

Approved: JAN. 28, 1997  
Date

MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Pat Ranson 1:30 p.m. on January 21, 1997 in Room 531--N of the Capitol.

All members were present

Committee staff present:: Lynne Holt, Legislative Research Department

Fred Carman, Revisor of Statutes  
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:

Louis Stroup, Kansas Municipal Utilities, Inc.  
Tim McKee, Chairman, Kansas Corporation Commission  
Judith McConnell, Executive Director, Kansas Corporation Commission  
Karen Matson, Chief, Telecommunications  
Glenda Cafer, Director, Utilities Division, Kansas Corporation Commission

Others attending: See attached list

Chairman Ranson called the meeting to order and called the committees' attention to two articles distributed to the committee: article from the Wall Street Journal and from the Gas Daily. Sen. Ranson then introduced Louis Stroup, Jr., who requested a bill be introduced (Attachment 1). Sen. Clark made a motion the bill be introduced, and Sen. Steffes seconded the motion; the motion passed. Two proposals (Attachments 2 and 3) from the Interim Committee on Gas Gathering were distributed to the committee, and Sen. Sallee stated he hopes to have bills drafted to present to the committee Thursday or early next week.

Sen. Ranson introduced Tim McKee, Chairman of the Kansas Corporation Commission. Mr. McKee introduced John Wine and Susan Seltsam, KCC Commissioners and other staff members. Mr. McKee referred to an organizational chart (Attachment 4) and introduced Judith McConnell who explained the functions, responsibilities and scope of the Commission (Attachment 5).

Committee members asked questions of Ms. McConnell, and Mr. McKee and members discussed the mission of the Commission, which is to protect public interest, to provide good customer relations and to be impartial; the possibility of conflict of interest, particularly in the Legal Division, was also discussed. During the discussion, Mr. McKee referred to a post audit of the Commission, and Sen. Ranson suggested the committee be briefed and directed staff to schedule it sometime in the future

Sen. Ranson then recognized the three pages from Liberal assisting the committee today and asked each one to introduce himself.

Mr. McKee introduced Karen Matson, who explained the Telecommunications Division (Attachment 6) and distributed maps of telephone exchange areas to the committee. She also distributed the Executive Summary of the Phase II Competition Order (Attachment 7).

Committee members asked questions regarding the Summary, urban vs. rural lines and quality of service. Also discussed were requirements for eligibility for KUSF and the FCC Decision. Sen. Ranson questioned Ms. Matson regarding the Telecommunications Order and the remedy for those in disagreement with that Order. Ms. Matson answered that the Issues for Reconsideration is due February 3 or 4, then if there are Appeals, it will be taken to the Courts. Parties to the proceedings will be represented, and she referred to **HB 2728-concerning telecommunications services**, passed last session, which set up the framework for the Telecommunications Act and the subsequent Order. Sen. Ranson suggested it would be beneficial for the committee to be briefed on the Order after it is received.

Mr. McKee introduced Glenda Cafer, who gave a brief Overview on the Utilities Division. (Attachment 8).

Meeting adjourned at 2:35.

Next meeting will be January 23.

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: JAN. 21, 1997

NAME	REPRESENTING
JOE DICK	KCKBPU
Von Miles	Kansas Electric Cooperatives
JEFF RUSSELL	SPRINT
STEVE KEARNEY	KEARNEY LAW OFFICE
J.C. LONG	UtiliCorp United, Inc.
Louis Stroup Jr.	KANSAS Municipal Utilities
Jessy Holloway	KCC
Glenda Cifer	KCC
Karen Matson	KCC
TIM MCKEE	KCC
Joe Staskal	WILLIAMS FIELD SERVICES
Charles Benjamin	KNRC / Sierra Club
Gene Smith	KCC
Jessy Helton	KCC
Bill Jareee	BOEING
Joe Williams	KCC
John Vine	KCC
Temp Barber	Barber & Co
John McConnell	KCC

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: January 21-97

NAME	REPRESENTING
Denny Koch	SWB
Shirley Allen	SWB
Julie Hein	Hein + Weir
Martha Ann Smith	KMHA
Cyrus Star	AT&T
Pat James	Wichita Chamber
Kevin Wall	KPOC
Jill Bachman	Sen. Brownlee
Martin Hama	Hawaii's Capital Road
Dave Hemen	KCC
Kevin Larson	Energy Corp.
John D. Lingar	SITA
Joan Traudie	KGC
Leifene Schneider	VCA
John Croom	MOBIL OIL - LIBERTAL, KS
J. P. Small	MOBIL TOPEKA

*Attach. 1*

## **REQUEST FOR BILL INTRODUCTION**

Before Senate Utilities Committee

January 21, 1997

Madam Chair, members of the committee, I am Louis Stroup, Jr., executive director of Kansas Municipal Utilities, a statewide association of municipal electric, gas and water cities which was founded in 1928 and whose member cities provide utility services to more than 1 million Kansans.

### **KMU requests introduction of a deregulation bill impacting selected municipal electric and gas cities**

I appear today to request introduction of a bill on behalf of 14 of the 121 municipal electric cities which have Kansas Corporation Commission jurisdictional customers outside the 3-mile limit; and on behalf of the 17 municipal gas distribution cities out of 71 which have KCC jurisdictional customers outside the 3-mile limit.

#### **Brief history on 3-mile limit**

Prior to 1968, municipal electric and gas systems were not under the KCC jurisdiction for rate-making purposes. Following passage of a bill in 1968, any municipal gas or electric system with customers further out than 3 miles from the city limits became KCC jurisdictional customers for rate making purposes -- meaning a city could not change rates to those customers without a hearing before the KCC. This has turned out to be a costly and time consuming procedure. Currently, 32 of the 36 rural electric distribution cooperatives are not regulated by the KCC for rates (re passage of similar legislation in 1992).

