but not exceeding
12 such weighted mean, shall be deemed affordable.
- 13 (C) As of March 1, 2007, and each two years thereafter, an affordable
14 residential service rate shall be the weighted arithmetic mean of local
15 service rates determined as of October 1 of the preceding year in the
16 manner hereinbefore specified, except that any increase in such mean
17 exceeding \$2 may be satisfied by increases in a rural telephone company's
18 residential monthly service rate not exceeding \$2 per year, effective
19 March 1 of the year when such mean is determined, with the remainder
20 applied at the rate of \$2 per year, but not to exceed the affordable rate.
- 21 (2) For single line business service at any time, an affordable rate
22 shall be the existing rate or an amount \$3 greater than the affordable rate
23 for residential service as determined under ~~provision~~ *paragraph* (1) of
24 this subsection, whichever is higher, except that any increase in the busi-
25 ness service affordable rate exceeding \$2 may be satisfied by increases in
26 a rural telephone company's business monthly service rate not exceeding
27 \$2 per year, effective March 1 of the year when such rate is determined,
28 with the remainder applied at the rate of \$2 per year, but not to exceed
29 the affordable rate.
- 30 (3) Any flat fee or charge imposed per line on all residential service
31 or single line business service, or both, other than a fee or charge for
32 contribution to the KUSF or imposed by other governmental authority,
33 shall be added to the basic service rate for purposes of determining an
34 affordable rate pursuant to this subsection.
- 35 (4) Not later than March 1, 2003, tone dialing shall be made available
36 to all local service customers of each rural telephone company at no
37 charge additional to any increase in the local service rate to become ef-
38 fective on that date. The amount of revenue received as of March 1, 2002,
39 by a rural telephone company from the provision of tone dialing service
40 shall be excluded from reductions in the company's KUSF support oth-
41 erwise resulting pursuant to this subsection.
- 42 (5) A rural telephone company which raises one or more local service
43 rates on application made after February 20, 2002, and pursuant to sub-

1 section (b) of K.S.A. 66-2007, and amendments thereto, shall have the
2 level of its affordable rate increased by an amount equal to the amount
3 of the increase in such rate.

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

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

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

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

35 (g) On or before January 1, 1997, the commission shall issue a final
36 order in a proceeding to determine the price cap adjustment formula that
37 shall apply to the price caps for the local residential and single-line busi-
38 ness and the miscellaneous services baskets and for sub-categories, if any,
39 within those baskets. In determining this formula, the commission shall
40 balance the public policy goals of encouraging efficiency and promoting
41 investment in a quality, advanced telecommunications network in the
42 state. The commission also shall establish any informational filing require-
43 ments necessary for the review of any price cap tariff filings, including

1 price increases or decreases within the caps, to verify such caps would
2 not be exceeded by any proposed price change. The adjustment formula
3 shall apply to the price caps for the local residential and single-line busi-
4 ness basket after December 31, 1999, and to the miscellaneous services
5 basket after December 31, 1997. The price cap formula, but not actual
6 prices, shall be reviewed every five years.

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

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

20 (j) The price caps for the miscellaneous services basket shall be ad-
21 justed annually after December 31, 1997, based on the adjustment for-
22 mula determined by the commission under subsection (g).

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

34 (l) A local exchange carrier may offer promotions within an exchange
35 or group of exchanges. All promotions shall be approved by the commis-
36 sion and may not be unjust, unreasonably discriminatory or unduly
37 preferential.

38 (m) Unless the commission authorizes price deregulation at an earlier
39 date, intrastate toll services within the miscellaneous services basket shall
40 continue to be regulated until the affected local exchange carrier begins
41 to offer 1 intraLATA dialing parity throughout its service territory, at
42 which time intrastate toll will be price deregulated, except that prices
43 cannot be set below the price floor.

1 (n) On or before July 1, 1997, the commission shall establish guide-
2 lines for reducing regulation prior to price deregulation of price cap reg-
3 ulated services in the miscellaneous services basket, the switched access
4 services basket, and the residential and single-line business basket.

