

Approved: March 9, 1999
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 5, 1999, 1999 in Room 123-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Others attending: See attached list

SB 269 - Workers Compensation; self-employed subcontractors

Senator Ranson, chairperson of the Subcommittee, moved, seconded by Senator Brownlee, that the Committee take no action on SB 269. The voice vote was in favor of the motion.

The Subcommittee requested that Legislative Research determine who is required to carry workers compensation insurance, who is not covered and the definitions of "contractors" and "subcontractors".

SB 308 - Tax credits for contributions to public works

Senator Jordan, chairperson of the Subcommittee moved, seconded by Senator Steffes, that the Committee take no action at this time on SB 308, and refer the bill to the Joint Committee on Economic Development for an interim study. . The voice vote was in favor of the motion.

The Subcommittee found there was a federal tax deduction available; they could not determine whether to establish a new board or where to place the board within existing entities; and the Department of Revenue was concerned about the tracking of the tax transfers as provided in SB 308.

SB 290 - Telecommunication universal service fund access

Bob Nugent, Revisor of Statutes briefed the Committee on the recommendations of the Subcommittee as follows:

Page 3, Line 7, strike the "comma" between the words "transmission" and "media";

Page 4, Lines 30-34, subsection (h) to read as follows: "(h) commencing on June 1, 1997, and periodically thereafter; ~~review establish~~ and, to the extent necessary, modify ~~the definition of universal service and enhanced universal service~~, and adjust the KUSF, *rules and guidelines to determine what services qualify as enhanced services pursuant to Sec. 1(q)*, taking into account advances in telecommunications and information technology and services." (Attachment 1)

Page 7, line 2 strike the word "regulations" and insert the word "guidelines";

Page 7, Line 17, following the word "regulation." add the following: "A company that has elected price cap regulation may, at its option, rescind its price cap election at any time." (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMERCE COMMITTEE, Room 123-S of the Statehouse, at 8:00 a.m. on March 5, 1999.

Page 8, Line 5 following the word "rates" insert the following: "and structure including end user charges". (Attachment 3)

Page 8, Line 42, strike the word "touch-tone" and insert the words "tone dialing". This change is to be reflected throughout the bill.

Page 12, Line 1, following the "period (.)" insert the following: "Except that no such audit or investigation and related cost and revenue information shall be used to alter or regulate a price cap company's earnings in any manner. An adjustment to a price cap company's KUSF support does not constitute regulation of earnings so long as the adjustment is based on the cost of providing universal service." (Attachment 4) **Senator Ranson moved, seconded by Senator Donovan that the words "alter or" be stricken. The voice vote was in favor of the amendment.**

Senator Ranson moved, seconded by Senator Brownlee that the words "and enhanced universal service" be added at the end of subsection (u). The voice vote was in favor of the amendment.

Page 13, Line 26 before the stricken language insert: "Any pending dockets before the commission, initiated pursuant to this subsection, shall be completed by October 1, 1999. Thereafter, all such reviews shall be completed within 180 days of initiation or application. The commission shall make use of any data obtained pursuant to K.S.A. 66-2005(u), as amended, to resolve any such investigation and review." Further on line 31, strike the words "the first day of the month, 60 days after the effective date of this legislation" and insert "October 1, 1999". (Attachment 5)

Page 13, line 33 following the word "company" insert the following: ", which currently does not receive funds from the Federal Universal Service Fund pursuant to Part 36 of the Federal Communication Commission rules," (Attachment 6)

Page 14, Line 43, insert a new subsection (g) as follows: "(g) Any carrier that collects amounts from its customers to offset its KUSF contribution shall specifically identify the amount as a separate item on each bill." (Attachment 7)

Senator Steffes stated he agreed the KUSF had grown too large, but believed the KCC was the instigator and the cause, and the proposed amendments were going in the wrong direction and returning the State of Kansas to rate of return regulation.