#### **Purpose of the KMU request**

Our intention is to amend only the rate aspect of KCC jurisdiction over customers outside the 3-mile limit, nothing else (such as gas pipeline safety, service territories, etc.). The purpose of the bill request is solely to help cities with jurisdictional customers to reduce costs (KCC assessments, cost of rate cases, etc.) as the electric and gas industries face more competitive postures in the future. Our cities are just like other utilities, we need to gear up for the future, to meet the many changes deregulation of the electric and gas industries are bringing.

*Senate Util.  
1-21-97  
Att. 1*

**66-131. Permit to transact business required; exceptions; limitations on commission's authority and jurisdiction.**

No common carrier or public utility, including that portion of any municipally owned utility defined as a public utility by K.S.A. 66-104, governed by the provisions of this act shall transact business in the state of Kansas until it shall have obtained a certificate from the corporation commission that public convenience will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state. In no event shall such jurisdiction authorize the corporation commission to review, consider or affect the facilities or ~~rates charged for services~~ or in any way the operation of such municipally owned or operated electric or gas utility within the corporate limits or outside but within three (3) miles of the corporate limits of any city, or facilities, ~~or rates charged for services~~ or in any way the operation of facilities or their replacements now owned by any such utility except as provided in K.S.A. 66-131a. No prescribed rates, orders or other regulatory supervision of the corporation commission shall be contrary to any lawful provision of any revenue bond ordinance authorizing the issuance of revenue bonds to finance all or any part of the municipally owned or operated electric or gas utility so subjected to the jurisdiction of the corporation commission. This section shall not apply to any common carrier or public utility governed by the provisions of this act now transacting business in this state, nor shall this section apply to the facilities and operations of any municipally owned or operated utility supplying electricity or gas outside of the corporate limits of any municipality where such facilities and operations are in existence on the effective date of this act, but any extension of such facilities or any new facilities located outside of and more than three (3) miles from the municipality's corporate limits, shall be subject to the requirements of this section, nor shall this section apply to any municipally owned or operated electric or gas utility furnishing electricity or gas to a facility owned or jointly owned by such municipality and located outside the corporate limits of such municipality. History: L. 1911, ch. 238, S. 31; R.S. 1923, 66-131; L. 1968, ch. 333, S. 7; L. 1978, ch. 263, S. 3; March 23.

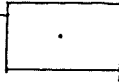
Notwithstanding K.S.A. 66-104, in no event shall such jurisdiction authorize the corporation commission to review, consider or affect the rates charged for services of such municipally owned or operated electric or gas utility, provided that such rates are in compliance with K.S.A. 12-808a.

12-808a. Electric or gas utility outside city limits; eminent domain; determination of rates.

Whenever the governing body or the board of public utilities of any city owning or operating an electric or gas utility, any part of which is defined as a public utility under K.S.A. 66-104, shall deem it necessary for the proper construction, operation and management of such public utility, said governing body or board shall have and are hereby granted the power of eminent domain outside the corporate limit of such city, within the area subject to the jurisdiction and control of the corporation commission.

~~Subject to the approval of the corporation commission,~~ every such utility shall have and is hereby granted the power and authority to determine the rate for service within any area located outside of and more than three (3) miles from the corporate limits of a city. However, nothing herein shall be construed as affecting the validity of rates, charged to consumers in such areas by a municipally owned or operated gas or electric utility, which have been established and are in effect on the effective date of this act, ~~but any change in such rates shall be subject to the approval of the corporation commission and must receive the commission's approval before said rates shall become effective.~~ History: L. 1968, ch. 333, S. 8; March 30.

, *provided that* the rate for service in such an area may not exceed the rate charged for similar service to similar types and classes of service consumers located outside of and within three (3) miles of the corporate limits of the city.



12-808b. Same; filing of rates and location of facilities, when.

Within one hundred twenty (120) days after the effective date of this act, all municipally owned or operated electric or gas utilities having facilities located outside of ~~and more than three (3) miles from~~ the corporate limits of the city shall file with the corporation commission in the manner prescribed by the commission: (a) A schedule of rates charged to all consumers ~~outside of and more than three (3) miles from the corporate limits of such municipality;~~ and (b) the location of all facilities of such utility located outside of ~~and more than three (3) miles from~~ the corporate limits of such municipality. History: L. 1968, ch. 333, S. 9; March 30.

(Attac 2)

TASK FORCE ON GAS GATHERING

ATTACHMENT NO. 6

PROPOSED BILL DRAFT NO. \_\_\_\_\_

By

AN ACT relating to oil and gas; prescribing information to be included with payments to interest owners from sales of oil and gas.

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

Section 1. Any person making a payment for proceeds attributable to oil or gas production shall include, or shall be calculable from, the following information with each payment made to a payee:

(a) The lease, property, or well name or any lease, property, or well identification number used to identify the lease, or well;

(b) the month and year during which the sale occurred for which payment is being made;

(c) the total volume of oil, attributable to such payment, measured in barrels and the total volume of either wet or dry gas, attributable to such payment, measured in thousand cubic feet;

(d) the price per barrel of oil or thousand cubic feet of gas sold;

(e) total amount of state severance and production taxes;

(f) payee's interest in the sale expressed as a decimal;

(g) payee's share of the sale before any deductions or adjustments;

(h) payee's share of the sale after deductions or adjustments;

(i) an address and telephone number where additional information may be obtained and any questions answered.

Sec. 2. Nothing contained in this act shall be construed to amend or otherwise affect any contractual obligations or rights which may otherwise exist.

*Senate Activities  
1-21-97  
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Sec. 3. Upon written request by the payee, submitted to the payor by certified mail, the payor shall provide to the payee in writing a specific listing of the amount and purpose of any other deductions or adjustments, including volumetric deductions, with explanation of such treatment. Such written response shall be provided within 60 days of the receipt of such certified mail request.

