

Approved: March 28, 2002 Carl Dean Holmes
Date

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:10 a.m. on February 14, 2002 in Room 526-S of the Capitol.

All members were present except: Representative Judy Morrison

Committee staff present: Robert Chapman, Legislative Research
Dennis Hodgins, Legislative Research
Mary Torrence, Revisor of Statutes
Jo Cook, Administrative Assistant

Conferees appearing before the committee: Richard Veach, Pioneer Communications
Walker Hendrix, Citizens' Utility Ratepayers Board
Gary Shorman, Eagle Communications

Others attending: See Attached List

HB 2754 - Telecommunications; affordable rates; quality of service; standards

The hearing on **HB 2754** was reconvened. In response to a request from a member of the committee during the previous day's hearing, Kansas Corporation Commission Staff provided copies of staff testimony submitted on Docket No. 02-GIMT-068-KSF (Cost Based KUSF Support for Rural Local Exchange Companies' Territories) (Attachments 1, 2, 3 and 4).

Richard Veach, General Manager for Pioneer Communications, testified in support of **HB 2754** (Attachment 5). Mr. Veach stated that there was not anything in the bill that will increase the KUSF. Mr. Veach also included a balloon amendment (Attachment 6) to further enhance the proposed legislation. Mr. Veach responded to questions from the committee.

Walker Hendrix, Consumer Counsel for the Citizens' Utility Ratepayers Board, appeared as a proponent of **HB 2754** (Attachment 7). Mr. Hendrix explained that the bill's emphasis on maintaining affordable basic local service rates for rural Kansans was their primary reason for support. Mr. Hendrix responded to questions from the committee.

Gary Shorman, President and CEO of Eagle Communications, appeared in opposition to **HB 2754** (Attachment 8). Mr. Shorman stated their concern with the bill was its competitive fairness as it creates an unfair advantage by subsidizing broadband deployment for a select group of telecommunications companies. He explained they would need to carefully review, if not suspend completely, their broadband services if they had to compete against state or federally funded competitors. Mr. Shorman responded to questions from the committee.

Additionally, both Eva Powers, Assistant General Counsel, and Sandy Reams, Senior Telecommunications Auditor, from the Kansas Corporation Commission responded to questions from the committee.

The hearing on **HB 2754** was recessed and will be reconvened on February 18, 2002.

The meeting adjourned at 10:35 a.m.

The next meeting will be February 18, 2002.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 14, 2002

NAME	REPRESENTING
WALKER HENDRIX	CURB
RICHARD LAWSON	SPRINT
MIKE MURRAY	SPRINT
CAROLYN GASTON	SPRINT
STEVE KEARNEY	ALLTEL
Roger Galen	Kc PR
Rob Hodges	KT/A
Anne Tymeson	KCC
Eva Powers	KCC
Sandy Reams	KCC
Jerry Lammers	KCC
George Barber	RTNL
Tom Gleason	Independent Telecom Group
TOM DAY	KCC
John Edwards	KFB
Alice Casey	KFB
Janet Bathurst	S & A Telephone
Troy Wedel	KFB
Marjorie Hornbaker	Ks. Farm Bureau (Dreary Co.)
ALVIN & JAN KROEKER	Ks. Farm Bureau

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 14, 2002

NAME	REPRESENTING
Euth Dahlsten	McPherson Co 7B & Kansas Farm Bureau
Deryll Amstutz	Marion Co Farm Bureau
Edgard Agnes Harder	Butler Co. Farm Bureau
Cindy Shade	Wabaunsee Co. Farm Bureau
Peggy Flagler	" " " "
James M Capley	SITA
Matt Bergmann	Pat Hebbell Assoc.
Carl Murra	
Carolyn Gaster	Sprint
Susan Mahoney	Gov's Office
Nelson Krueger	Western Wireless
Mark Caplinger	SITA
Emily Allen	SITA
KENDALL MIKESER	SOUTHERN KANSAS TELEPHONE
Ken & Barb Gorman	Graham Co. Farm Bureau
Scott Tompkins	KCC
Jim Yonally	Verizon Wireless
John A. Purgan	SITA
Douglas E. Smith	SITA

BEFORE THE STATE CORPORATION
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

Before Commissioners:

John Wine, Chair
Cynthia L. Claus
Brian J. Moline

DEC 04 2001

Jeffery S. Wasaman Docket
Room

In the Matter of an Investigation into the) Docket No. 02-GIMT-068-KSF
Kansas Universal Service Fund (KUSF))
Mechanism for the Purpose of)
Establishing Cost Based Support for Rural)
Local Exchange Companies.)

**Direct Testimony Regarding Cost Based
KUSF Support for
Rural Local Exchange Companies' Territories**

Prepared by

Gerald A. Lammers

Kansas Corporation Commission Staff

December 4, 2001

COMPLETE COPY OF
THIS ATTACHMENT AVAILABLE FROM
LEGISLATIVE RESEARCH

HOUSE UTILITIES

DATE: 2-14-02

ATTACHMENT 1

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

STATE CORPORATION COMMISSION

Before Commissioners: John Wine, Chair
Cynthia L. Claus
Brian J. Moline

JAN 15 2002

Jeffery S. Wasaman Docket Room

In the Matter of an Investigation into the)
Kansas Universal Service Fund (KUSF)) 02-GIMT-068-KSF
Mechanism for the Purpose of)
Establishing Cost Based Support for)
Rural Local Exchange Companies.)

