Approved: ______________________

Date 3/5/98

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Don Myers at 9:00 a.m. on February 18, 1998 in Room 514-S of the Capitol.

All members were present except: Rep. Mayans - excused

Committee staff present: Lynne Holt, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Mary Shaw, Committee Secretary

Conferees appearing before the committee: Marc Elkins, Attorney, Morrison & Heckler Law Firm, for Cellular One

Others attending: See attached list

Chairman Don Myers mentioned that the hearings will be continued this morning on **HB 2802**. Also, the Chairman announced that the Sub- Committee on Sub for **HB 2649** will meet following this morning's meeting in Room 529-S.

**Hearing continued on HB 2802 - Two year freeze on KUSF rates**

The Chairman recognized Marc Elkins, proponent, and an attorney with Morrison & Heckler Law Firm of Kansas City, Missouri and Overland Park, Kansas, on behalf of CMT Partners which provides cellular telephone service to the public in Wichita, Topeka, Lawrence and metropolitan Kansas City areas under the name of Cellular One. Mr. Elkins noted in his testimony, beginning on Page 7, suggested Legislative solutions and Proposed Revisions to HB 2802 as an attachment. (Attachment#1) Questions and discussion followed.

The Chairman inquired of Shawn McKenzie, President, Kansas Southwestern Bell, scheduled to testify, would be able to return tomorrow. It was agreeable with Mr. McKenzie.

The Chairman thanked Mr. Elkins for testifying before the Committee.

The meeting was adjourned at 10:00 a.m.

The next meeting is scheduled for February 19, 1998.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 18, 1998

| NAME | REPRESENTING |
|---|---|
| Marc Elkins | Cellular One |
| E. Kirk Golbach | Cellular One |
| Walker Hendrix | CURB |
| Roger Baker | KCPR |
| Steve Kearney | Kiwi L.C. |
| Tom Gleason | Independent Telecom Group |
| Bill Sneed | SW Bell |
| Kendall Mikesell | Southern KS Telephone |
| Mark Caplinger | SITA |
| Carl Folster | SWB |
| [illegible] Peterson | SWB |
| [illegible] Richardson | SWBT |
| Lorrie Ann Brown | Kans Govt Consult |
| Mike Murray | Sprint |
| Richard Lawson | Sprint |
| [illegible] Gaches | McGill Assoc |
| [illegible] Brown | Mid Am Lumbermen |
| Karen Matson | KCC |
| Heinemann | " |

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: Feb. 18, 1998

| NAME | REPRESENTING |
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| George Barbee | RTMC |
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**KANSAS HOUSE OF REPRESENTATIVES**
**UTILITIES COMMITTEE**
**KANSAS UNIVERSAL SERVICE FUND**
**H.B. 2802**

**TESTIMONY OF MARC E. ELKINS ON BEHALF OF**
**CMT PARTNERS**
**FEBRUARY 18, 1998**

Good morning Mr. Chairman and members of the committee. My name is Marc Elkins and I am an attorney with the Morrison & Hecker law firm of Kansas City Missouri and Overland Park, Kansas. Appearing with me is E. Kirk Golbach who is the Director of Finance and Administration for CMT Partners. We appear today on behalf of CMT Partners which provides cellular telephone service to the public in the Wichita, Topeka, Lawrence and metropolitan Kansas City areas under the name of Cellular One. I have represented Cellular One before the Kansas Corporation Commission, the United States District Court, the United States Court of Appeals for the Tenth Circuit, the Kansas Court of Appeals and the Kansas Supreme Court in litigation challenging both K.S.A. §66-2001, *et seq.* and the Corporation Commission's Order establishing and funding the Kansas Universal Service Fund ("KUSF") I have also recently testified before the Senate Commerce Committee on issues relating to the KUSF.

We come before the Committee this morning for a number of reasons. First, I want to describe the wireless industry's customer. Second, I will comment on certain aspects of the KUSF that Cellular One believes are inherently discriminatory, inequitable and anti-competitive. Third, I will describe the impact of the current KUSF on cellular telephone customers. Last, I will recommend additional revisions to the statute that will address most if not all of the concerns of the wireless telecommunications industry and its customers.