Sec. 4. The district courts within this state shall have the jurisdiction to determine damages, interest, court costs, attorneys' fees or allowable litigation expenses incurred by a party in an action to enforce this act.

Sec. 5. This act shall take effect and be in force from and after January 1, 1998, and its publication in the statute book.

(Attach 5)

TASK FORCE ON GAS GATHERING

ATTACHMENT NO. 7

PROPOSED BILL NO. \_\_\_\_\_

By \_\_\_\_\_

AN ACT concerning oil and gas; relating to natural gas gathering systems; providing for regulation of certain entities; concerning certain natural gas public utilities and common carriers; amending K.S.A. 1996 Supp. 55-150 and repealing the existing section.

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

Section 1. K.S.A. 1996 Supp. 55-150 is hereby amended to read as follows: 55-150. As used in this act unless the context requires a different meaning:

(a) "Commission" means the state corporation commission.

(b) "Contractor" means any person who acts as agent for an operator as a drilling, plugging, service rig or seismograph contractor in such operator's oil and gas, cathodic protection, gas gathering or underground natural gas storage operations.

(c) "Fresh water" means water containing not more than 1,000 milligrams per liter, total dissolved solids.

(d) "Gas gathering system" means a natural gas pipeline system used primarily for transporting natural gas from a wellhead, or a metering point for natural gas produced by one or more wells, to a point of entry into a main transmission line, but shall not mean or include: ~~(1) the gathering of natural gas produced from wells owned and operated by the gatherer and where the gathering system is used exclusively for its own private purposes;~~ ~~(2) Lead lines from the wellhead to the connection with the gathering system which are owned by the producing entity person;~~ and ~~(3) (2) gathering systems used exclusively for injection and withdrawal from natural gas storage fields which remain jurisdictional to the federal energy regulatory~~ commission.

(e) "Operator" means a person who is responsible for the

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1-21-99  
Att. 3

physical operation and control of a well, gas gathering system or underground natural gas storage facility.

(f) "Person" means any natural person, partnership, governmental or political subdivision, firm, association, corporation or other legal entity.

(g) "Rig" means any crane machine used for drilling or plugging wells.

(h) "Usable water" means water containing not more than 10,000 milligrams per liter, total dissolved solids.

(i) "Well" means a hole drilled or recompleted for the purpose of:

- (1) Producing oil or gas;
- (2) injecting fluid, air or gas in the ground in connection with the exploration for or production of oil or gas;
- (3) obtaining geological information in connection with the exploration for or production of oil or gas by taking cores or through seismic operations;
- (4) disposing of fluids produced in connection with the exploration for or production of oil or gas;
- (5) providing cathodic protection to prevent corrosion to lines; or
- (6) injecting or withdrawing natural gas.

New Sec. 2. The term "public utility" as used in K.S.A. 66-104, and amendments thereto, and the term "common carriers" as used in K.S.A. 66-105, and amendments thereto, shall not include a gas gathering system, as defined in K.S.A. 55-150, and amendments thereto, unless the commission, upon application or complaint, and after notice and hearing, determines that within the area of service, or proposed service, of such gas gathering system, competitive market conditions do not exist and that:

(a) The gas gathering system has, is or is about to engage in abusive monopolistic practice which is inimicable to the public interests; or

(b) gas gathering services are not likely to be effectively and efficiently furnished unless a certificate of necessity and

convenience and exclusive market territory is granted, with rates and practices established by the commission as in the case of other public utilities.

New Sec. 3. (a) As used in this section:

- (1) "Commission" means the state corporation commission;
- (2) "gas gathering services" means the gathering or preparation of natural gas for transportation, whether such services are performed for hire or in connection with the purchase of natural gas by the gatherer;
- (3) "person" means any natural person, partnership, governmental or political subdivision, firm, association, corporation or other legal entity.

(b) No person offering gas gathering services shall deny access to any person seeking such services in a manner which is unduly, unlawfully, or unreasonably discriminatory or unfair.

(c) No person performing gas gathering services shall charge a fee for such services, or engage in any practice in connection with such services, which is unduly, unlawfully or unreasonably discriminatory or unfair. Any person seeking a gas gathering service who is aggrieved by reason of any such unduly, unlawfully or unreasonably discriminatory or unfair fee or practice may file a complaint with the commission. If the commission makes a factual determination that competitive gathering conditions do not exist for the gathering of the complainant's natural gas, the commission may resolve the complaint by use of an informal procedure established by the commission pursuant to rules and regulations adopted by the commission or the commission may conduct a hearing and take evidence as necessary to determine the merits of the complaint. The hearing shall be conducted and notice given in accordance with the Kansas administrative procedure act. Upon such hearing, the commission shall have authority to order the remediation of any unduly, unlawfully or unreasonably discriminatory or unfair fee for gathering services, or any unduly, unlawfully or unreasonably discriminatory or unfair practice in connection with such services, to the extent

necessary for remediation as to the aggrieved person with respect to the particular fee or service involved.