**Rebuttal Testimony Regarding Cost Based
KUSF Support for
Rural Local Exchange Companies' Territories**

Prepared by

Gerald A. Lammers

Kansas Corporation Commission Staff

January 8, 2002

**COMPLETE COPY OF
THIS ATTACHMENT AVAILABLE FROM
LEGISLATIVE RESEARCH**

HOUSE UTILITIES
DATE: 2-14-02
ATTACHMENT 2

In the Matter of an Investigation into the
Kansas Universal Service Fund (KUSF))
Mechanism for the Purpose of Establishing) DOCKET NO. 02-GIMT-068-KSF
Cost Based KUSF Support for Rural Local)
Exchange Companies.

STATE CORPORATION COMMISSION

DEC 04 2001

 Docket
Room

DIRECT TESTIMONY
OF
MELISSA HUNSICKER WALBURN

ON BEHALF OF
KANSAS CORPORATION COMMISSION STAFF

COMPLETE COPY OF
THIS ATTACHMENT AVAILABLE FROM
LEGISLATIVE RESEARCH

HOUSE UTILITIES
DATE: 2-14-02
ATTACHMENT 3

In the Matter of an Investigation into the
Kansas Universal Service Fund (KUSF))
Mechanism for the Purpose of Establishing)
Cost Based KUSF Support for Rural Local)
Exchange Companies.

2002.01.15 15:37:37
Kansas Corporation Commission
By Jeffrey S. Wasaman

DOCKET NO. 02-GIMT-068-KSF

STATE CORPORATION COMMISSION

JAN 15 2002

Jeffrey S. Wasaman Docket
Room

REBUTTAL TESTIMONY

OF

MELISSA HUNSICKER WALBURN

ON BEHALF OF

KANSAS CORPORATION COMMISSION STAFF

**COMPLETE COPY OF
THIS ATTACHMENT AVAILABLE FROM
LEGISLATIVE RESEARCH**

HOUSE UTILITIES
DATE: 2-14-02
ATTACHMENT 4

Testimony of Richard Veach
General Manager, Pioneer Communications
in support of House Bill 2754

House Utilities Committee
February 14, 2002

Mr. Chairman and members of the committee:

My name is Richard Veach. I am General Manager of Pioneer Communications based in Ulysses, Kansas. I appear today in support of House Bill 2754.

We would like to offer for your consideration a few amendments to our bill as drafted. We provided early copies of our original bill draft to many other parties for their consideration and reaction, and we've benefitted from that review. As I'm sure you're aware, legislation can often be improved as a result of critical analysis and new perspectives. Sprint and especially KCC Staff have alerted us to possible problems with certain language; in response we have taken their suggestions and improved the bill by resolving ambiguity and restoring beneficial parts of the Kansas Telecommunications Act that would have been deleted inadvertently. We're sure the result is a better bill.

The first amendment restores the adjustment to our intrastate access rates every two years, as the Act now requires. The new language would preserve that adjustment without requiring excessive cuts in access revenue. At the same time, minor changes would make it clear that the main purpose of the adjustments is to keep our intrastate access rates equal to our interstate rates.

The second balloon amendment does what we meant to do in the first place: specify that in setting support levels, the use of actual incurred costs would apply only to the rural companies. We understand the desire of Sprint not to step back from their

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use of cost models – it was not our intent to impose our adoption of an actual cost standard on any other company.

Finally, our balloon would strengthen the intent of the section on portability of KUSF support. It was not and is not our intent to guarantee continued full support to a rural carrier for service which a customer chooses to drop. In that case a rural company would receive only what the Act already says: recovery of the cost of serving as carrier of last resort. Other parties interpreted the original language of the bill to require more, so we have tightened the section in question.

Nothing in House Bill 2754 is intended to increase the KUSF. Nothing in House Bill 2754 will increase the KUSF. The most likely result is that the size of the fund would be reduced by passage of House Bill 2754.

We want you to have a list of the coming year's KUSF payments to local telephone companies. As you can see, the fund has been reduced from a size of as much as \$115 million in past years. In the coming year the total amount of fund support to all 38 rural company recipients will be less than \$30 million. Sprint, the largest single recipient of fund support, will get an additional \$11 million.

The universal service support received by local companies is no windfall. It's part of the revenue the KCC has decided we're entitled to receive for serving the public. In the case of rural companies every cent of our costs is subject to Commission approval or rejection. Once they decide what we're entitled to earn, the fund pays a part of those dollars so customers won't have to pay much higher prices. We can show that every dollar of our support benefits our customers. We invite the opponents of the bill to meet the same standard.

Thank you for the opportunity to testify. I'll do my best to answer any questions.