House Utilities
02-18-98
Attachment 1

## THE CELLULAR TELEPHONE CUSTOMER

Cellular One believes that there is a common misperception that wireless telephone service is a luxury that is enjoyed only by the privileged few. The common stereotypes of the wireless telephone customer seem to be the affluent young professional chatting in the car or the harried businessman attempting to close multiple deals while waiting in an airport. Industry market research tells us that both of these stereotypes are wrong. Almost 70% of all cellular subscribers are over 35 years old. 58% of cellular subscribers use their cellular telephone for personal purposes. Similarly, 58% of all cellular subscribers say that the most import reason for their use of a cellular phone is to "be able to communicate in an emergency" or to "protect their personal safety." Most importantly, 87% of cellular subscribers say that price of service is either the most important factor in the decision to subscribe or that price is equally important as any other factor in deciding to subscribe. Thus, the typical cellular customer is the citizen who has to balance his or her desire for emergency communications against their concern over the cost of obtaining the ability to make emergency calls.

## THE STATUTE

When the 1996 amendments to the Kansas Telecommunications Act were enacted, the Legislature attempted to balance the important public policies of competition in local telephone service and providing Kansans with access to a modern telecommunication system at an affordable rate. The Legislature's plan for balancing these public policies is summarized in the Flow Chart of the 1996 Statute that is attached to my testimony.

The statute provided for the introduction of competition into local telephone service by reducing the intrastate access charge to interstate levels. The statute, however, protected local exchange carriers from incurring lost revenues as a result of the mandated reduction in access charges. The Legislature identified two sources for recovering these lost revenues – increases in the rates charged for local residential and business service and the KUSF. The Commission determined that local service rates should not be rebalanced. As a result, the local exchange carriers' recovery of the lost intrastate access charge revenues was completely funded through the KUSF.

The fundamental flaw in the KUSF is the statutory requirement of K.S.A. §§66-2005(c) and 66-2008(a) that the financing of the KUSF be *revenue neutral* to local exchange carriers. The revenue neutrality requirements of the statute causes the size of the KUSF to be determined by the historic revenues of the local exchange carriers and *not by the cost of providing universal service to the citizens of Kansas*. This revenue neutrality requirement seems to be predicated on the assumption that every dollar lost from the reduction in access charges equates to the loss of a dollar spent on telephone service in high cost rural areas, relay services for deaf citizens or life line services for those who cannot afford even basic telephone service. Cellular One, however, is not aware of any facts or evidence to support that assumption.

Southwestern Bell did provide cost information to the Commission in the universal service docket. The Commission's Staff, however, testified to the Senate Commerce Committee through Mr. Lammers and to this Committee through Ms. Matson yesterday, that this cost information did not govern the Commission's universal service orders because the statute required revenue neutrality that protected the revenues of the local exchange carriers. The size of the KUSF was determined by the revenue requirements of the local exchange carriers and not the cost of providing universal service.

The result of this revenue neutrality requirement and the Commission's decision not to rebalance local rates was an over funded KUSF. As Mr. Lammers noted in his testimony to both this Committee and the Senate Commerce Committee, the KUSF is over funded by approximately $13 million as we come to the end of its first year. Thus, the cost of providing universal service for which local exchange carriers have sought and received reimbursement appears to be substantially less than the revenues lost by the local exchange carriers as a result of reduced access charges.

The burden of an oversized KUSF is inequitably and discriminatorily placed on wireless telecommunications providers and their customers because they have not enjoyed the significant cost reductions realized by long distance customers as a result of reduced access charges mandated by K.S.A. §66-2005(c). Yesterday Ms. Matson spoke of the "teeter totter" effect arising from the relationship between reductions in long distance rates and increases in local service charges required to fund the KUSF. She noted that increases in local service charges to fund the KUSF are largely offset by the substantial savings realized by long distance customers as long distance providers pass through the savings realized from the reductions in access charges.

Unfortunately, wireless customers do not enjoy the same "teeter totter" effect. Cellular telephone providers and their customers are not subject to access charges for the vast majority of their calls. Consequently, the reduction in access charges mandated by the statute results in a minimal benefit to wireless customers. Yet, they are subject to the same KUSF surcharge as intrastate long distance customers.

The burden to wireless telecommunications service providers of the KUSF is further exacerbated because the Commission's Order fails to recognize that the wireless industry has constructed its own infrastructure without the guaranteed returns historically afforded landline companies. As a result, one half of every wireless call is carried on infrastructure that was constructed by the wireless industry and that is *not* supported by the KUSF. In contrast, both ends of a landline call are carried on infrastructure that is supported by the KUSF. Yet wireless service providers unfairly bear the same burden as those providers whose entire call is carried on the landline infrastructure that is supported by the KUSF.