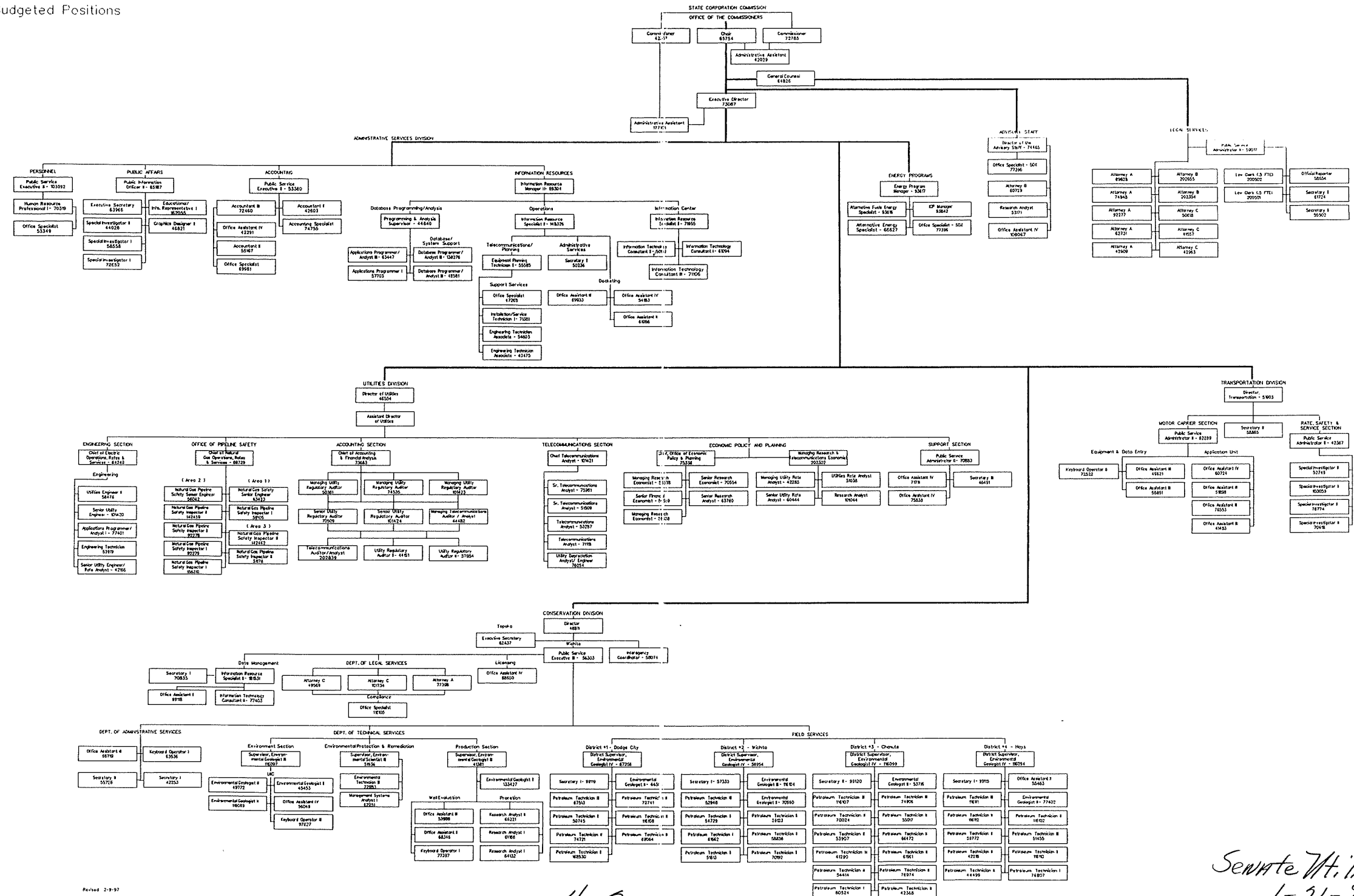
(d) Nothing in this act shall be construed, or authorize the commission, to amend or otherwise affect any contractual obligations between the gatherer and the complainant or rights which may otherwise exist.

Sec. 4. K.S.A. 1996 Supp. 55-150 is hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

ATTACH. 4

1-20-97  
213 Budgeted Positions



Senate Militaries  
1-21-97  
Attachment 4

Senate Militaries  
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Att. 4

**Kansas Corporation Commission**  
Remarks by Judith McConnell, Executive Director  
Before Senate Utilities Committee  
January 21, 1997

Organizational Structure of the Kansas Corporation Commission

- I. Distribution of Organizational Chart (depicting all positions by division and by title)
- II. Organizational Structure
  - A. Three-member commission. Appointed by Governor. Confirmed by Senate. Kansas law provides for staggered terms of four years. Minority party representation required.
  - B. Financed through fees and assessments (largely of regulated utilities). No State General Fund revenues involved. Commission's approved FY 1997 budget approximately \$15 million; Governor's recommended budget for FY 1998 continues current level of services at approximately same \$15 million level.
  - C. Commissioners assisted in their responsibilities by staff of 210 F.T.E. positions. Functions carried out under four separate divisions: Administrative Services/Legal; Utilities; Conservation; and Transportation. Conservation Division located in Wichita and supported by four district offices (Wichita, Chanute, Dodge City, and Hays).
- III. Brief Discussion of KCC Responsibilities and Services Regulated
  - A. Electric, Natural Gas, Telephone. Discussed in more detail by technical staff of the Utilities Division; highlighted significant issues that revolve largely around de-regulation and restructuring of the regulated industries (retail wheeling, telecommunications update; KCC involvement/intervention at the federal level including the Federal Energy Regulatory Commission (FERC); recent Commission action/orders with respect to docketed matters).
  - B. Transportation (motor carriers and railroads).
  - C. Crude Oil and Natural Gas. KCC Conservation Division responsible for ensuring that oil and gas resources of the State can be responsibly discovered and produced while preventing waste, protecting the rights of various parties, and protecting human, environmental, and water resources. Discussion of gas gathering issue by Chair McKee.

IV. Brief Discussion of Organizational Structure of Public Utility Commissions (PUCs) Generally

- A. Commissioners Summit (May, 1995) hosted by the National Association of Regulatory Utility Commissioners and the National Regulatory Research Institute (NRRI).
1. Purpose: To assemble and record the collective expertise of regulatory commissioners regarding the mission, strategies, and implementation steps needed to help state commissions successfully meet the new challenges of utility regulation.
  2. Consensus: vital role for state PUCs will continue to exist during the transition to more competitive markets and even in fully competitive markets; PUCs' role and mission will be evolving and undergoing substantial change; over long-haul state PUCs will likely shrink in size but during transition period workload will increase so significantly as to justify additional staffing resources.
  3. Increased focus on: evaluating mergers and acquisitions; public education efforts and consumer issues; monitoring affiliate transactions; regional regulatory arrangements; advisory staff role enhanced relative to its advocacy role; more use of mediation and negotiated settlements; more use of workshops and collaborative; more focus on anti-trust issues.
- B. Organizational Change and Managing Change during Transition Period continues to be a Topic of Discussion at Meetings of Commission's National Organization and is the Subject of Written Analyses prepared by NRRI and Other Bodies.