KUSF Support
 (From testimony of Sandra Reams, KCC staff, December 20, 2001)
 (Subject to adjustment in company audits)

<u>Rural Company Name</u>	<u>Annual support</u> <u>(as of October 2001)</u>
Bluestem	252,600
Blue Valley	1,098,324
Cass County	57,576
Columbus	149,076
Council Grove	75,612
Craw-Kan	1,955,364
Cunningham	709,788
Elkhart	365,952
Golden Belt	1,246,956
Gorham	57,660
H&B	577,968
Haviland	593,328
Home	689,472
JBN	828,156
KanOkla	769,140
LaHarpe	74,136
Madison	346,068
MoKan	906,756
Moundridge	778,908
Mutual	81,156
Peoples Mutual	281,364
Pioneer	1,810,980
Rainbow	256,332
Rural	4,794,084
S&A	625,200
S&T	1,678,932
South Central of Kansas	360,384
South Center Kiowa	179,820
Southern Kansas	3,679,200
Sunflower	1,464,972
Totah	353,052
Tri-County	428,016
Twin Valley	920,040
United Telephone Assoc.	761,196
Wamego	308,196
Wheat State	935,544
Wilson	1,011,408
Zenda	104,904

HOUSE BILL No. 2754

By Committee on Utilities

2-1

AN ACT concerning telecommunications; amending K.S.A. 2001 Supp. 66-1,187, 66-2001, 66-2002, 66-2003, 66-2004, 66-2005, 66-2008, 66-2009, 66-2010 and 66-2011 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 66-2012 and 66-2016.

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

Section 1. K.S.A. 2001 Supp. 66-1,187 is hereby amended to read as follows: 66-1,187. As used in this act:

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

(b) "CLASS services" means custom local area signaling services, which include automatic callback, automatic recall, calling number identification, selective call rejection, selective call acceptance, selective call forwarding, distinctive ringing and customer originated trace.

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

(d) "Consumer broadband" means the transmission of digital signals at rates equal to or greater than 200 kilobits per second.

~~(d)~~ (e) "Dialing parity" means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications carrier of the customer's designation from among two or more telecommunications carriers, including such local exchange carrier.

(f) "Eligible telecommunications carrier" means any telecommunications public utility, telecommunications carrier, local exchange carrier or wireless telecommunications service provider that has been designated eligible to receive KUSF support or federal universal service support for service in this state.

(g) "Enhanced universal service" means the telecommunications capacity to provide consumer broadband that enables users to originate and receive high-quality voice, data, graphics and video telecommunications. It shall also include, on a technology neutral basis: Out-of-band common channel signaling capability, with CLASS service capability; full-fiber interconnectivity, or the technological equivalent, between central offices;

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1 and broadband capable facilities to: All schools accredited pursuant to
2 K.S.A. 72-1101 *et seq.*, and amendments thereto; hospitals as defined in
3 K.S.A. 65-425, and amendments thereto; public libraries; and state and
4 local government facilities which request broadband services.

5 ~~(e)~~ (h) "Federal act" means the federal telecommunications act of
6 1996, P.L. 104-104 (amending the communications act of 1934, 47 U.S.C.
7 151, *et seq.*)

8 ~~(f)~~ "ISDN" means integrated services digital network which is a net-
9 work and associated technology that provides simultaneous voice and data
10 communications over a single communications channel.

11 ~~(g)~~ (i) "LATA" has the meaning ascribed to it in the federal act.

12 ~~(h)~~ (j) "Local exchange carrier" means any telecommunications pub-
13 lic utility or its successor providing switched telecommunications service
14 within any local exchange service area, as approved by the commission
15 on or before January 1, 1996. However, with respect to the Hill City
16 exchange area, in which multiple carriers were certified by the commis-
17 sion prior to January 1, 1996, the commission's determination, subject to
18 any court appeals, of which authorized carrier shall serve as the carrier
19 of last resort will determine which carrier shall be deemed the local
20 exchange carrier for that exchange.

21 ~~(i)~~ (k) "Number portability" has the meaning ascribed to it in the
22 federal act.

23 ~~(j)~~ (l) "1+ intraLATA and interLATA dialing parity" means the ability
24 of a local exchange service customer to specify the telecommunications
25 or local exchange carrier that will carry the intraLATA and interLATA
26 long distance messages when that customer dials either "1" or "0" plus a
27 10-digit number.

28 ~~(k)~~ (m) "Operating area" means:

29 (1) In the case of a rural telephone company, operating area or service
30 area means such company's study area or areas as approved by the federal
31 communications commission;

32 (2) in the case of a local exchange carrier, other than a rural telephone
33 company, operating area or service area means such carrier's local
34 exchange service area or areas as approved by the commission.

35 ~~(l)~~ (n) "Rural telephone company" has the meaning ascribed to it in
36 the federal act, excluding any local exchange carrier which together with
37 all of its affiliates has 20,000 or more access lines in the state.

38 ~~(m)~~ (o) "Telecommunications carrier" means a corporation, com-
39 pany, individual, association of persons, their trustees, lessees or receivers
40 that provides a telecommunications service, including, but not limited to,
41 interexchange carriers and competitive access providers, but not including
42 local exchange carriers certified before January 1, 1996.

43 ~~(n)~~ (p) "Telecommunications public utility" means any public utility,

1 as defined in K.S.A. 66-104, and amendments thereto, which owns, con-
2 trols, operates or manages any equipment, plant or generating machinery,
3 or any part thereof, for the transmission of telephone messages, as defined
4 in K.S.A. 66-104, and amendments thereto, or the provision of telecom-
5 munications services in or throughout any part of Kansas.

6 ~~(p)~~ (q) "Telecommunications service" means the provision of a serv-
7 ice for the transmission of telephone messages, or two-way video or data
8 messages.