The revenue neutrality provisions of the statute also are anti-competitive. These provisions protect the revenues of local exchange companies that have operated as state sanctioned monopolies for more than one hundred years. The anti-competitive impact of the current funding mechanism for the KUSF is exacerbated because it is the new telecommunications providers and the new technologies, such as wireless telecommunications, which hope to provide competitive services that are required to subsidize and protect the revenues of the incumbent local exchange carriers. The effect of imposing these cross subsidization burdens is to erect very steep barriers to competition in Kansas. Thus, the concept of revenue neutrality directly conflicts with the public policy stated in K.S.A. §66-2001(b) to ensure that Kansans enjoy the benefits of competition.

## The Impact of the KUSF on the Wireless Customer

The combination of the failure to rebalance local rates and the imposition of a KUSF based on local exchange carrier revenues and not cost is the highest universal service surcharge in the nation. Kansas wireless customers are currently required to pay 9.89% surcharge which equates to 10.5%. If the Commission's current orders remain in place, that surcharge will increase to 14.9% by the end of 1999.

The impact of that surcharge on the cellular telephone customer is shown graphically in the attachments to this testimony. As you can see, the KUSF surcharge is equivalent to the total of all other taxes currently assessed on the cellular telephone services. Thus, the surcharge is essentially a 100% increase in the taxes or user fees assessed against cellular telephone customers. This a tremendous burden for the majority of cellular telephone customers who own a wireless telephone to permit them to make emergency calls and for whom price is the single biggest factor in deciding to obtain that security.

Some additional perspective is obtained when you consider the KUSF surcharge in the context of the general trend in the cost of cellular telephone service. The Cellular Telecommunications Industry Association reports that the average local cellular telephone bill dropped by approximately 10% in the year ending June 30, 1997. In one fell swoop, the KUSF surcharge completely offset this savings.

Moreover, Kansas wireless customers are bearing a much greater burden for universal service than wireless customers in other states. Fourteen other states that have implemented state universal service programs. Seven of those states have exempted wireless service providers from the burden financing the universal service fund. In those states that have assessed cellular customers for universal service support, the surcharges vary between 1% and 6%.

### Legislative Solutions

Cellular One supports the moratorium on further increases to the KUSF proposed in H.B. 2208 as a significant first step in addressing the issues raised by an oversized KUSF. Cellular One believes, however, that H.B. 2208 provides an opportunity to resolve many of those issues permanently. For that reason, I have attached a "mark up" of the current statute entitled "Proposed Revisions to House Bill 2802" to my testimony. The effect of these proposed revisions is summarized below.

- **Elimination of Mandated Enhanced Universal Service (Proposed Revisions, p. 1)** – Ms. Matson expressed concern that the current version of H.B. 2208 places a moratorium on increased funding for the KUSF but leaves current mandates for advanced telecommunications services in place. Cellular One shares Ms. Matson's concern that leaving the mandates for enhanced universal service in place will require an expansion of the KUSF at the end of the moratorium. Moreover, Cellular One believes that implementation of new technologies should be the result of incentives in the market place and not state mandated subsidization. The proposed changes would eliminate the mandates for enhanced universal service as well prohibit increases in funding.
- **Elimination of Revenue Neutrality (Proposed Revisions, p. 4)** – Cellular One maintains that the current requirement of revenue neutrality creates an oversized fund and are anti-competitive. These changes eliminate revenue neutrality.



1-7

- **Establishment of a Cost Based KUSF Determined by Cost Studies and Audits (Proposed Revisions, p. 2,4 and 5)** – The size of the KUSF should be based on the cost of providing universal service in Kansas. That cost can only be determined by a review and/or audit of the costs and revenues of telecommunications providers who receive KUSF support for providing universal service. Glenda Cafer, General Counsel to the Commission, told the Senate Commerce Committee that the Commission's Staff's greatest desire with respect to the KUSF was legislative clarification that the Commission is authorized to adjust the size of the KUSF to reflect the cost of universal service and to conduct cost studies and audits of those telecommunications providers receiving KUSF support to determine the cost of universal service. These changes to the statute accomplish both tasks.
- **Rebalancing of Local Service Rates (Proposed Revisions, p. 2)** – The introduction of competition into local telephone service requires that the rates charged for service reflect the cost of providing service. Southwestern Bell testified to the Commission that a $4.50 increase would produce a rate that approached the incremental cost of providing service to its customers. The proposed revisions direct the Commission to begin the process of rebalancing rates for local service to reflect the cost of providing local service while affording the Commission the discretion to implement rate rebalancing in a rational manner.
- **Recognition of the Relative Benefit Received from Support of Universal Service (Proposed Revisions, p. 4)** – Any equitable and nondiscriminatory