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

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

30 (q) (1) Beginning July 1, 2006, price regulation of telecommunica-
31 tions services in the residential and single-line business service basket and
32 the miscellaneous services basket for local exchange carriers subject to
33 price cap regulation shall be as follows:

34 (A) Packages or bundles of services shall be price deregulated state-
35 wide, however the individual telecommunication service components of
36 such packages or bundles shall remain available for purchase on an in-
37 dividual basis at prices subject to price cap regulation in any exchange in
38 which the standards in subsection (q)(1)(B), (C) or (D) have not been
39 met. If standards in subsection (q)(1)(B), (C) or (D) have been met, the
40 individual telecommunication service components of such packages or
41 bundles shall remain available for purchase on an individual basis and
42 prices for packages or bundles shall not exceed the sum of the highest
43 prices of the ala carte components of the package or bundle;

- 1 (B) in any exchange in which there are 75,000 or more local exchange
2 access lines served by all providers, rates for all telecommunications serv-
3 ices shall be price deregulated;
- 4 (C) in any exchange in which there are fewer than 75,000 local
5 exchange access lines served by all providers, the commission shall price
6 deregulate all business telecommunication services upon a demonstration
7 by the requesting local telecommunications carrier that there are two or
8 more nonaffiliated telecommunications carriers or other entities, that are
9 nonaffiliated with the local exchange carrier, providing local telecom-
10 munication service to business customers, regardless of whether the en-
11 tity provides local service in conjunction with other services in that
12 exchange area. One of such nonaffiliated carriers or entities shall be re-
13 quired to be a facilities-based carrier or entity and not more than one of
14 such nonaffiliated carriers or entities shall be a provider of commercial
15 mobile radio services in that exchange;
- 16 (D) in any exchange in which there are fewer than 75,000 local
17 exchange access lines served by all providers, the commission shall price
18 deregulate all residential telecommunication services upon a demonstra-
19 tion by the requesting local telecommunications carrier that there are two
20 or more nonaffiliated telecommunications carriers or other entities, that
21 are nonaffiliated with the local exchange carrier, providing local telecom-
22 munication service to residential customers, regardless of whether the
23 entity provides local service in conjunction with other services in that
24 exchange area. One of such nonaffiliated carriers or entities shall be re-
25 quired to be a facilities-based carrier or entity and not more than one of
26 such nonaffiliated carriers or entities shall be a provider of commercial
27 mobile radio services in that exchange;
- 28 (E) rates for lifeline services shall remain subject to price cap
29 regulation;
- 30 (F) up to and continuing until July 1, 2008, rates for the initial resi-
31 dential local exchange access line and up to four business local exchange
32 access lines at one location shall remain subject to price cap regulation.
33 On and after July 1, 2008, the local exchange carrier shall be authorized
34 to adjust such rates without commission approval by not more than the
35 percentage increase in the consumer price index for all urban consumers,
36 as officially reported by the bureau of labor statistics of the United States
37 department of labor, or its successor index, in any one year period and
38 such rates shall not be adjusted below the price floor established in sub-
39 section (k). Such rates shall not be affected by purchase of one or more
40 of the following: Call management services, intraLATA long distance
41 service or interLATA long distance service; and
- 42 (G) local exchange carriers shall offer a uniform price throughout
43 each such exchange for services subject to price deregulation, under this

1 subsection, including packages or bundles of services, except as provided
2 in subsection (1) or as otherwise approved by the commission.

3 (2) For the purposes of this subsection:

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

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

11 (C) telecommunications carriers offering only prepaid telecommu-
12 nications service shall not be considered entities providing local telecom-
13 munications service.

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

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

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

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

37 (7) Prior to January 1, 2007, the commission shall determine the
38 weighted, statewide average rate of nonwireless basic local telecommu-
39 nications service as of July 1, 2006. Prior to January 1, 2007, and annually
40 thereafter, the commission shall determine the weighted, average rate of
41 nonwireless basic local telecommunications ~~services~~ service in exchanges
42 that have been price deregulated pursuant to subsection (q)(1)(B), (C) or
43 (D). The commission shall report its findings on or before February 1,

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

24 (8) For the purposes of this subsection:

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

34 (B) "local telecommunications service" means two-way voice service
35 capable of being originated and terminated within the exchange of the
36 local exchange telecommunications company seeking price deregulation
37 of its services, regardless of the technology used to provision the voice
38 service;

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

41 (D) "prepaid telecommunications service" means a local service for
42 which payment is made in advance that excludes access to operator as-
43 sistance and long distance service;