9 ~~(p)~~ (r) "Universal service" means telecommunications services and
10 facilities which include: single party, two-way voice grade calling; stored
11 program controlled switching with vertical service capability; E911 ca-
12 pability; tone dialing; access to operator services; access to directory as-
13 sistance; and ~~equal access to long distance services 1+intraLATA and~~
14 ~~interLATA dialing parity.~~

15 ~~(q) "Enhanced universal service" means telecommunications serv-~~
16 ~~ices, in addition to those included in universal service, which shall include:~~
17 ~~Signaling system seven capability, with CLASS service capability, basic~~
18 ~~and primary rate ISDN capability, or the technological equivalent, full-~~
19 ~~fiber interconnectivity, or the technological equivalent, between central~~
20 ~~offices, and broadband capable facilities to: All schools accredited pur-~~
21 ~~suant to K.S.A. 72-1101 et seq., and amendments thereto, hospitals as~~
22 ~~defined in K.S.A. 65-425, and amendments thereto, public libraries, and~~
23 ~~state and local government facilities which request broadband services.~~

24 Sec. 2. K.S.A. 2001 Supp. 66-2001 is hereby amended to read as
25 follows: 66-2001. It is hereby declared to be the public policy of the state
26 to:

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

30 (b) *to the extent possible without negative impact on achievement of*
31 *the policy set forth in subsection (a)*, ensure that consumers throughout
32 the state realize the benefits of competition through increased services
33 and improved telecommunications facilities and infrastructure at reduced
34 rates;

35 (c) *to the extent possible without negative impact on achievement of*
36 *the policy set forth in subsection (a)*, promote consumer access to a full
37 range of telecommunications services, including advanced telecommu-
38 nications services that are comparable in urban and rural areas throughout
39 the state;

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

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1 and

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

5 Sec. 3. K.S.A. 2001 Supp. 66-2002 is hereby amended to read as
6 follows: 66-2002. The commission shall:

7 ~~(a) Adopt a definition of "universal service" and "enhanced universal~~
8 ~~service," pursuant to subsections (p) and (q) of K.S.A. 2001 Supp. 66-~~
9 ~~1,187;~~

10 ~~(b) (a) Authorize any requesting telecommunications carrier to pro-~~
11 ~~vide local exchange or exchange access service pursuant to subsection (a)~~
12 ~~of K.S.A. 2001 Supp. 66-2003, and amendments thereto;~~

13 ~~(c) on or before July 1, 1996, the commission shall initiate a pro-~~
14 ~~ceeding to adopt guidelines to (b) ensure that all telecommunications~~
15 ~~carriers and local exchange carriers preserve and enhance universal serv-~~
16 ~~ice, protect the public safety and welfare, ensure the continued quality~~
17 ~~of telecommunications services and safeguard the rights of consumers;~~

18 ~~(d) (c) review, approve and ensure compliance with network infra-~~
19 ~~structure plans submitted by local exchange carriers pursuant to K.S.A.~~
20 ~~2001 Supp. 66-2005, and amendments thereto;~~

21 ~~(e) (d) review, approve and ensure compliance with regulatory plans~~
22 ~~submitted by local exchange carriers pursuant to K.S.A. 2001 Supp. 66-~~
23 ~~2005, and amendments thereto;~~

24 ~~(f) on or before January 1, 1997, establish, pursuant to K.S.A. 2001~~
25 ~~Supp. 66-2006, the Kansas lifeline service program, hereinafter referred~~
26 ~~to as the KLSP;~~

27 ~~(g) initiate and complete a proceeding by January 1, 1997, to establish~~
28 ~~a competitively neutral mechanism or mechanisms to fund: dual party~~
29 ~~relay services for Kansans who are speech or hearing impaired; telecom-~~
30 ~~munications equipment for persons with visual impediments, and tele-~~
31 ~~communications equipment for persons with other special needs. This~~
32 ~~funding mechanism or mechanisms shall be implemented by March 1,~~
33 ~~1997;~~

34 ~~(h) on or before January 1, 1997, establish the Kansas universal serv-~~
35 ~~ice fund pursuant to K.S.A. 2001 Supp. 66-2008, hereinafter referred to~~
36 ~~as the KUSF, and make various determinations relating to the imple-~~
37 ~~mentation of such fund;~~

38 ~~(i) (e) authorize all local exchange carriers to provide internet access~~
39 ~~as outlined in K.S.A. 2001 Supp. 66-2011, and amendments thereto and~~
40 ~~report on the status of the implementation provisions to specified legis-~~
41 ~~lative committees;~~

42 ~~(j) review the federal act and adopt additional standards and guide-~~
43 ~~lines as necessary for enforcing slamming restrictions;~~

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1 ~~(k)~~ (f) commencing on June 1, 1997 and periodically thereafter, re-
 2 view and, to the extent necessary, modify the definition of universal serv-
 3 ice and enhanced universal service, and KUSF establish and, to the extent
 4 necessary, modify rules and guidelines to determine what additional serv-
 5 ices qualify as universal services or enhanced universal services, in ad-
 6 dition to those services defined in subsections (g) and (r) of K.S.A. 66-
 7 1,187, and amendments thereto, taking into account advances in
 8 telecommunications and information technology and services; and

9 ~~(l)~~ on or before January 1, 1997, initiate and complete a proceeding
 10 to establish minimum