Thank you. My name is Karen Matson; I'm Chief of Telecommunications at the Commission. Our staff is part of the Utilities Division. This is the section of the Commission which houses the technical experts. We are essentially the research arm of the Commission. My staff's primary duties are to advise the Commissioners and interface with the public on all matters dealing with telecommunications.

Just about a year ago, in the early spring of 1996, Congress passed a law which massively re-wrote the 1934 Communications Act. The re-write consists of hundreds of pages and essentially sets the running rules for how local competition is going to happen. Our Kansas legislature acted quickly and used this new federal law as a springboard last year to pass additional telecommunications law in Kansas.

Full implementation of the Kansas law will take several years because it established long term regulatory and industry changes, but many of the actions items for the KCC had to be completed in the first year. We are very pleased to report that all deadlines for KCC action have been met on time and we are well on track for future action.

Most of the required action items were contained in one KCC proceeding which is generally referred to as "the Competition docket". I'll briefly run through the state law and KCC docket; and at the end of my presentation, we'll also hand out

an executive summary. The complete KCC Order is available to you, but because the decisions are subject to appeal and court review, the document includes lengthy detailed discussion to provide the reasoning behind every decision so that it will stand up in a court of law. So, KCC Orders are usually pretty lengthy and bulky; and this one is no exception. We can make a hard copy available to you. The order is also available at our Internet Home Page ([www.kcc.state.ks.us](http://www.kcc.state.ks.us)).

The Competition Order finalizes the following action items:

- regulatory reform plans - price cap regulatory plan will be an option. All companies will elect their regulatory reform plan (either price caps or rate of return regulation) during this calendar year (1997).
- Long distance rates for calls within the Kansas borders will decrease approximately 30% over the next three years. This reduction will bring intrastate long distance rates in line with the out-of-state rates.
- A Kansas Universal Service Fund has been established to help fund local telephone service in high cost areas of the state. This fund will help ensure that competitors will be playing on a level field and will help ensure that even the high cost areas of the state can attract competitors.

- An increase in local service rates will be phased-in over three years beginning March 1, 1997, to support a portion of the cost of funding the KUSF; while maintaining the revenue neutrality required by Kansas law. Southwestern Bell will increase local rates by \$2.00 per month in the first year; an additional \$1.00 per month in the second year, and approximately 21 cents in the third year. This is a total increase of approximately \$3.21. Sprint Telephone customers will see an increase of approximately \$3.00 over the same three year period. The customers served by other local telephone companies will experience a total monthly local service increase ranging from \$1.42 to \$3.23.
- Rates for public payphone calls will increase to 35 cents and the free call allowance for directory assistance will be eliminated. The revenues from the increases will be used to help offset the costs of the KUSF so that we can minimize the amount of local increases.
- A Kansas Lifeline Service Program has been established to offset increases in local service for residential persons with low income. This program will help them maintain local service by offsetting the local rate increases. Qualifying low-income customers will receive a discount on local service of \$3.50 to be phased-in over three years. There is also a

matching \$3.50 that will be granted at the federal level, so when all is said and done; low-income residential subscribers will have a \$7.00 reduction in their phone bill each month. The offset from the Lifeline Service Program will more than offset the local increases and subscribers will be better off under this plan than they are today. Qualifying criteria will be tied to eligibility for public assistance programs: Aid to Dependent Children, Food Stamps, General Assistance, Medicaid, Supplemental Security Income, Food Distribution Program - United Tribes of Kansas and SE Nebraska.

The Kansas law also called for Quality of Service standards to be established for the industry. These standards have been set and focus upon customer satisfaction measurements. These standards will ensure that the infrastructure of the telecommunications network is maintained at a high quality standard. The Commission staff and industry will be working together in the next year as the first step of an on-going process to review and refine the standards as the network and customer expectations change.

Consumer protection is also behind requirements in the law that validated and reinforced the efforts of the KCC to enforce Slamming restrictions. Slamming is our shorthand name for when a telephone subscriber has their phone service switched to

another provider without that subscriber's full knowledge and consent. Kansas, like other states, has had its share of unscrupulous long distance marketers that would sign up subscribers at random, sometimes without even contacting them. Our Commission pursues these companies and levies \$1,000 fines for the violations. The number of slamming complaints has declined, but we expect slamming to be with us a while, particularly with the start of local competition. Not only will an opportunity exist for your long distance service to be switched, but you will have a local service provider that can be switched, too.

Internet service .... Section 12 of the Act required two 'capped' toll access plans to be made available to those Internet end users who are not served by a 'local' provider; one plan provides for an end user rate of \$15.00/month for non-measured access to the Internet between the hours of 5:00PM and 7:59AM weekdays, weekends and federal holidays, the second plan provides a \$30.00/month rate for unlimited usage.

In addition to requiring the above mentioned capped rates, the KCC was directed to register all Internet Services Providers (ISPs) operating in the state. To date, the staff has compiled and distributed 5 issues of the Kansas ISP Registry. (This Registry is also maintained on our Internet home page, [www.kcc.state.ks.us](http://www.kcc.state.ks.us).) Following is a brief summary of the 1-9-97 issue:

Number of registered ISPs operating in Kansas, .....	51
Number of <u>rural</u> locations with local (7-digit) access to the Internet .....	302
Number of <u>rural</u> locations with two, or more, ISPs .....	24
% of rural lines with local (7-digit) access to the Internet, as of 1-9-97 ..	76%

Rural locations refers to locations other than the Kansas City, Wichita and/or the Topeka metropolitan areas. The metropolitan areas in Kansas have local Internet access.