Senator Donovan echoed Senator Steffes's comments and asked whether any company was doing anything illegally. The response from the KCC was that the companies were not doing anything illegally, and the proposed legislation assists the KCC in obtaining necessary information to adjust the size of the KUSF.

Senator Ranson moved the Subcommittee report be adopted and SB 290 be recommended favorable for passage as amended. Senator Brownlee seconded the motion. The recorded vote was Aye - 6, Nay - 4; and Pass - 1. The motion carried.

The meeting adjourned at 9:05 a.m.

The next meeting is scheduled for March 9, 1999.

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: March 5, 1999

NAME	REPRESENTING
Glenda Cafar	KCC
Bob Canuteson	Sprint PCS
Mike Reecht	AT&T
Bill Roche	Sprint
RICHARD LAWSON	Sprint
Bob Cowdrey	Sprint
Mike Murray	Sprint
Michael Enns of	Comptel-Kansas
Jerry Lammers	KCC staff
Anne Wickliffe	KCC
Debbie Snow	CWA
Sandy Reams	KCC
David Dittmer	KCC
Amy Mc Donald	KCC - staff
Bob FLAPPAN	AT&T
Kent Galley	McGill, Gacher & Associates
HEINEMANN	KCC
Ron Gaches	SwBms
Meloon Krueger	KCFN

Fax

Name: Chair Salisbury
Organization: Senate Commerce Committee
Fax: [Fax] 296-6718
From: Anne Wickliffe
Date: March 4, 1999
Subject: SB 290 Amendment
Pages: 1

1205

Handwritten notes:
A circled scribble containing the word "Chair".
A signature or initials "AW" written over a scribble.

Comments: This is the language Lynne and I discussed as a possible rewrite of 66-2002(h) (page 4, lines 30-34 of SB 290):

(h) commencing on June 1, 1997, and periodically thereafter; ~~review~~ establish and, to the extent necessary, modify the definition of universal service and enhanced universal service, and adjust the KUSF, rules and guidelines to determine what services qualify as enhanced services pursuant to Sec. 1(q), taking into account advances in telecommunications and information technology and services.

Senate Commerce Committee

Date 3-05-99

Attachment # 1

1 adopted by the commission no later than January 1, 1997. The commission
2 shall establish rules and regulations by June 30, 2000, to address access
3 to enhanced telecommunications and information services that are rea-
4 sonably comparable between urban and rural areas throughout the state.
5 Such rules shall establish a method by which telecommunications services
6 providers may request supplemental funding for enhanced universal serv-
7 ices. Those local exchange carriers that have deployed enhanced universal
8 service will be eligible for reimbursement from the KUSF pending veri-
9 fication of the expenditure, the timing of the expenditure and the associ-
10 ated costs.

11 (b) In order to protect universal service, facilitate the transition to
12 competitive markets and stimulate the construction of an advanced tel-
13 ecommunications infrastructure, each local exchange carrier shall file a
14 regulatory reform plan at the same time as it files the network infrastruc-
15 ture plan required in subsection (a). As part of its regulatory reform plan,
16 a local exchange carrier may elect traditional rate of return regulation or
17 price cap regulation. Carriers that elect price cap regulation shall be ex-
18 empt from rate base, rate of return and earnings regulation for the pur-
19 pose of establishing rates. However, the commission may resume such
20 regulation upon finding, after a hearing, that a carrier that is subject to
21 price cap regulation has: violated minimum quality of service standards
22 pursuant to subsection (l) of K.S.A. 1998 Supp. 66-2002 and amendments
23 thereto; been given reasonable notice and an opportunity to correct the
24 violation; and failed to do so. Regulatory reform plans also shall include:

25 (1) A commitment to All telecommunications public utilities shall pro-
26 vide existing and newly ordered point-to-point broadband services to: Any
27 hospital as defined in K.S.A. 65-425, and amendments thereto; any school
28 accredited pursuant to K.S.A. 72-1101 et seq., and amendments thereto;
29 any public library; or other state and local government facilities at dis-
30 counted prices close to, but not below, long-run incremental cost; and