- 1 (E) ~~“facilities-based carrier”~~ *facilities-based carrier* means a telecommuni-
2 cations carrier or entity providing local telecommunications service either
3 wholly or partially over its own network. ~~Facilities-based carrier~~ *Facili-*
4 *ties-based carrier* shall not ~~include~~ *mean* any radio communication serv-
5 ices provider licensed by the federal communications commission to pro-
6 vide commercial mobile radio services; and
- 7 (F) “call management services” means optional telecommunications
8 services that allow a customer to manage call flow generated over the
9 customer’s local exchange access line.
- 10 (r) (1) Upon complaint or request, the commission may investigate
11 a price deregulated service.
- 12 (2) The commission shall resume price cap regulation of a service
13 provided in any exchange area by placing it in the appropriate service
14 basket, as approved by the commission, upon a determination by the
15 commission that the conditions in subsection (q)(1)(C) or (D) are no
16 longer satisfied in that exchange area.
- 17 (3) The commission shall resume price cap regulation of business
18 services in any exchange meeting the conditions of subsection (q)(1)(B)
19 by placing it in the appropriate service basket, as approved by the com-
20 mission, upon a determination by the commission that the following con-
21 dition is not met: There are at least two nonaffiliated telecommunications
22 carriers or other entities, that are nonaffiliated with the local exchange
23 carrier, providing local telecommunications service to business customers,
24 regardless of whether the entity provides local service in conjunction with
25 other services in that exchange area. One of such nonaffiliated carriers or
26 entities shall be required to be a facilities-based carrier or entity and not
27 more than one such nonaffiliated carriers or entities shall be a provider
28 of commercial mobile radio services in that exchange.
- 29 (4) The commission shall resume price cap regulation of residential
30 services in any exchange meeting the conditions of subsection (q)(1)(B)
31 by placing it in the appropriate service basket, as approved by the com-
32 mission, upon a determination by the commission that the following con-
33 dition is not met: There are at least two or more nonaffiliated telecom-
34 munications carriers or other entities, that are nonaffiliated with the local
35 exchange carrier, providing local telecommunications service to residen-
36 tial customers, regardless of whether the entity provides local service in
37 conjunction with other services in that exchange area. One of such non-
38 affiliated carriers or entities shall be required to be a facilities-based car-
39 rier or entity and not more than one such nonaffiliated carriers or entities
40 shall be a provider of commercial mobile radio services in that exchange.
- 41 (s) The commission shall require that for all local exchange carriers
42 all such price deregulated basic intraLATA toll services be geographically
43 averaged statewide and not be priced below the price floor established

1 in subsection (k).

2 (t) Cost studies to determine price floors shall be performed as re-
3 quired by the commission in response to complaints. In addition, not-
4 withstanding the exemption in subsection (b), the commission may re-
5 quest information necessary to execute any of its obligations under the
6 act. In response to a complaint that a price deregulated service is priced
7 below the price floor set forth in subsection (k), the commission shall
8 issue an order within 60 days after the filing of the complaint unless the
9 complainant agrees to an extension.

10 (u) A local exchange carrier may petition for individual customer pric-
11 ing. The commission shall respond expeditiously to the petition within a
12 period of not more than 30 days subject to a 30-day extension.

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

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

43 (2) *Telecommunications carriers shall not be required to file retail*

1 *individual case basis contracts with the commission.*
2 (3) *Notwithstanding any provision of law to the contrary, beginning*
3 *January 1, 2012:*
4 (A) (i) *No telecommunications carrier shall file with the commission*
5 *any tariff with respect to retail telecommunications service; and*
6 (ii) *telecommunications carriers shall be required to make informa-*
7 *tion on terms and conditions of service available, either by providing such*
8 *information on the company's website or at company locations that are*
9 *accessible to the public, or by otherwise making such information*
10 *available.*
11 (B) *Prior to January 1, 2012, each telecommunications carrier shall*
12 *provide a notice of the availability of rate information to each customer.*
13 (C) *Prior to January 1, 2012, the commission shall establish rules and*
14 *regulations for the administration of paragraph (3) of this subsection.*
15 (x) *Beginning July 1, 2010:*
16 (1) *Any local exchange carrier in which a majority of the carrier's*
17 *local exchange access lines in the state are price deregulated pursuant to*
18 *subsection (q) may elect instead to no longer be regulated as a local*
19 *exchange carrier and instead be regulated under this article as a telecom-*
20 *munications carrier, except as provided in this subsection. A local*
21 *exchange carrier electing such deregulation shall be referred to as an*
22 *"electing carrier."*
23 (2) *A local exchange carrier may elect such electing carrier status by*
24 *providing the commission with at least 90 days' written notice of election.*
25 *The notice of election shall include a verified statement that a majority of*
26 *the electing carrier's local exchange access lines are price deregulated. The*
27 *commission shall verify that a majority of the electing carrier's local*
28 *exchange access lines are price deregulated. An electing carrier shall be*
29 *subject to no more regulation by the commission than the commission*
30 *applies to other telecommunications carriers operating in the state, except*
31 *as provided in this subsection.*
32 (3) *An electing carrier shall not be subject to price regulation and*
33 *shall be subject to nondiscriminatory regulation in the same manner as*
34 *other telecommunications carriers operating in the state, except that the*
35 *electing carrier shall remain subject to:*
36 (A) *The minimum quality of service standards for all local exchange*
37 *carriers and telecommunications carriers in the state and the penalties for*
38 *violation of such standards, as required by K.S.A. 66-2002, and amend-*
39 *ments thereto, provided that the commission may not resume price reg-*
40 *ulation if an electing carrier fails to meet such standards;*
41 (B) *the reasonable resale of retail telecommunications services, as well*
42 *as unbundling and interconnection obligations as required by K.S.A. 66-*
43 *2003, and amendments thereto;*