The last significant piece of the legislated action items is the provision of telecommunications equipment for those Kansans with special needs and funding of the Kansas Relay Service center. The Kansas Relay Service center provides the communications system for the deaf and hearing impaired. The special needs fund will provide telecommunications equipment for the visually, hearing, and physically impaired Kansans. The funding for these will be assessed against the telecommunications providers in the state and collected by the administrator of the Kansas Universal Service Fund which I mentioned earlier. This fund is supported in part by the increase in local rates to consumers (which is a flow-through of the assessment against the local providers) and an equal assessment against the long distance providers and other local competitors. The two funds (the DEAF fund and the KUSF) are separate funds, but they are assessed in an identical manner and

collected by one common administrator so as to reduce costs.

The last item I wanted to mention that may be of interest to your constituents is recent action taken by the KCC to change phone numbers in the state. With the increasing demand for telephone service, we are just simply running out of numbers. The numbers in the 913 area code are going to exhaust in the third quarter of 1998. This would mean a new customer could order service and there just wouldn't be a telephone number available for them. The Commission chose an option that would minimize disruption to customers and preserve 7-digit dialing for local calls. The result will be that about the middle of this year, we will move the 913 area code exclusively to the Kansas City area and introduce a new area code for those that were the old 913 code. The 316 area code will be unaffected for now, although this code is expected to exhaust at the end of the year 2002 and some changes will have to be made before that time. There will be about a 15-month transition period during which both the new and old area codes will be active so that customers can get used to the new number. The telecommunications industry is working hard to prepare for this change to ensure consumers are well informed and we will attempt to make this transition as smooth as possible.

I want to thank you for your time and attention. As I mentioned earlier, I'm really just giving you the 10,000 foot analysis and I realize you may well have a desire

for more detailed information. Please feel free to call our office with any questions or concerns that you may have. Our staff is available for your use and we'd be happy to answer any of your questions.



ATTAC 17  
MATSON

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of a General )  
Investigation Into Competition within ) Docket No. 190,492-U  
the Telecommunications Industry in ) 94-GIMT-478-GIT  
the State of Kansas. )

EXECUTIVE SUMMARY OF THE PHASE II COMPETITION ORDER

I. KANSAS UNIVERSAL SERVICE FUND

A. ACCESS RATE REDUCTION

Rates for intrastate switched access and the imputed access portion of toll, shall be reduced over a three-year period for Southwestern Bell Telephone Company (SWBT) and Sprint/United Telephone Company of Kansas (Sprint) with the objective of equalizing interstate and intrastate rates in a revenue neutral, specific and predictable manner. The independent local exchange companies (ILECs) will reduce their intrastate access rates to the interstate rate level on March 1, 1997. The Commission plans to revisit the access parity issue after the FCC access guidelines are issued, no later than September 1998.

B. REVENUE REDUCTION RECOVERY FROM KUSF

The initial amount of the KUSF shall be comprised of Local Exchange Carrier (LEC) revenues lost as a result of rate rebalancing pursuant to the State Act. Revenues shall be recovered on a revenue neutral basis. As part of the access rate reduction, the ILECs should reduce their Billing and Collection rates to \$.05 per message as determined by the Commission in its April 4, 1996 Order.

The State Act is specific in requiring the calculations of volumes and revenues be made on the twelve (12) months ending September 30, 1996.

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C. KUSF ASSESSMENT ON ALL

The Order requires each telecommunications carrier, telecommunications public utility and wireless telecommunications service provider that provides intrastate telecommunications services to contribute to the KUSF on an equitable and non-discriminatory basis. (HB 2728 § 9(b)).

The KUSF shall be funded by an equal assessment on all intrastate retail revenues. An assessment on revenues assures that every telecommunications carrier, telecommunications public utility and wireless telecommunications service provider that provides intrastate telecommunications services will contribute on an equitable and non-discriminatory basis in accordance with the State Act.

Since the Commission is adopting an equal assessment on all retail revenue amounts, no rebalancing to local rates will occur beyond the impact of the KUSF assessment and the ILEC transition to the statewide average local rate. (HB 2728 § 6(c)).

The size of the fund shall be determined in the same manner as the estimated \$111.6 million and shall be phased in over three years. LEC payments and distributions may be offset so as to avoid unnecessary fund transfers.

D. HOW LECs RECOVER THE ASSESSMENT

The portion of the assessment attributed to the LECs' local service which may be recovered on a flat per line basis will approximate \$3.21 per month for SWBT customers over three years, and slightly less than \$3.00 per month for United customers over three years. These amounts per line are after the adoption of increases in miscellaneous charges such as directory assistance and pay phones. The rates for pay phone calls shall be \$.35 and the free call allowances for directory assistance shall be eliminated. These rates shall go into effect March 1, 1997.

E. THREE YEAR TRANSITION

The estimated \$3.21 per month rate increase for SWBT customers are allocated as follows: a) \$2.00 per month for the first year, b) \$1.00 per month for the second year, and c) the remainder for the third year. Sprint will implement the pass through of its KUSF assessment on a similar per line basis, determined by dividing its assessment amount (less coin and directory assistance) by its number of lines.

F. REVIEW PROCEDURES FOR KUSF ADMINISTRATION

The Commission has awarded the initial contract (January 1997 to June 1998) to the National Exchange Carriers Association, Inc. (NECA). There will be an annual audit of the fund administrator. The Commission directs Staff to conduct periodic audits of intrastate telecommunications providers to verify that intrastate revenues are being reported accurately for assessment purposes.