31 (B) a commitment to provide basic rate ISDN service, or the tech-
32 nological equivalent, at prices which are uniform throughout the carrier's
33 service area. Local exchange carriers shall not be required to allow retail
34 customers purchasing the foregoing discounted services to resell those
35 services to other categories of customers. Telecommunications carriers
36 may purchase basic rate ISDN services, or the technological equivalent,
37 for resale in accordance with K.S.A. 1998 Supp. 66-2003 and amendments
38 thereto. The commission may reduce prices charged for services outlined
39 in provisions (1) and (B) of this subsection, if the commitments of the
40 local exchange carrier set forth in those provisions are not being kept.

41 (c) Subject to the commission's approval, all local exchange carriers
42 shall reduce intrastate access charges to interstate levels as provided
43 herein. Rates for intrastate switched access, and the imputed access por-

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A company that has elected price cap regulation may, at its option, rescind its price cap election at any time.

1 tion of toll, shall be reduced over a three-year period with the objective
 2 of equalizing interstate and intrastate rates in a revenue neutral, specific
 3 and predictable manner. *Subsequent reductions in intrastate access rates*
 4 *may be ordered by the commission in order to maintain parity with in-*
 5 *terstate access rates.* The commission is authorized to rebalance local
 6 residential and business service rates to offset the *initial three-year phase*
 7 *in of the intrastate access and toll charge reductions and to offset any*
 8 *subsequent intrastate access and toll charge reductions, to the extent jus-*
 9 *tified, based on a cost of service investigation. Any remaining portion of*
 10 *the initial three-year phase in of the reduction in access and toll charges*
 11 *not recovered through local residential and business service rates shall be*
 12 *paid out from the KUSF pursuant to K S A. 1998 Supp. 66-2008 and*
 13 *amendments thereto. Thereafter, any remaining portion of subsequent*
 14 *intrastate access and toll charge reductions not recovered through local*
 15 *residential and business service rates shall be paid out from the KUSF, to*
 16 *the extent justified based upon cost of service studies. Rural telephone*
 17 *companies shall reduce their intrastate switched access rates to interstate*
 18 *levels on March 1, 1997, and every two years thereafter, as long as*
 19 *amounts equal to such reductions are recovered from the KUSF.*

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

40 (e) For regulatory reform plans in which price cap regulation has
 41 been elected, price cap plans shall have three baskets: Residential and
 42 single line business, including touch-tone; switched access services; and
 43 miscellaneous services. The commission shall establish price caps at the

and structure including end user charges.

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Except that no such audit or investigation and related cost and revenue information shall be used to ~~alter or~~ regulate a price cap company's earnings in any manner. ←

An adjustment to a price cap company's KUSF support does not constitute regulation of earnings so long as the adjustment is based on the cost of providing universal service ~~and the revenues generated by universal service.~~
And enhanced universal service.