- 1 (C) the uniform price requirement for services subject to price dereg-
2 ulation, as required by subsection (q)(1)(G) of K.S.A. 66-2005, and
3 amendments thereto;
- 4 (D) the requirements of the KLSP, as required by K.S.A. 66-2006,
5 and amendments thereto;
- 6 (E) the requirements of the KUSF, as required by K.S.A. 66-2008,
7 and amendments thereto; and
- 8 (F) commission regulation of the rates, pricing, terms and conditions
9 of intrastate switched or special access service and the applicability of
10 such access service to intrastate interexchange traffic.
- 11 (4) An electing carrier shall be relieved of the requirement to serve
12 as the carrier of last resort, as required by K.S.A. 66-2009, and amend-
13 ments thereto, although the electing carrier shall continue to provide voice
14 services, using any technology, to all customers throughout the carrier's
15 service area. Notwithstanding the exemptions in this act, a competitive
16 local exchange telecommunications company is entitled to interconnection
17 with a local exchange telecommunications company to transmit and route
18 voice traffic between both the competitive local exchange telecommuni-
19 cations company and the local exchange telecommunications company
20 regardless of the technology by which the voice traffic is originated by
21 and terminated to an end user. The commission shall afford such com-
22 petitive local exchange telecommunications company all substantive and
23 procedural rights available under both K.S.A. 66-2001 et seq., and amend-
24 ments thereto, and 47 U.S.C. § 151 and 152, and amendments thereto, to
25 such companies regarding interconnection.
- 26 (A) Once an electing carrier has been relieved of carrier of last resort
27 obligations, such relief shall be applicable to all carriers operating in the
28 electing carrier's designated service area.
- 29 (B) An electing carrier that has been designated as an eligible tele-
30 communications carrier will continue to have the obligation to serve re-
31 quired by such designation.
- 32 (5) Up to and continuing until July 1, 2015, an electing carrier's basic
33 rates for stand-alone residential local telecommunications service for
34 exchange lines in the carrier's rural exchanges shall be no higher than
35 such rates for exchange lines in the carrier's urban exchanges. For the
36 purposes of this section, "rural exchange" means any exchange in which
37 there are fewer than 2,500 local exchange access lines served by all pro-
38 viders, and "urban exchange" means any exchange in which there are
39 75,000 or more local exchange access lines.
- 40 (6) An electing carrier shall be relieved of any obligation imposed on
41 local exchange carriers, as required by K.S.A. 66-2011, and amendments
42 thereto.
- 43 (7) An electing carrier shall not be required to publish, issue or dis-

1 *tribute dated, paper printed copies of telephone directories. Pursuant to*
2 *the accessible letter process of the applicable 251 interconnection agree-*
3 *ments, if an electing carrier ceases to publish, issue or distribute telephone*
4 *directories to its retail customers, such carriers shall provide written no-*
5 *tice within 60 days to all carriers having an interconnection agreement*
6 *with such carrier that concerns telephone directories. Upon such cessa-*
7 *tion, carriers which rely on the electing carrier for directory services will*
8 *no longer be required to publish, issue or distribute paper printed copies*
9 *of telephone directories. Such carrier may choose to publish, issue or*
10 *distribute a telephone directory in the format of such carrier's choosing.*
11 *Pursuant to the terms of the applicable 251 interconnection agreement,*
12 *such format chosen by the electing carrier for the delivery of a telephone*
13 *directory will be available to other carriers on a nondiscriminatory basis.*
14 *(8) Nothing in this section modifies the requirement in subsection*
15 *(q)(7) for the commission to report to the legislature.*
16 *Sec. 2. K.S.A. 2009 Supp. 66-2005 is hereby repealed.*
17 *Sec. 3. This act shall take effect and be in force from and after its*
18 *publication in the statute book.*