G. WHO RECEIVES SUPPORT AND ON WHAT BASIS

Support should be distributed to achieve revenue neutrality pursuant to the State Act. (HB 2728 § 9(c)). Those companies that provide service in high cost rural areas shall receive support. Rural areas shall be defined as exchanges with 10,000 or fewer access lines. The support shall be paid at a rate of up to \$36.88 per residential loop. This amount is not currently covered by federal high cost support programs. (ie: Universal Service Funds, etc.)

H. SUPPLEMENTAL FUNDING

The Commission must act on requests for supplemental KUSF funding within 120 days if the request is based on the criteria in Section 9(e) of the State Act. The Commission is not bound by the 120 day requirement if the request is based on the criteria in Section 9(f). Eligible new entrants providing local service are also

permitted supplemental funding under the State Act § 9(f) on a per line served basis which can be filed monthly with the KUSF administrator.

I. LIFELINE SERVICE PROGRAM

The Commission adopts a Kansas Lifeline Service Program (KLSP) plan in which all local service providers (existent LECs and new LECs or ALECS) will participate. The Lifeline discount of up to \$3.50 per month will be recovered from the KUSF and will be phased-in in conjunction with the line assessment. Funding of the Lifeline program will be collected by the KUSF administrator as part of the KUSF assessment. Six low income assistance programs will be used as the qualifying criteria. The Commission directs Staff to investigate the feasibility of applying a minimum income criterion plan.

J. KANSAS RELAY SERVICES INC. (KRSI)

To ensure the competitive neutrality of future funding of Kansas Relay Center (KRC) operations under the State Act, the Commission changes the assessment base for relay services to become an assessment on the retail revenues of all present and future intrastate telecommunications services providers in Kansas. These funds shall be collected by the KUSF administrator as part of the KUSF assessment and paid out to Kansas Relay Services, Inc. (KRSI) for the ongoing operational support of both KRSI and the KRC.

The KUSF administrator will keep separate accounting records for the various funds. Distribution of funds shall be made in the following priority: KRSI, Telecommunications Access Program (TAP), Lifeline, and Universal Service.

II. FORM OF REGULATION /SELECTION OF REGULATORY PLAN

Section 6 of the State Act requires that "each local exchange carrier shall file a regulatory reform plan at the same time as it files the network infrastructure plan." As part of the regulatory plan, LECs may elect traditional rate of return regulation or

price cap regulation. Infrastructure plans must demonstrate a LEC's ability to comply on an ongoing basis with quality of service standards the Commission will adopt no later than January 1, 1997. If the Commission finds, after a hearing, that a carrier subject to price cap regulation violated minimum quality of service standards, the Commission may require the carrier to resume rate of return regulation. (HB 2728 § 6(a)(b)).

A. PRICE CAP BASKETS

(1) Basket One

Basket One shall contain rates for basic telecommunications services which will remain unchanged until the year 2000, except for rate changes authorized by the Commission. (HB 2728 § 6(g)). In the event a competitor enters a local market and the existing range of prices is constrictive to the incumbent provider for the purpose of meeting competitor pricing, the LEC may petition the Commission for additional price flexibility within that exchange without the necessity of maintaining averaged rates for all similarly situated exchanges. Determinations will be made on a case-by-case basis.

An exception to the Basket One price cap for single line residence and single line business shall be the reclassification of an exchange from one rate group to another based upon growth or decline in the number of telephone access lines.

(2) Basket Two

Price cap adjustments are not applicable to switched access services. Prices are subject to reduction to match interstate rate levels. (HB 2728 §§ 6(c) and 6(e))

(3) Basket Three

Basket Three contains rates for multi-line business and for services which are optional or more competitive in nature. The price cap will be adjusted annually after December 31, 1997. (HB 2728 § 6(I)). All Basket Three services shall be subject to a broader, less regulatory treatment when competition enters a local market and

the existing prices are constrictive to the incumbent provider for the purpose of meeting a competitor's prices.

Section 6(p) of the State Act grants the Commission discretion to price deregulate within an exchange area, or on a statewide basis, any individual service or service category upon a finding that there is a telecommunications carrier or an alternative provider providing a comparable product or service, considering both function and price, in that exchange area.

Within the Competitive Sub-Basket, the LEC will have additional pricing flexibility within the competitive exchange without the necessity of maintaining averaged rates for all other customers within that same exchange. When the Commission determines that services and/or an exchange are so competitive that the market can determine prices that are not too high without the need for price limits or other regulatory safeguards, then the prices will be deregulated.

#### B. PRICE CAP FACTORS

The price index for Baskets One and Three will be recalculated annually. The formula uses three factors: Inflation less Productivity (plus or minus) Exogenous Adjustments.

The Gross Domestic Product Price Index - Chain Weighted (GDPPI-CW) shall be the basic inflation index for Baskets One and Three. The Commission found no compelling justification for the use of different inflation factors for Basket One and Three.

A 3 percent total factor productivity (TFP) is appropriate on a total company basis for Baskets One and Three (Basket One will begin adjustment in 2001). A finding in the upper end of the range as supported in the record is warranted based on testimony concerning the input price differential. The Commission considered the infrastructure requirements set forth in Section 6(a) of the Kansas Act for the deployment of universal service capabilities by July 1, 1998, and enhanced universal service capabilities by July 1, 2001, when establishing the TFP near the mid-range of

those proposed by the parties. The higher TFP rates were deemed inappropriate and prohibitive given the required investment in infrastructure. The 3 percent TFP factor for Baskets One and Three is well within the range of the productivity factors presented in the record, and balances public policy goals of encouraging efficiency and promoting investment in a quality, advanced telecommunications network in the state of Kansas.

The Commission will consider applications for exogenous adjustments on a case-by-case basis. Such requests should be infrequent and reserved for large dollar items. The Commission will take into consideration the general definition of exogenous in this record which is an event that is outside of the company's control and has a disproportionate effect on the industry so that its effect is not reflected by the price index.