system for obtaining contributions to the KUSF must recognize the relative benefits enjoyed as a result of reductions in access charges and maintenance of the infrastructure for universal service. The proposed language directs the Commission to consider these factors in fashioning an equitable level of support for the KUSF.

In closing, we would like to thank the Committee for the opportunity to comment on the impact that the current universal service statute has on wireless telecommunications providers and their customers. Similarly, we appreciate the opportunity to explain how we think those concerns can be addressed legislatively through H.B. 2802. We are happy to answer any questions that you may have concerning these issues.

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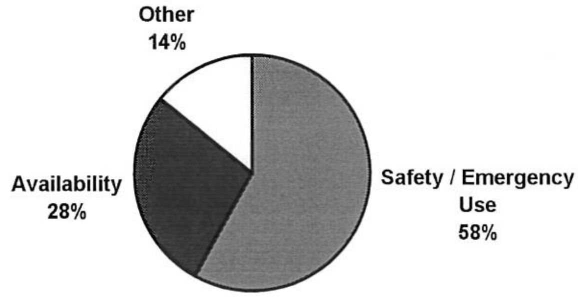
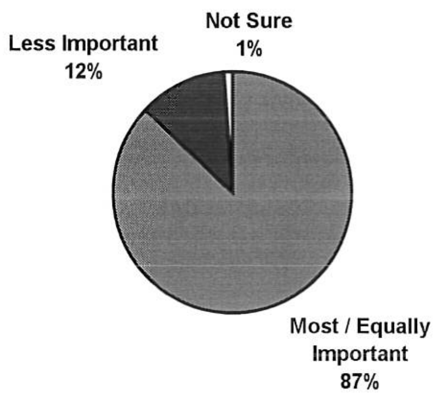
# CellularONE