11 (g) make quality of service standards which will be adopted by the
 12 commission equally applicable to all local exchange carriers and eligible
 13 telecommunications carriers in the state; any local exchange carrier or
 14 eligible telecommunications carrier violating such standards, for each oc-
 15 currence, shall forfeit and pay a penalty of not less than \$100, nor more
 16 than \$5,000; persistent violation of such standards may result in revoca-
 17 tion of eligible telecommunications carrier status by the commission; vi-
 18 olations of such standards shall be enforced in accordance with provisions
 19 of K.S.A. 66-138 and 66-177, and amendments thereto; and

20 ~~(m)~~ on January 1, 2000, prepare and submit a report to the legisla-
 21 ture. The report shall include an analysis of the manner in which the
 22 regulatory framework has served to: protect consumers; safeguard uni-
 23 versal service; ensure that consumers have reaped the benefits of com-
 24 petition; maximize the use of market forces; and promote development
 25 of the telecommunications infrastructure throughout the state. The com-
 26 mission also shall recommend if and how the KUSF should be modified.

27 Sec. 4. K.S.A. 2001 Supp. 66-2003 is hereby amended to read as
 28 follows: 66-2003. (a) On or before September 1, 1996, the commission
 29 shall begin to authorize applications for certificates of public convenience
 30 and necessity to provide local exchange or exchange access service.

31 (b) A local exchange carrier shall be required to offer to allow rea-
 32 sonable resale of its retail telecommunications services and to sell un-
 33 bundled local loop, switch and trunk facilities to telecommunications car-
 34 riers, as required by the federal act and pursuant to negotiated
 35 agreements or a statement of terms and conditions generally available to
 36 telecommunications carriers.

37 (c) To encourage telecommunications carriers to build or install tel-
 38 ecommunications facilities, including, but not limited to, local loop and
 39 switching facilities in the state, and except as otherwise negotiated by a
 40 local exchange carrier and a telecommunications carrier, the prices for
 41 such unbundled facilities shall be determined by the commission, on a
 42 nondiscriminatory basis, to permit the recovery of costs and a reasonable
 43 profit. The commission shall determine wholesale rates on the basis of

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1 retail rates charged subscribers for the telecommunications service re-
2 quested, excluding the portion thereof attributable to any marketing, bill-
3 ing, collection and other costs, that will be avoided by the local exchange
4 carrier. The commission shall approve resale restrictions proposed by any
5 local exchange carrier which prohibit resellers from purchasing retail tel-
6 ecommunications services offered by that local exchange carrier to one
7 category of customers and reselling those retail services to a different
8 category of customers. Upon a finding that such practice would be anti-
9 competitive, anticonsumer or detrimental to the quality of the network
10 infrastructure, the commission may prohibit the resale of retail services
11 at a rate lower than the wholesale rate. The commission shall approve any
12 other reasonable limitation on resale to the extent permitted by the fed-
13 eral act.

14 (d) As provided in the federal act, in order for telecommunications
15 carriers to provide local exchange service and exchange access service,
16 local exchange carriers shall provide the means to interconnect their re-
17 spective customers, including, but not limited to, toll access, access to
18 operator services, access to directory listings and assistance, and access to
19 E911 service.

20 (e) Customers shall be accorded number portability and local dialing
21 parity in conformance with national standards to the extent economically
22 and technically feasible. Terms and prices for interconnection, unbundled
23 facilities and resale of existing retail telecommunications services shall be
24 negotiated in good faith between the parties. During the period from the
25 135th through the 160th day after the date on which an incumbent local
26 exchange carrier receives a request for negotiation under this section, the
27 carrier or any other party to the negotiation may petition the commission
28 to arbitrate any open issues. Arbitration shall occur in conformance with
29 the provisions of section 252 of the federal act.

30 (f) The commission shall require, ~~consistent with the terms of the~~
31 ~~federal act,~~ that 1+ intraLATA *and* interLATA dialing parity be provided
32 by all ~~local exchange carriers and~~ eligible telecommunications carriers
33 ~~coincidentally with the provision of in-region interLATA toll services in~~
34 ~~the state by local exchange carriers with more than 150,000 access lines~~
35 ~~or their affiliates.~~

36 Sec. 5. K.S.A. 2001 Supp. 66-2004 is hereby amended to read as
37 follows: 66-2004. (a) Pursuant to subsection (f)(1) of section 251 of the
38 federal act, the obligations of an incumbent local exchange carrier, which
39 include the duty to negotiate interconnection, unbundled access, resale,
40 notice of changes and collocation, shall not apply to a rural telephone
41 company unless such company has received a bona fide request for in-
42 terconnection, services or network elements and the commission deter-
43 mines that such request is not unduly economically burdensome, is tech-

b6

1 nically feasible and preserves and enhances universal service.