#### C. COMPETITIVELY FLEXIBLE PRICING

The Competitively Flexible Pricing plan combines proposals of staff, as well as other comments and suggestions for change, revision or replacement. The Competitive Sub-Basket provides greater flexibility to the LEC while simultaneously providing protection against cross-subsidization of competitive service losses or price reductions. This plan allows effective responses by competing firms within the telecommunications industry without disturbing the balance between consumer interests and competing providers. In determining this formula, the Commission has balanced the public policy goals of encouraging efficiency and promoting investment in a quality, advanced telecommunications network in the state of Kansas.

#### D. NEW SERVICES

Any new service should be reviewed to determine its placement based on the merits and the competitive aspects of the service. Repackaged services should undergo the same scrutiny as new services to determine where they belong within

the Competitively Flexible Pricing structure. The burden of proof as to whether a bundle of services previously offered separately or in any other combination constitutes a new service offering shall rest upon the LEC's ability to demonstrate the uniqueness of the new bundle/package. A "new service" is one which is introduced subsequent to the establishment of a company's price cap plan. Each application/petition filed by the LEC for placement of new or repackaged services will be considered on a case-by-case-basis and the Commission will determine after an appropriate proceeding the proper treatment of that new or repackaged service within the Competitively Flexible Pricing structure.

#### E. IMPUTATION

Requiring imputation on an individual service basis is consistent with the provisions of the State Act. Individual pricing plan imputation is preferred because it precludes a new service from being offered at retail rates which are below cost and established retail price based on LRIC costs plus imputed access price. Further, imputation on a service by service basis is necessary to prevent price squeezes.

The total service approach allows one or more services to be priced below cost while the toll service category remains above cost. When imputation is distributed over all toll services instead of by specific service element, the potential to price anti-competitively is increased. The Commission's directive is for the continued application of the "stand alone" imputation methodology to protect potential competitors from inappropriate, below cost pricing.

The Commission will continue to consider applications on a case-by-case basis.



F. BYPASS

The use of a bypass adjustment is appropriate for any particular service being examined.

G. RATE OF RETURN REGULATION

Section 6(b) of the State Act states that a local exchange carrier may elect traditional rate of return regulation or price cap regulation. Therefore, the Commission's policy with regard to rate of return will for the present remain unchanged. Companies retain the right to request rate increases while the Commission retains the right to investigate the rates of any company.

III. MISCELLANEOUS ISSUES

A. RURAL ENTRY GUIDELINES

In accordance with Section 5(c) of the State Act concerning rural entry guidelines the Commission specifies that any telecommunications carrier seeking to provide services in a rural telephone company area must be designated by the Commission as an "eligible telecommunications carrier" as defined in Section 214(e)(1) of the Federal Act. The standards should be applied on a case-by-case basis and each applicant must meet the requirements of K.S.A. 66-131.

B. CUSTOMER INFORMATION

A Commission approved notice shall be published in the "call guide" pages of each directory produced by every telecommunications provider and/or affiliate. LECs must make directory advertising available to Alternative Local Exchange Companies(ALECs) on a comparable and non-discriminatory basis.

C. INTERIM ACCESS PLAN

In the Commission's January 22, 1996 Order in Docket No. 190,383-U, regarding the Interim Access Plan the Commission anticipated making an access rate reduction on March 1, 1997. The State Act provides for revenue neutrality utilizing the same twelve (12) month period ending September 30, 1996, as specified for the Interim Access Plan. Consequently, the Commission vacated its Interim Access Plan with regard to the access rate adjustment.

**OVERVIEW OF RECENT ACTIVITY**  
**AT THE KANSAS CORPORATION**  
**COMMISSION**  
**BY: GLENDA CAFER**  
**DIRECTOR OF UTILITIES**

**Telecom:**

Competition Phase II, Docket No. 190,492-U, and Quality of Service, Docket No. 191,206-U, were our primary activities. We have also been very busy, much more than ever before, monitoring and participating in activities at the FCC. This is because of the Federal Telecommunications Act of 1996. It required the FCC establish rules which directly impact the state of Kansas.

**Gas Policy:**

During 1996, the KCC began reviewing its existing policies regarding the provisioning of gas service to customers, and examining new policies on issues facing the industry. An informal workshop was held before the Commissioners in October, the primary focus of which was the unbundling of the gas industry functions. Other issues being looked at are: the KCC's pipeline competition policy, the policies of granting exclusive service territories and prohibiting bypass, problems surrounding areas where dual certification has occurred, and requiring tariffs which allow aggregation of gas customers for all Kansas companies.

**Utilicorp Rate Increase:**

Utilicorp requested a \$5m rate increase for its gas service. After a financial audit, KCC staff believed a reasonable increase was \$3.35m and entered into a stipulation with the company for that amount. The Commission approved that level of increase in November, Docket No. 193,787-U.

**Marketing Affiliate Docket:**

In September our Commission issued an order in Docket No. 190,358-U, establishing the rules governing the relationship between jurisdictional gas utilities and their affiliated marketing companies. The selling of gas is suppose to be done in a competitive marketplace. However, when the purchasing utility is affiliated with one of the sellers, that seller has a competitive advantage over other sellers in the marketplace. The KCC adopted rules intended to level this playing field for all marketing competitors.

**Western Resources Gas Rate Case:**

The KCC issued an order in the WRI gas rate case in April, Docket No. 193,305-U. In its initial filing, the company stated it was under earning by \$60m, but requested only a \$37.9m rate increase. After a financial audit performed by KCC staff, the Commission ordered a revenue increase for the company of \$33.8m.

**Western Resources Electric Rate Case:**

KCC staff performed a financial audit of WRI's electric operations during the latter part of 1995 and the first part of 1996. That audit resulted in a stipulation being reached between staff, the company, CURB, and the City of Wichita which required WRI to lower its rates \$75m over the next three years and to give its customers an additional \$10m in rebates. The Commission issued an order last week approving the stipulation as proposed.

PERMANENT  
RATE  
REDUCTION