

Approved: April 5, 1996
date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 29, 1996 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Burke, Downey, Feleciano, Gooch, Harris, Ranson, Reynolds, Steffes and Vidricksen.

Committee staff present: Lynne Holt, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Committee Secretary

Conferees appearing before the committee:
Representative Doug Lawrence

Others attending: See attached list

SubHB 2728: Concerning telecommunication services

Representative Doug Lawrence reviewed portions of SubHB 2728 relating to price caps, downward pricing flexibility and miscellaneous baskets, stating there are policy decisions to be made, and the legislation, as written, requires amendments. Rep. Lawrence stated New Section 6 (d), (e), (f), (g), and (h) are inter-related and when making decisions, it is necessary to consider all subsections. Rep. Lawrence submitted proposed amendments to SubHB 2728. (Attachment 1) Some of these proposed amendments are cleanup, and some require policy decisions.

The Committee, after discussion of its options and recognizing the time constraints, unanimously determined telecommunications legislation be considered during this Legislative Session.

The Chair, appointed a subcommittee to study and make recommendations to the full Committee. The following members were appointed to the subcommittee: Senators Downey, Feleciano, Jordan, Reynolds, Steffes and Salisbury. The Subcommittee will meet Thursday, April 4, 1996, at 8:00 a.m.

The Committee adjourned at 9:00 a.m.

The next meeting is scheduled for Friday, April 5, 1996.

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: March 29 1996

| NAME | REPRESENTING |
|--------------------|----------------------------|
| Tom Day | KCC |
| Randy Deramus | KCC |
| Karen Fleming | KCC |
| JEFF ROSSSELL | |
| Mike Reel Out | AT&T |
| Mike Runa | AT&T |
| DAVID HOLINGSWORTH | KANSAS CITY FIBER NET |
| Nelson Krueger | Kansas City Fiber Net |
| Lois Pommers | MCI |
| Mike Meacham | KCTA |
| Hemenway | KCC |
| David Brevity | KCC |
| Bill Roche | Sprint |
| M. CHARRISSIMERA | Classic |
| Ron Hein | Classic |
| WALTER HENDRIX | CURB |
| Tom Gleason | Independent Telecom. Group |
| Doug Smith | SITA |
| Debbie Snow | CWA |

Substitute for HOUSE BILL No. 2728

By Select Committee on Telecommunications

3-15

10 AN ACT concerning telecommunications services; amending K.S.A. 66-
11 1,187 and K.S.A. 1995 Supp. 75-4709 and repealing the existing
12 sections.

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

15 New Section 1. It is hereby declared to be the public policy of the
16 state to:

17 (a) Ensure that every Kansan will have access to a first class telecom-
18 munications infrastructure that provides excellent services at an affor-
19 dable price;

20 (b) ensure that consumers throughout the state realize the benefits
21 of competition through increased services and improved telecommuni-
22 cations facilities and infrastructure at reduced rates;

23 (c) promote consumer access to a full range of telecommunications
24 services, including advanced telecommunications services that are com-
25 parable in urban and rural areas throughout the state;

26 (d) advance the development of a statewide telecommunications in-
27 frastructure that is capable of supporting applications, such as public
28 safety, telemedicine, services for persons with special needs, distance
29 learning, public library services, access to internet providers and others;
30 and

31 (e) protect consumers of telecommunications services from fraudu-
32 lent business practices and practices that are inconsistent with the public
33 interest, convenience and necessity.

34 Sec. 2. K.S.A. 66-1,187 is hereby amended to read as follows: 66-
35 1,187. As used in this act:

36 (a) "Broadband" means the transmission of digital signals at rates
37 equal to or greater than 1.5 megabits per second.

38 (b) "CLASS services" means custom local area signaling services,
39 which include automatic callback, automatic recall, calling number iden-
40 tification, selective call rejection, selective call acceptance, selective call
41 forwarding, distinctive ringing and customer originated trace.

42 (c) "Commission" means the state corporation commission.

43 (d) "Dialing parity" means that a person that is not an affiliate of a

Lawrence Amendments #1-6

*Senate Committee
March 29, 1996
Attachment 1 thru 1-9*

1-2

1 agreements or a statement of terms and conditions generally available to
2 telecommunications carriers.