2 (b) ~~On July 1, 1996, The commission shall initiate a rulemaking pro-~~
3 ~~cedure to adopt guidelines to ensure that all eligible telecommunications~~
4 ~~carriers and local exchange carriers preserve and enhance universal serv-~~
5 ~~ice, protect the public safety and welfare, ensure the continued quality~~
6 ~~of telecommunications services and safeguard the rights of consumers.~~
7 ~~The preservation and advancement of universal service pursuant to sub-~~
8 ~~section (a) of K.S.A. 2001 Supp. 66-2001, and amendments thereto, shall~~
9 ~~be a primary concern. The commission shall issue the guidelines no later~~
10 ~~than December 31, 1996.~~

11 (c) Pursuant to subsection (f) of section 253 of the federal act and
12 subsection (b) of this section, any telecommunications carrier that seeks
13 to provide ~~telephone exchange service or local exchange access~~ universal
14 service or enhanced universal service, as defined in K.S.A. 66-1,187, and
15 amendments thereto, in a service area served by a rural telephone com-
16 pany shall, for that area, meet the requirements of (1) subsection (e)(1)
17 of section 214 of the federal act for designation as an eligible telecom-
18 munications carrier for that area for federal universal service funding and
19 (2) all applicable provisions of this act relating to eligible telecommuni-
20 cations carriers before being permitted by the commission to provide
21 such service receive the respective funding; however, the guidelines shall
22 be consistent with the provisions of subsection (f) (1) and (2) of section
23 253 of the federal act.

24 (d) The commission may grant eligible telecommunications carrier
25 status or a certificate to provide local exchange or exchange access service
26 in the service area of a rural telephone company if, among other issues
27 to be considered by the commission, the application for such certificate
28 complies with commission guidelines issued pursuant to subsection (b).

29 (e) Any restrictions established by the commission for rural entry of
30 competitors or for resale and unbundling of services shall not apply to
31 any service area of a rural telephone company if such company, or an
32 entity in which such company directly or indirectly owns an equity interest
33 of 10% or more, provides local exchange or exchange access service, as
34 authorized under K.S.A. 2001 Supp. 60-2003, and amendments thereto,
35 and this section, in any area of the state outside of its local exchange areas,
36 as approved by the commission on or before January 1, 1996, and outside
37 of any area in which it is the successor to the local exchange carrier serving
38 such area on or before January 1, 1996.

39 Sec. 6. K.S.A. 2001 Supp. 66-2005 is hereby amended to read as
40 follows: 66-2005. (a) Each local exchange carrier shall file a network in-
41 frastructure plan with the commission on or after January 1, 1997, and
42 prior to January 1, 1998. Each plan, as a part of universal service protec-
43 tion, shall include schedules, which shall be approved by the commission,

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1 for deployment of universal service capabilities by July 1, 1998, and the
2 deployment of enhanced universal service capabilities by July 1, 2003, as
3 defined pursuant to subsections ~~(p)~~ and ~~(q)~~ ~~(g)~~ and ~~(r)~~ of K.S.A. 66-1,187,
4 and amendments thereto, respectively. With respect to enhanced univer-
5 sal service, such schedules shall provide for deployment of ISDN, or its
6 technological equivalent, or consumer broadband facilities, only upon a
7 firm customer order for such service, or for deployment of other en-
8 hanced universal services by a local exchange carrier. After receipt of such
9 an order and upon completion of a deployment plan designed to meet
10 the firm order or otherwise provide for the deployment of enhanced
11 universal service, a local exchange carrier shall notify the commission.
12 The commission shall approve the plan unless the commission determines
13 that the proposed deployment plan is unnecessary, inappropriate, or not
14 cost effective, or would create an unreasonable or excessive demand on
15 the KUSF. The commission shall take action within 90 days. If the com-
16 mission fails to take action within 90 days, the deployment plan shall be
17 deemed approved. This approval process shall continue until July 1, 2000.
18 Each plan shall demonstrate the capability of the local exchange carrier
19 to comply on an ongoing basis with quality of service standards to be
20 adopted by the commission no later than January 1, 1997.

21 (b) In order to protect universal service, facilitate the transition to
22 competitive markets and stimulate the construction of an advanced tel-
23 ecommunications infrastructure, each local exchange carrier shall file a
24 regulatory reform plan at the same time as it files the network infrastruc-
25 ture plan required in subsection (a). As part of its regulatory reform plan,
26 a local exchange carrier may elect traditional rate of return regulation or
27 price cap regulation. Carriers that elect price cap regulation shall be ex-
28 empt from rate base, rate of return and earnings regulation. However,
29 the commission may resume such regulation upon finding, after a hearing,
30 that a carrier that is subject to price cap regulation has: Violated minimum
31 quality of service standards pursuant to subsection ~~(h)~~ ~~(g)~~ of K.S.A. 2001
32 Supp. 66-2002, and amendments thereto; been given reasonable notice
33 and an opportunity to correct the violation; and failed to do so. Regulatory
34 reform plans also shall include:

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

41 (2) a commitment to provide ~~basic rate ISDN service, or the tech-~~
42 ~~nological equivalent,~~ *upon request, consumer broadband service* at prices
43 which are uniform throughout the carrier's service area. Local exchange

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1 carriers shall not be required to allow retail customers purchasing the
 2 foregoing discounted services to resell those services to other categories
 3 of customers. Telecommunications carriers may purchase ~~basic rate~~
 4 ~~ISDN services, or the technological equivalent,~~ *consumer broadband*
 5 *service* for resale in accordance with K.S.A. 2001 Supp. 66-2003, and
 6 amendments thereto.