## Reasons To Own Wireless Phone Service



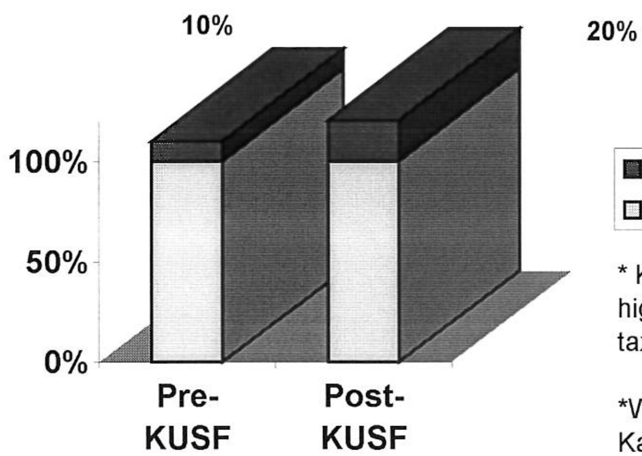

Source: United States Wireless Demographics, *Everything Wireless*

## Price Factors In Decision On Wireless Phone Service




Source: United States Wireless Demographics, *Everything Wireless*

## Taxes Relative to Total Cellular Charges

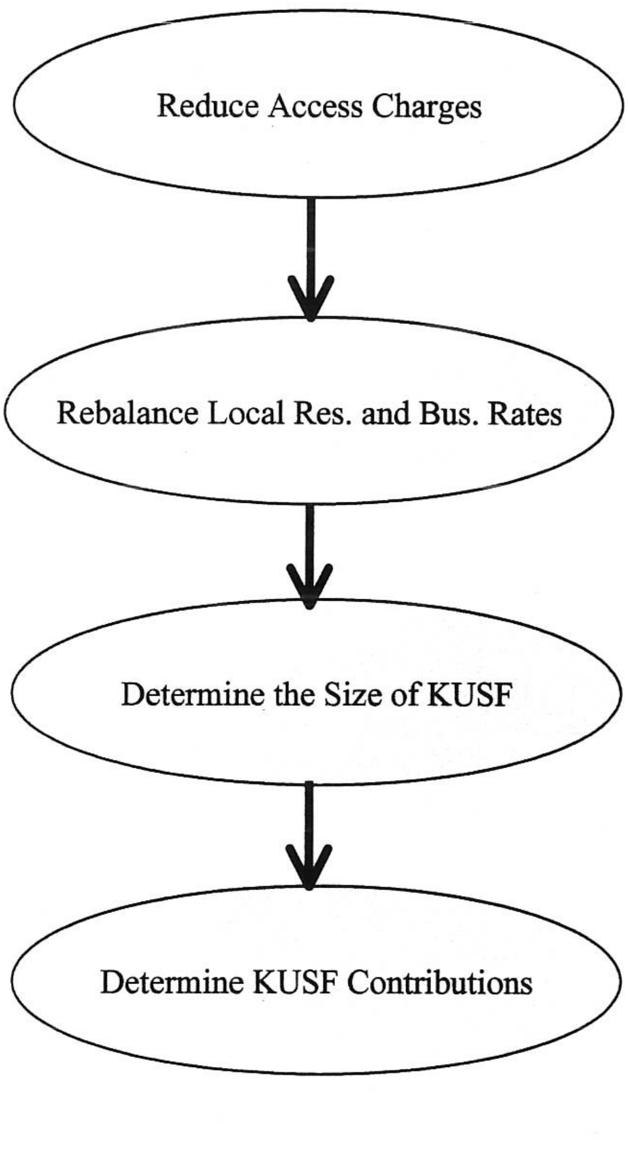



Taxes
Cellular Charges

* Kansas now has the highest universal service tax in the United States.

*Wireless subscribers in Kansas now pay over 20% of their charges in taxes.

# Kansas Universal Service Fund
# Flow Chart of 1996 Statute




KSA §66-2005(c). Requires reduction of intrastate access charges to interstate levels.

KSA §66-2005(c). Permits but does not require the KCC to rebalance local and residential rates to recover revenues lost from reduced access charges. The KCC elects **not** to rebalance local rates.

KSA §§66-2005(c) and 66-2008(a). Any revenues lost from reduced access charges and not recovered from rebalanced local rates are recovered from the KUSF.

KSA §66-2008(b). Requires all providers to contribute to the KUSF on an **equitable** and **nondiscriminatory** basis. The KCC permits LECs to contribute through self funded rate increases and assesses a surcharge to others.

PROPOSED REVISIONS

HOUSE BILL No. 2802

By Committee on Utilities

2-4

AN ACT concerning the telecommunications act relating to contributions to the Kansas universal service fund; amending K.S.A. 1997 Supp. 66-2005 and 66-2008; and repealing the existing sections.

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

Section 1. K.S.A. 1997 Supp. 66-2005 is hereby amended to read as follows:

**66-2005.** (a) Each local exchange carrier shall file a network infrastructure plan with the commission on or after January 1, 1997, and prior to January 1, 1998. Each plan, as a part of universal service protection, shall include schedules, which shall be approved by the commission, for deployment of universal service capabilities by July 1, 1998, and the ~~deployment of enhanced universal service capabilities by July 1, 2001,~~ as defined pursuant to subsections (p) ~~and (q)~~ of K.S.A. 1996 Supp. 66-1,187~~, respectively~~. Each plan shall demonstrate the capability of the local exchange carrier to comply on an ongoing basis with quality of service standards to be adopted by the commission no later than January 1, 1997.

(b) In order to protect universal service, facilitate the transition to competitive markets and stimulate the construction of an advanced telecommunications infrastructure, each local exchange carrier shall file a regulatory reform plan at the same time as it files the network infrastructure plan required in subsection (a). As part of its regulatory reform plan, a local exchange carrier may elect traditional rate of return regulation or price cap regulation. Carriers that elect price cap regulation shall be exempt from rate base, rate of return and earnings regulation. However, the commission may resume such regulation upon finding, after a hearing, that a carrier that is subject to price cap regulation has: violated minimum quality of service standards pursuant to subsection (l) of K.S.A. 1996 Supp. 66-2002; been given reasonable notice and an opportunity to correct the violation; and failed to do so. Regulatory reform plans also shall include:

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

(2) a commitment to provide basic rate ISDN service, or the technological equivalent at prices which are uniform throughout the carrier's service area and which are designed to stimulate the development of an extensive residential market. Local exchange carriers shall not

be required to allow retail customers purchasing the foregoing discounted services to resell those services to other categories of customers. Telecommunications carriers may purchase basic rate ISDN services for resale in accordance with K.S.A. 1996 Supp. 66-2003. The commission may reduce prices charged for services outlined in provisions (1) and (2) of this subsection, if the commitments of the local exchange carrier set forth in those provisions are not being kept.