3 (c) To encourage telecommunications carriers to build or install tel-
4 ecommunications facilities, including, but not limited to, local loop and
5 switching facilities in the state, and except as otherwise negotiated by a
6 local exchange carrier and a telecommunications carrier, the prices for
7 such unbundled facilities shall ~~recover the actual costs, including an ap-~~
8 ~~propriate allocation of joint and common costs and a reasonable profit~~
9 ~~[be determined by the commission, on a nondiscriminatory basis,~~
10 ~~to permit the recovery of actual costs and a reasonable profit]; the~~
11 ~~discount for resale of any existing retail telecommunications services pro-~~
12 ~~vided by local exchange carriers shall not exceed 10% unless the com-~~
13 ~~mission finds that there is clear and convincing evidence that the avoided~~
14 ~~costs are greater than 10% [commission shall determine wholesale~~
15 ~~rates/charged subscribers for the telecommunications service re-~~
16 ~~quested, excluding costs that will be avoided by the local exchange~~
17 ~~carrier]; and the commission shall approve resale restrictions proposed~~
18 ~~by any local exchange carrier which prohibit resellers from purchasing~~
19 ~~retail telecommunications services offered by that local exchange carrier~~
20 ~~to one category of customers and reselling those retail services to a dif-~~
21 ~~ferent category of customers, or from purchasing retail telecommunica-~~
22 ~~tions services and aggregating the usage of multiple customers on those~~
23 ~~resold services, [or upon a finding that such practice would be an-~~
24 ~~ticompetitive, anticonsumer or detrimental to the quality of the~~
25 ~~network infrastructure, the commission may prohibit the resale of~~
26 ~~retail services at a rate lower than the purchased discount rate] or~~
27 ~~any other reasonable limitation on resale to the extent permitted by the~~
28 federal act.

29 (d) As provided in the federal act, in order for telecommunications
30 carriers to provide local exchange service and exchange access service,
31 local exchange carriers shall provide the means to interconnect their re-
32 spective customers, including, but not limited to, toll access, access to
33 operator services, access to directory listings and assistance, and access to
34 911 service.

35 (e) Telecommunications carriers, including, but not limited to, cable
36 television companies that directly or indirectly through affiliated enter-
37 prises provide local exchange or exchange access service, shall provide
38 local exchange carriers corresponding interconnection, resale of their ex-
39 isting telecommunications services and unbundled access to their facilities
40 on the same terms and conditions as are required of the local exchange
41 carriers.

42 (f) [(e)] Customers shall be accorded number portability and local
43 dialing parity in conformance with national standards to the extent eco-

on the basis of retail rates

the portion thereof attributable to any marketing, billing,
collection, and other

20
1

1 The commission may reduce prices charged for services outlined in pro-
2 visions (1) and (2) of this subsection, if the commitments of the local
3 exchange carrier set forth in those provisions are not being kept.

4 (c) For regulatory reform plans in which price cap regulation has
5 been elected, price cap plans shall have three baskets: Residential and
6 single-line business, including touch-tone; switched access; and miscel-
7 laneous services.]

Price cap plans shall include initial prices which are the
then existing prices.

8 (d) A price cap is a maximum price for all services taken as a whole
9 in a given basket. [After the initial three years of rate rebalancing, and
10 except for any subsequent authorized rate rebalancing, no adjustment to
11 an individual service price within the residential and single-line business
12 service basket shall increase more than the consumer price index. Prices
13 for individual services and for services to individual customers may be
14 reduced within a basket. An entire basket, if desired by the local exchange
15 carrier, may be priced below the cap. No service shall be priced below
16 long-run incremental cost which shall serve as a price floor. Access
17 charges equal to those paid by telecommunications carriers to local
18 exchange carriers shall be imputed as part of the price floor for toll serv-
19 ices offered by such local exchange carriers on a total toll service basis.
20 Any downward adjustment in the price of services within a price cap not
21 otherwise reflected in existing tariff rates or rate charges shall be pre-
22 sumed lawful and shall become effective upon seven days' notice, or such
23 shorter time as the commission shall approve, if the tariff applicant has a
24 good faith basis to believe the price reduction is necessary to meet the
25 price offered by an alternate provider to the customer, or in the area for
26 which the new price applies. Any other downward adjustment in rates or
27 rate ranges for an individual service or for services to individual customers
28 shall be effective upon 14 days' notice, or such shorter time as the com-
29 mission shall approve, and shall not be suspended for more than 90 days
30 pending any final order of the commission.