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

10 (c) Subject to the commission's approval, all local exchange carriers
 11 shall reduce intrastate access charges to interstate levels as provided
 12 herein. Rates for intrastate switched access, and the imputed access por-
 13 tion of toll, shall be reduced over a three-year period with the objective
 14 of equalizing interstate and intrastate rates in a revenue neutral, specific
 15 and predictable manner. The commission is authorized to rebalance local
 16 residential and business service rates to offset the intrastate access and
 17 toll charge reductions. Any remaining portion of the reduction in access
 18 and toll charges not recovered through local residential and business serv-
 19 ice rates shall be paid out from the KUSF pursuant to K.S.A. 2001 Supp.
 20 66-2008, and amendments thereto. ~~Rural telephone companies shall not~~
 21 ~~be required to reduce their intrastate switched access rates to interstate~~
 22 ~~levels on March 1, 1997, and every two years thereafter, as long as~~
 23 ~~amounts equal to such reductions are below the level of interstate~~
 24 ~~switched access rates. Any reduction of a rural telephone company's cost~~
 25 ~~recovery due to reduction of its intrastate access revenue shall be recov-~~
 26 ~~ered from the KUSF.~~

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

Each rural telephone company shall adjust its intrastate switched access rates on March 1 of each odd-numbered year to match its interstate switched access rates; no such company shall be required at any time to reduce its intrastate switched access rates below the level of its interstate switched access rates. Any reduction of a rural telephone company's cost recovery due to reduction of its intrastate access revenue shall be recovered from the KUSF.

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1 reduced by an amount equal to the difference between the revenue the
2 company could receive if it elected to increase such rate to the average
3 rate and the revenue received by the company. *An affordable local resi-*
4 *dential and business rate for each rural local exchange carrier shall be the*
5 *higher of the current basic local residential and business service rate or*
6 *the statewide local exchange carrier average basic local residential and*
7 *business service rate. The statewide local exchange carrier average rates*
8 *shall be the average non-weighted lowest flat rate as of January 1, 2002,*
9 *and as recalculated January 1 every two years thereafter, for local resi-*
10 *dential service and for local business service offered by each local*
11 *exchange carrier within the state. Upon motion by a carrier, the commis-*
12 *sion may determine a higher affordable local residential or business rate*
13 *for that carrier if such higher rate allows the carrier to provide additional*
14 *or improved service to customers, which additional or improved service*
15 *may include provision of tone signaling service to all customers of the*
16 *company at no additional charge.*

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

30 (f) On or before January 1, 1997, the commission shall issue a final
31 order in a proceeding to determine the price cap adjustment formula that
32 shall apply to the price caps for the local residential and single-line busi-
33 ness and the miscellaneous services baskets and for sub-categories, if any,
34 within those baskets. In determining this formula, the commission shall
35 balance the public policy goals of encouraging efficiency and promoting
36 investment in a quality, advanced telecommunications network in the
37 state. The commission also shall establish any informational filing require-
38 ments necessary for the review of any price cap tariff filings, including
39 price increases or decreases within the caps, to verify such caps would
40 not be exceeded by any proposed price change. The adjustment formula
41 shall apply to the price caps for the local residential and single-line busi-
42 ness basket after December 31, 1999, and to the miscellaneous services
43 basket after December 31, 1997. The price cap formula, but not actual

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1 prices, shall be reviewed every five years.

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

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

15 (i) The price caps for the miscellaneous services basket shall be ad-
16 justed annually after December 31, 1997, based on the adjustment for-
17 mula determined by the commission under subsection (f).

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

29 (k) A local exchange carrier may offer promotions within an exchange
30 or group of exchanges. All promotions shall be approved by the commis-
31 sion and shall apply to all customers in a nondiscriminatory manner within
32 the exchange or group of exchanges.

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

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

43 (n) Subsequent to the adoption of guidelines pursuant to subsection

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1 (m), the commission shall initiate a petitioning procedure under which
2 the local exchange carrier may request rate range pricing. The commis-
3 sion shall act upon a petition within 21 days, subject to a 30-day suspen-
4 sion. The prices within a rate range shall be tariffed and shall apply to all
5 customers in a nondiscriminatory manner in an exchange or group of
6 exchanges.

7 (o) A local exchange carrier may petition the commission to designate
8 an individual service or service category, if any, within the miscellaneous
9 services basket, the switched access services basket or the residential and
10 single-line business basket for reduced regulation. The commission shall
11 act upon a petition for reduced regulation within 21 days, subject to a
12 suspension period of an additional 30 days, and upon a good cause show-
13 ing of the commission in the suspension order, or within such shorter
14 time as the commission shall approve. The commission shall issue a final
15 order within the 21-day period or within a 51-day period if a suspension
16 has been issued. Following an order granting reduced regulation of an
17 individual service or service category, the commission shall act on any
18 request for price reductions within seven days subject to a 30-day sus-
19 pension. The commission shall act on other requests for price cap ad-
20 justments, adjustments within price cap plans and on new service offer-
21 ings within 21 days subject to a 30-day suspension. Such a change will be
22 presumed lawful unless it is determined the prices are below the price
23 floor or that the price cap for a category, if any, within the entire basket
24 has been exceeded.

25 (p) The commission may price deregulate within an exchange area,
26 or at its discretion on a statewide basis, any individual service or service
27 category upon a finding by the commission that there is a telecommuni-
28 cations carrier or an alternative provider providing a comparable product
29 or service, considering both function and price, in that exchange area.
30 The commission shall act upon a petition for price deregulation within
31 21 days, subject to a suspension period of an additional 30 days, and upon
32 a good cause showing of the commission in the suspension order, or
33 within such shorter time as the commission shall approve; provided that
34 no such petition shall be filed prior to July 1997, unless the commission
35 otherwise authorizes. The commission shall issue a final order within the
36 21-day period or within a 51-day period if a suspension has been issued.