1 tions under this act and the federal act. ↓
2 (v) Telecommunications carriers shall not be subject to price re
3 lation, except that: Access charge reductions shall be passed through
4 consumers by reductions in basic intrastate toll prices; and basic toll pr
5 shall remain geographically averaged statewide. As required under K.
6 66-131, and amendments thereto, and except as provided for in sub
7 tion (c) of K.S.A. 1998 Supp. 66-2004 and amendments thereto, telec
8 munications carriers that were not authorized to provide switched
9 exchange telecommunications services in this state as of July 1, 1
10 including cable television operators who have not previously offered
11 telecommunications services, must receive a certificate of convenience
12 based upon a demonstration of technical, managerial and financial vi
13 ability and the ability to meet quality of service standards established by
14 the commission. Any telecommunications carrier or other entity seeking
15 such certificate shall file a statement, which shall be subject to the com
16 mission's approval, specifying with particularity the areas in which it will
17 offer service, the manner in which it will provide the service in such areas
18 and whether it will serve both business customers and residential custom
19 ers in such areas. Any structurally separate affiliate of a local exchange
20 carrier that provides telecommunications services shall be subject to the
21 same regulatory obligations and oversight as a telecommunications car
22 rier, as long as the local exchange carrier's affiliate obtains access to any
23 services or facilities from its affiliated local exchange carrier on the same
24 terms and conditions as the local exchange carrier makes those services
25 and facilities available to other telecommunications carriers. The com
26 mission shall oversee telecommunications carriers to prevent fraud and
27 other practices harmful to consumers and to ensure compliance with
28 quality of service standards adopted for all local exchange carriers and
29 telecommunications carriers in the state.
30 Sec. 6. K.S.A. 1998 Supp. 66-2008 is hereby amended to read as
31 follows: 66-2008. On or before January 1, 1997, the commission shall
32 establish the Kansas universal service fund, hereinafter referred to as the
33 KUSF.
34 (a) The initial amount of the KUSF shall be comprised of local
35 exchange carrier revenues lost as a result of rate rebalancing pursuant to
36 the initial three year phase down of access rates as set forth in subsection
37 (c) of K.S.A. 1998 Supp. 66-2005 and amendments thereto and subsection
38 (a) of K.S.A. 1998 Supp. 66-2007 and amendments thereto. Such reve
39 nues shall be recovered on a revenue neutral basis. The revenue neutral
40 calculation shall be based on the volumes and revenues for the 12 months
41 prior to September 30, 1996, adjusted for any rate changes.
42 (b) The commission shall require every telecommunications carrier

Senate Commerce Committee

Date 3-05-99

Attachment # 4

No stricken language

~~The commission shall periodically review the KUSE, to determine if the costs of qualified telecommunications public utilities, telecommunications carriers and wireless telecommunications service providers to provide local service justify modifications of the KUSE. If the commission determines that any changes are needed, the commission shall modify the KUSE accordingly.~~ Any pending dockets before the commission, initiated pursuant to this subsection, shall be completed within 90 days of the effective date of this Act. Thereafter, all such reviews shall be completed within 180 days of initiation or application. The commission shall make use of any data obtained pursuant to K.S.A. 66-2005(u), as amended, to resolve any such investigation and review.

180 days

Keep this language

1 ice provider that provides intrastate telecommunications service
 2 tribute to the KUSF on an equitable and nondiscriminatory
 3 telecommunications carrier, telecommunications public utility
 4 telecommunications service provider which contributes to the
 5 collect from customers an amount equal to such carrier's, utility
 6 provider's contribution, except that before January 1, 2000, no service
 7 provider or utility shall collect from customers an amount in
 8 8.80% of its intrastate retail revenues as provided in commission
 9 no. 190-492-U but such carrier, provider or utility may collect
 10 amount from its customer.

11 Prior to January 1, 2000, with respect to wireless telecommunications
 12 service providers, an equitable and nondiscriminatory rate
 13 amount equal to the rate of contributions of wireline telecommunications
 14 service providers, as determined by the commission, reduced by
 15 percentage minutes of usage initiated and terminated entirely over the wireless
 16 network as determined by the commission. The commission shall
 17 establish such rate for wireless telecommunications service providers no
 18 later than December 31, 1998. Any contributions in excess of distributions
 19 collected in any reporting year shall be applied to reduce the estimated
 20 contribution that would otherwise be necessary for the following year.