[Except as authorized by the commission
strike

31 (e) The price cap for the residential and single-line business basket,
32 including touch-tone, shall be established at the prices existing when the
33 regulatory plan is filed. In the first three years of the plan, the price cap
34 shall be adjusted annually by a rate rebalancing factor to offset the loss
35 in revenues estimated for the following year due to reductions in both
36 access charges and the imputed access portion of intra-LATA toll charges
37 provided by local exchange carriers; but shall not account for revenue
38 reductions due to market share losses. The commission shall review and
39 issue a final order within 60 days of any price cap adjustment filing and
40 shall adjust prospectively the price cap to reflect any overestimate or
41 underestimate of demand for the immediately preceding year. The re-
42 balancing factor shall be applied to the basket as a whole and shall con-
43 tinue to be used as necessary for the commission to ensure that a revenue

1-4

Lawrence #2

1 balance is reached for any access and local price rebalancing under this
 2 section. Total increases in the monthly residence and single-line business
 3 rates shall be limited to \$1.50 per line in each of the first three years of
 4 the price cap plan, unless the commission authorizes a greater amount.
 5 Rate rebalancing may occur after the initial three-year rate rebalancing
 6 to correspond to any adjustments made to interstate access rates. Any
 7 increases in the price cap which is the residential and single-line business
 8 basket for rate rebalancing in subsequent years shall be subject to the
 9 approval of the commission in accordance with subsection (f). In addition
 10 to any authorized rate rebalancing after the first three years of the price
 11 cap plan, the price cap which is the residential and single-line business
 12 basket shall thereafter be adjusted annually based on the change in the
 13 consumer price index minus 1.5%. However, no increase shall be made
 14 to such price cap during the first three years of the price cap plan for any
 15 purpose other than for the purpose of rate rebalancing pursuant to this
 16 section [Any adjustment to the price cap shall be approved by the
 17 commission].

18 (f) Price caps for intrastate switched access shall be reduced over a
 19 three-year period with the objective of equalizing interstate and intrastate
 20 prices, as long as corresponding changes to local service price caps are
 21 made under subsection (e). After the initial three-year period, intrastate
 22 switched access prices shall be capped at the price of switched interstate
 23 access, as long as the commission authorizes corresponding changes to
 24 local service price caps under subsection (e), or recovery of any such
 25 additional amounts on a revenue neutral basis from the KUSF.

26 (g) The price cap for the basket of all miscellaneous regulated serv-
 27 ices other than residential and single-line business including touch-tone,
 28 and switched access shall be adjusted annually based on the change in
 29 consumer price index minus 1.5%. Such services shall continue to be price
 30 regulated until the affected local exchange carrier begins to offer 1+
 31 intra-LATA dialing parity ~~or July 1, 1997, whichever occurs first.~~ The com-
 32 mission ~~may~~ also price deregulate any individual service or service cate-
 33 gory upon a finding that the service or service category is nonessential
 34 for particular residential or business users or there is an alternate provider
 35 of the service. Changes in the price of services subject to this price cap
 36 shall be effective within seven days after a tariff is filed. Such filing shall
 37 include information demonstrating that the price cap for the entire basket
 38 will not be exceeded by the filing. Such a change shall be presumed lawful
 39 unless it is determined that the price cap for the entire basket has been
 40 exceeded.

41 (h) In the case of any service which has been price deregulated, the
 42 commission shall impose price regulation for such service in ~~a separate~~
 43 basket, upon showings to the commission that: The service is essential

shall

the miscellaneous services

5-1

1 The commission may reduce prices charged for services outlined in pro-
2 visions (1) and (2) of this subsection, if the commitments of the local
3 exchange carrier set forth in those provisions are not being kept.

4 (c) For regulatory reform plans in which price cap regulation has
5 been elected, price cap plans shall have three baskets: Residential and
6 single-line business, including touch-tone; switched access; and miscel-
7 laneous services.