(c) Subject to the commission's approval, all local exchange carriers shall reduce intrastate access charges to interstate levels as provided herein. Rates for intrastate switched access, and the imputed access portion of toll, shall be reduced over a three-year period with the objective of equalizing interstate and intrastate rates in a revenue neutral, specific and predictable manner. The commission is ~~authorized~~ directed to rebalance local residential and business service rates to offset the intrastate access and toll charge reductions to the extent that the Commission deems appropriate. Any remaining portion of the reduction in access and toll charges not recovered through local residential and business service rates shall be paid out from the KUSF pursuant to K.S.A. 1996 Supp. 66-2008 to the extent that the Commission determines is necessary to pay the cost of providing universal service. Rural telephone companies shall reduce their intrastate switched access rates to interstate levels on March 1, 1997, and every two years thereafter, as long as amounts equal to such reductions are recovered from the KUSF to the extent necessary to pay the cost of providing universal service.

(d) Beginning March 1, 1997, each rural telephone company shall have the authority to increase annually its monthly basic local residential and business service rates by an amount not to exceed $1 in each 12 month period until such monthly rates reach an amount equal to the state-wide rural telephone company average rates for such services. The statewide rural telephone company average rates shall be the arithmetic mean of the lowest flat rate as of March 1, 1996, for local residential service and for local business service offered by each rural telephone company within the state. In the case of a rural telephone company which increases its local residential service rate or its local business service rate, or both, to reach the statewide rural telephone company average rate for such services, the amount paid to the company from the KUSF shall be reduced by an amount equal to the additional revenue received by such company through such rate increase. In the case of a rural telephone company which elects to maintain a local residential service rate or a local business service rate, or both, below the statewide rural telephone company average, the amount paid to the company from the KUSF shall be reduced by an amount equal to the difference between the revenue the company could receive if it elected to increase such rate to the average rate and the revenue received by the company.

(e) For regulatory reform plans in which price cap regulation has been elected, price cap plans shall have three baskets: Residential and single-line business, including touch-tone; switched access services; and miscellaneous service. The commission shall establish price caps at the prices existing when the regulatory plan is filed subject to rate rebalancing as provided in subsection (c) for residential services, including touch-tone services, and for single-line business services, including touch-tone services, within the residential and single-line business service basket. The commission shall establish a formula for adjustments to the price caps. The commission also shall establish price caps at the prices existing when the regulatory plan is filed for the miscellaneous services basket. The commission shall approve any adjustments to the price caps for the miscellaneous service basket, as provided in subsection (f).



1-13

(f) On or before January 1, 1997, the commission shall issue a final order in a proceeding to determine the price cap adjustment formula that shall apply to the price caps for the local residential and single-line business and the miscellaneous services baskets and for sub-categories, if any, within those baskets. In determining this formula, the commission shall balance the public policy goals of encouraging efficiency and promoting investment in a quality, advanced telecommunications network in the state. The commission also shall establish any informational filing requirements necessary for the review of any price cap tariff filings, including price increases or decreases within the caps, to verify such caps would not be exceeded by any proposed price change. The adjustment formula shall apply to the price caps for the local residential and single-line business basket after December 31, 1999, and to the miscellaneous services basket after December 31, 1997. The price cap formula, but not actual prices, shall be reviewed every five years.

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

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

(i) The price caps for the miscellaneous services basket shall be adjusted annually after December 31, 1997, based on the adjustment formula determined by the commission under subsection (f).

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

(k) A local exchange carrier may offer promotions within an exchange or group of exchanges. All promotions shall be approved by the commission and shall apply to all customers in a . . . .

Section ~~1~~2. K.S.A. 1997 Supp. 66-2008 is hereby amended to read as follows: 66-2008.



1-14

On or before January 1, 1997, the commission shall establish the Kansas universal service fund, hereinafter referred to as the KUSF.