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

26 (d) The commission shall periodically review the KUSF to determine
 27 if the costs of qualified telecommunications public utilities, telecommuni-
 28 cations carriers and wireless telecommunications service providers to
 29 provide local service justify modification of the KUSF. If the commission
 30 determines that any changes are needed, the commission shall modify
 31 the KUSF accordingly. On the first day of the month, 60 days after the
 32 effective date of this legislation, distributions from the KUSF to any price
 33 cap regulated company shall be limited to the amount of support estab-
 34 lished by the commission in Docket No. 190-492-U, \$36.88 per high-cost
 35 residential and single-line business loop, or any amount established by
 36 subsequent modification of that order. This modification of the KUSF
 37 distribution shall not alter the commission's responsibility to ensure that
 38 the KUSF is based on cost consistent with the federal act. No rate rebul-
 39 ducing shall occur unless justified by cost studies. The commission shall
 40 have continuing responsibility to ensure that contributions to and distri-
 41 butions from the KUSF are competitively neutral. Any company may file
 42 an application for support in excess of \$36.88. Such application shall con-

Senate Commerce Committee

Date: 3-25-99

Attachment # 5

Alternative to amendment on page 13.

Senate Commerce Committee

Date: *3-25-99*

Attachment # *6*

1 ice provider that provides intrastate telecommunications services to con-
2 tribute to the KUSF on an equitable and nondiscriminatory basis. Any
3 telecommunications carrier, telecommunications public utility or wireless
4 telecommunications service provider which contributes to the KUSF may
5 collect from customers an amount equal to such carrier's, utility's or pro-
6 vider's contribution, except that before January 1, 2000; no such carrier,
7 provider or utility shall collect from customers an amount in excess of
8 8.89% of its intrastate retail revenues as provided in commission docket
9 no. 190-492-U but such carrier, provider or utility may collect a lesser
10 amount from its customer.

11 Prior to January 1, 2000; With respect to wireless telecommunications
12 service providers, an equitable and nondiscriminatory rate shall be an
13 amount equal to the rate of contributions of wireline telecommunications
14 service providers, as determined by the commission, reduced by the per-
15 centage minutes of usage initiated and terminated entirely over the wire-
16 less network as determined by the commission. The commission shall
17 establish such rate for wireless telecommunications service providers no
18 later than December 31, 1998. Any contributions in excess of distributions
19 collected in any reporting year shall be applied to reduce the estimated
20 contribution that would otherwise be necessary for the following year.

21 (c) Pursuant to the federal act, distributions from the KUSF shall be
22 made in a competitively neutral manner to qualified telecommunications
23 public utilities, telecommunications carriers and wireless telecommuni-
24 cations providers, that are deemed eligible both under subsection (c)(1)
25 of section 214 of the federal act and by the commission.

26 (d) The commission shall periodically review the KUSF to determine
27 if the costs of qualified telecommunications public utilities, telecommu-
28 nications carriers and wireless telecommunications service providers to
29 provide local service justify modification of the KUSF. If the commission
30 determines that any changes are needed, the commission shall modify
31 the KUSF accordingly. *On the first day of the month, 60 days after the*
32 *effective date of this legislation, distributions from the KUSF to any price*
33 *cap regulated company shall be limited to the amount of support estab-*
34 *lished by the commission in Docket No. 190-492-U, \$36.88 per high cost*
35 *residential and single line business loop, or any amount established by*
36 *subsequent modification of that order. This modification of the KUSF*
37 *distribution shall not alter the commission's responsibility to ensure that*
38 *the KUSF is based on cost consistent with the federal act. No rate rebal-*
39 *ancing shall occur unless justified by cost studies. The commisston shall*
40 *have continuing responsibility to ensure that contributions to and distri-*
41 *butions from the KUSF are competitively neutral. Any company may file*
42 *an applicatton for support in excess of \$36.88. Such application shall con-*
43 *tain cost justification for such excess support. If an application for such*

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which currently does not receive funds from the Federal Universal Service Fund pursuant to Part 36 of the Federal Communication Commission rules,

Add to page 14, following line 42, a new subsection (g) as follows:

(g) *Any carrier that collects amounts from its customers to offset its KUSF contribution shall specifically identify the amount as a separate item on each bill.*

Senate Commerce Committee

Date: 3-05-99

Attachment # 7