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9 in a given basket. ~~After the initial three years of rate rebalancing, and~~
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12 service basket shall increase more than the consumer price index. Prices
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16 long-run incremental cost which shall serve as a price floor. Access
17 charges equal to those paid by telecommunications carriers to local
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19 ices offered by such local exchange carriers on a total toll service basis.
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Except as authorized by the commission

31 (e) The price cap for the residential and single-line business basket,
32 including touch-tone, shall be established at the prices existing when the
33 regulatory plan is filed. ~~In the first three years of the plan, the price cap~~
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37 ~~provided by local exchange carriers, but shall not account for revenue~~
38 ~~reductions due to market share losses. The commission shall review and~~
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40 ~~shall adjust prospectively the price cap to reflect any overestimate or~~
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16

1 balance is reached for any access and local price rebalancing under this
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 4 the price cap plan, unless the commission authorizes a greater amount.
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 13 consumer price index minus 1.5%. However, no increase shall be made
 14 to such price cap during the first three years of the price cap plan for any
 15 purpose other than for the purpose of rate rebalancing pursuant to this
 16 section [Any] adjustment to the price cap shall be approved by the
 17 commission.]

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 19 three-year period with the objective of equalizing interstate and intrastate
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 24 local service price caps under subsection (e), or recovery of any such
 25 additional amounts on a revenue neutral basis from the KUSF.

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 27 ices other than residential and single-line business including touch-tone,
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 30 regulated until the affected local exchange carrier begins to offer 1+
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 40 exceeded.

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 42 commission shall impose price regulation for such service in [a separate]
 43 basket, upon showings to the commission that: The service is essential

The commission shall review and issue a final order within 60 days of any price cap adjustment filing and shall adjust prospectively the price cap to reflect any overestimate or underestimate of demand for the immediately preceding year. The rebalancing factor shall be applied to the basket as a whole and shall continue to be used as necessary for the commission to ensure that a revenue balance is reached for any access and local price rebalancing under this section. In addition to any authorized rate rebalancing after the first three years of the price cap plan, the price cap which is the residential and single-line business basket shall thereafter be adjusted annually based on the change in the consumer price index minus 1.5%. However, no increase shall be made to such price cap during the first three years of the price cap plan for any purpose other than for the purpose of rate rebalancing pursuant to this section.

such

shall

the miscellaneous services

1-1

1 for particular residential or business users; there is no alternative source
2 for the service; and the price of the service has risen more rapidly than
3 the price of basic residential local service. The price cap for such basket
4 shall be adjusted annually based on the change in consumer price index
5 minus 1.5%.

consumer price index

6 (i) The commission shall require that for all local exchange carriers
7 all such price deregulated intraLATA toll services be geographically av-
8 eraged statewide and not be priced below long-run incremental cost.

basic

9 (j) Cost studies to determine price floors shall be performed as re-
10 quired by the commission in response to complaints. On or before January
11 1, 1997, local exchange carriers with more than 150,000 access lines in
12 this state shall file with the commission long-run incremental cost studies
13 for any of its existing services that the commission requested in its January
14 4, 1996, order in Docket No. 190,492-U.

15 (k) Any new service introduced after July 1, 1996, and prior to July
16 1, 1997, shall be placed in the miscellaneous service basket for any local
17 exchange carrier that elected price cap regulation as part of its regulatory
18 plan. After July 1, 1997, new services shall be price deregulated but sub-
19 ject to reregulation as provided in subsection (h).

20 (l) No audit, earnings review or rate case shall be performed with
21 reference to the price cap plan and the initial prices filed as required
22 herein.

23 (m) Telecommunications carriers shall not be subject to price regu-
24 lation, except that: Access charge reductions shall be passed through to
25 consumers by reductions in basic intrastate toll prices; and basic toll prices
26 shall remain geographically averaged statewide. As required under K.S.A.
27 66-131, and amendments thereto, and except as provided for in subsec-
28 tion (c) of section 5, telecommunications carriers that were not authorized
29 to provide switched local exchange telecommunications services in this
30 state as of July 1, 1996, including cable television operators who have not
31 previously offered telecommunications services, must receive a certificate
32 of convenience based upon a demonstration of technical, managerial and
33 financial viability and the ability to meet quality of service standards es-
34 tablished by the commission. Any telecommunications carrier or other
35 entity seeking such certificate shall file a statement, which shall be subject
36 to the commission's approval, specifying with particularity the areas in
37 which it will offer service, the manner in which it will provide the service
38 in such areas and whether it will serve both business customers and res-
39 idential customers in such areas. Any structurally separate affiliate of a
40 local exchange carrier that provides telecommunications services shall be
41 subject to the same regulatory obligations and oversight as a telecom-
42 munications carrier, as long as the local exchange carrier's affiliate obtains
43 access to any services or facilities from its affiliated local exchange carrier

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1 schools, area vocational-technical schools, community colleges, the mu-
2 nicipal university, and state educational institutions, private, nonprofit
3 elementary and secondary schools and accredited, independent institu-
4 tions of higher education requesting service after July 1, 1999. The dial-
5 up access provided to all other customers shall support at least 14.4 kilobit
6 per-second service to all customers requesting service after July 1, 1999.