(a) The initial amount of the KUSF shall be comprised of local exchange carrier revenues lost as a result of rate rebalancing pursuant to subsection (c) of K.S.A. 1997 Supp. 66-2005 and subsection (a) of K.S.A.1997 Supp. 66-2007. Such revenues shall ~~be~~ initially be recovered on a revenue neutral basis. The revenue neutral calculations shall be based on the volumes and revenues for the 12 months prior to September 30, 1996, adjusted for any rate changes.

(b) After the KUSF is initially funded, the size of the KUSF shall be determined by the cost of providing universal service. The cost of providing universal service shall be determined by the commission after review of information provided to the commission by local exchange carriers concerning the cost of providing universal service in their service areas. The universal service information provided to the commission may, at the commission's discretion, include, but not be limited to, cost studies and audits of those telecommunications public utilities, telecommunications carriers and wireless telecommunications service providers receiving distributions from the KUSF.

~~(b)~~(c) The commission shall require every telecommunications carrier, telecommunications public utility and wireless telecommunications service provider that provides intrastate telecommunications services to contribute to the KUSF on an equitable and nondiscriminatory basis. In constructing an equitable and nondiscriminatory mechanism for contributing to the KUSF, the Commission shall consider all factors that it deems relevant including but not limited to:

(1) The benefit received by telecommunications carriers, telecommunications public utilities and wireless telecommunications service providers from the reduction in intrastate access charges mandated by K.S.A. 66-2005 (c).

(2) The extent to which telecommunications carriers, telecommunications public utilities, and wireless telecommunications services providers use the infrastructure supported by the KUSF.

Any telecommunications carrier, telecommunications public utility or wireless telecommunications service provider which contributes to the KUSF may collect from customers an amount equal to such carrier's utility's or provider's contribution.

~~(c)~~(d) Pursuant to the federal act, distributions from the KUSF shall be made in a competitively neutral manner to qualified telecommunications public utilities, telecommunications carrier and wireless telecommunications providers, that are deemed eligible both under subsection (e)(1) of section 214 of the federal act and by the commission.

~~(d)~~(e) The Commission shall periodically review the KUSF to determine if the costs of qualified telecommunications public utilities, telecommunications carriers and wireless telecommunications service providers to provide local service justify modification of the KUSF.

The Commission's periodic reviews pursuant to this subsection may, at the Commission's discretion, include historic cost studies, forward looking cost studies and audits of those telecommunications public utilities, telecommunications carriers and wireless telecommunications service providers receiving distributions from the KUSF. If the commission determines that any changes are needed, the commission shall modify the KUSF accordingly, *except that the commission may not approve any increase in the level of required contributions from the level existing on January 2, 1998, until after January 1, 2000. Nothing in this subsection shall prevent the commission from reducing the level of required contributions.*

~~(e)~~(f) Any qualified telecommunications carrier, telecommunications public utility or wireless telecommunications service provider may request supplemental funding from the KUSF based upon a percentage increase in access lines over the 12 month period prior to its request. The supplemental funding shall be incurred for the purpose of providing services to and within the service area of the qualified telecommunications carrier, telecommunications public utility or wireless telecommunications service provider. Supplemental fund from the KUSF shall be used for infrastructure expenditures necessary to serve additional customers within the service area of such qualifying utility, provider or carrier. All affected parties shall be allowed to review and verify a request of such a qualified utility, carrier or provider for supplemental funding from the KUSF, and to intervene in any commission proceeding regarding such request. The commission shall issue an order on the request within 120 days of filing. Additional funding also may be requested for the recovery of shortfalls due to additional rebalancing of rates to continue maintenance of parity with interstate access rates; shortfalls due to changes to access revenue requirements resulting from changes in federal rules; additional investment required to provide universal service and enhanced universal service; and for infrastructure expenditures in response to facility or service requirements established by any legislative, regulatory or judicial authority. Such requests shall be subject to simplified filing procedures and the expedited review procedures, as outlined in the stipulation attached to the order of November 19, 1990 in docket no. 127,140-U (Phase IV).

~~(f)~~(g) Additional supplemental funding from the KUSF, other than as provided in subsection (e) of this section, may be authorized at the discretion of the commission. However, the commission may require approval of such funding to be based upon a general rate case filing. With respect to any request for additional supplemental funding from the KUSF, the commission shall act expeditiously, but shall not be subject to the 120-day deadline, set forth in subsection (e).

Section 2. K.S.A. 1997 Supp. 66-2008 is hereby repealed.

Section 3. This act shall take effect and be in force from and after its publication in the Kansas register.

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