7 (d) Customers requesting service pursuant to the act may request
8 either off peak or 24-hour service. (1) For off-peak users, the flat monthly
9 fee shall apply to access between the hours of 5 p.m. and 7:59 a.m. week-
10 days and all hours on weekends and federal holidays. The flat monthly
11 fee shall not exceed \$15 per-line per-month. (2) For customers who sub-
12 scribe to 24-hour service, the flat monthly fee for unlimited use shall not
13 exceed \$30 per-line per-month.

14 (e) Additional dial-up access to internet providers within the calling
15 customer's LATA may be added for an additional flat fee as described in
16 subsection (d).

17 (f) The retail prices established in this section shall apply notwith-
18 standing the prices telecommunications service providers charge, with the
19 approval of the commission or otherwise, for wholesale telecommunica-
20 tions services that may be used to provide similar services.

21 (g) Telecommunications service providers providing dial-up access
22 services pursuant to this section shall not be required to permit resale of
23 those services to other classes of customers, to allow customers to use the
24 services for other purposes, or to allow the aggregation of usage by au-
25 thorized customers.

26 (h) All internet providers doing business in the state shall register may
27 with the commission. Such registration shall include the internet provi-
28 der's name, address, and access line numbers. The commission shall en-
29 sure that the registration is updated on a regular basis.

30 (i) During the 1999 session of the Kansas legislature, the commission
31 shall transmit a report to the chairperson, vice-chairperson and ranking
32 minority member of the house standing committee on energy and natural
33 resources, the senate standing committee on transportation and utilities
34 and the joint committee on computers and telecommunications concern-
35 ing implementation of this section. The report shall include recommen-
36 dations for revisions in this section necessitated by technological inno-
37 vation or market changes in the telecommunications industry. The report
38 may also include an expiration date for this section.

39 New Sec. 14. (a) No local exchange carrier or telecommunications
40 carrier shall honor a request by any person other than its customer to
41 change the provider of intrastate long distance or local exchange service
42 to such customer in the state, except: (1) Where the request is placed by
43 a local or long distance company that has received a letter of agency

9-1

(1) Any governmental unit, including any state agency, taxing sub-
2 division of the state or municipality; or

(2) any hospital or nonprofit corporation which the secretary deter-
3 mines to be performing any state function on an ongoing basis through
4 agreement or otherwise, or any function which will assist a governmental
5 unit in attaining an objective or goal bearing a valid relationship to powers
6 and functions of such unit.

(b) (c) Every record made, maintained or kept by the secretary of
8 administration or the division of information systems and communica-
9 tions, or any agency or instrumentality thereof, which relates to the ac-
10 quisition, retention or use of telecommunications services provided to any
11 division, department or agency of the state, state officer or governmental
12 unit and which pertains to individually identifiable individuals using such
13 telecommunication services shall constitute for purposes of the open re-
14 cords act a record of the division, department or agency of the state, state
15 officer or governmental unit to which such records relate and The official
16 custodian of such records for the purposes of the open records act shall
17 be the official custodian of the records of such division, department or
18 agency of the state, state officer or governmental unit.

New Sec. 16. No references in this act to local exchange carriers in
20 the Hill City exchange area shall be considered a statement of legislative
21 intent for the purpose of determining which carrier or carriers shall be
22 authorized to provide service to the exchange.

[New Sec. 17. In order to adequately assess the impact of
24 TeleKansas I, the commission shall review the capital expenditure
25 required to be made by telecommunications public utilities pur-
26 suant to subsection (a) of K.S.A. 66-1,197, and amendments
27 thereto. After review of such expenditures, the commission shall
28 determine the extent to which such expenditures have not been
29 made and may issue an order establishing a schedule for comple-
30 tion of such capital expenditures.]

Sec. 17. [18.] K.S.A. 66-1,187 and K.S.A. 1995 Supp. 75-4709 are
32 hereby repealed.

Sec. 18. [19.] This act shall take effect and be in force from and after
34 its publication in the statute book.

New Sec. 18. The definitions
included in this act shall not be
used as a basis to determine
whether a taxpayer is a public
utility for purposes of K.S.A. 79-
5a01, and amendments thereto.