37 (q) Upon complaint or request, the commission may investigate a
38 price deregulated service. The commission shall resume price regulation
39 of a service provided in any exchange area by placing it in the appropriate
40 service basket, as approved by the commission, upon a determination by
41 the commission that there is no longer a telecommunications carrier or
42 alternative provider providing a comparable product or service, consid-
43 ering both function and price, in that exchange area.

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1 (r) The commission shall require that for all local exchange carriers
2 all such price deregulated basic intraLATA toll services be geographically
3 averaged statewide and not be priced below the price floor established
4 in subsection (j).

5 (s) Cost studies to determine price floors shall be performed as re-
6 quired by the commission in response to complaints. In addition, not-
7 withstanding the exemption in subsection (b), the commission may re-
8 quest information necessary to execute any of its obligations under the
9 act.

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

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

15 (v) Telecommunications carriers shall not be subject to price regu-
16 lation, except that: Access charge reductions shall be passed through to
17 consumers by reductions in basic intrastate toll prices; and basic toll prices
18 shall remain geographically averaged statewide. As required under K.S.A.
19 66-131, and amendments thereto, and except as provided for in subsec-
20 tion (c) of K.S.A. 2001 Supp. 66-2004, and amendments thereto, telecom-
21 munications carriers that were not authorized to provide switched local
22 exchange telecommunications services in this state as of July 1, 1996,
23 including cable television operators who have not previously offered tel-
24 ecommunications services, must receive a certificate of convenience
25 based upon a demonstration of technical, managerial and financial via-
26 bility and the ability to meet quality of service standards established by
27 the commission. Any telecommunications carrier or other entity seeking
28 such certificate shall file a statement, which shall be subject to the com-
29 mission's approval, specifying with particularity the areas in which it will
30 offer service, the manner in which it will provide the service in such areas
31 and whether it will serve both business customers and residential custom-
32 ers in such areas. Any structurally separate affiliate of a local exchange
33 carrier that provides telecommunications services shall be subject to the
34 same regulatory obligations and oversight as a telecommunications car-
35 rier, as long as the local exchange carrier's affiliate obtains access to any
36 services or facilities from its affiliated local exchange carrier on the same
37 terms and conditions as the local exchange carrier makes those services
38 and facilities available to other telecommunications carriers. The com-
39 mission shall oversee telecommunications carriers to prevent fraud and
40 other practices harmful to consumers and to ensure compliance with
41 quality of service standards adopted for all local exchange carriers and
42 telecommunications carriers in the state.

43 Sec. 7. K.S.A. 2001 Supp. 66-2008 is hereby amended to read as

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1 follows: 66-2008. On or before January 1, 1997, the commission shall
2 establish the Kansas universal service fund, hereinafter referred to as the
3 KUSF.

4 ~~(a) The initial amount of the KUSF shall be comprised of local~~
5 ~~exchange carrier revenues lost as a result of rate rebalancing pursuant to~~
6 ~~subsection (c) of K.S.A. 2001 Supp. 66-2005, and amendments thereto;~~
7 ~~and subsection (a) of K.S.A. 2001 Supp. 66-2007, and amendments~~
8 ~~thereto. Such revenues shall be recovered on a revenue neutral basis. The~~
9 ~~revenue neutral calculation shall be based on the volumes and revenues~~
10 ~~for the 12 months prior to September 30, 1996, adjusted for any rate~~
11 ~~changes.~~

12 ~~(b) (a) The commission shall require every telecommunications carrier,~~
13 ~~telecommunications public utility and wireless telecommunications serv-~~
14 ~~ice provider that provides intrastate telecommunications services to con-~~
15 ~~tribute to the KUSF on an equitable and nondiscriminatory basis. Any~~
16 ~~telecommunications carrier, telecommunications public utility or wireless~~
17 ~~telecommunications service provider which contributes to the KUSF may~~
18 ~~collect from customers an amount equal to such carrier's, utility's or pro-~~
19 ~~vider's contribution, except that before January 1, 2000, no such carrier,~~
20 ~~provider or utility shall collect from customers an amount in excess of~~
21 ~~8.89% of its intrastate retail revenues as provided in commission docket~~
22 ~~no. 190-492-U but such carrier, provider or utility may collect a lesser~~
23 ~~amount from its customer.~~

24 ~~— Prior to January 1, 2000, with respect to wireless telecommunications~~
25 ~~service providers, an equitable and nondiscriminatory rate shall be an~~
26 ~~amount equal to the rate of contributions of wireline telecommunications~~
27 ~~service providers, as determined by the commission, reduced by the per-~~
28 ~~centage minutes of usage initiated and terminated entirely over the wire-~~
29 ~~less network as determined by the commission. The commission shall~~
30 ~~establish such rate for wireless telecommunications service providers no~~
31 ~~later than December 31, 1998. Any contributions in excess of distributions~~
32 ~~collected in any reporting year shall be applied to reduce the estimated~~
33 ~~contribution that would otherwise be necessary for the following year.~~

34 ~~(c) (b) Pursuant to the federal act and to subsection (c) of K.S.A. 2001~~
35 ~~Supp. 66-2004 and subsection (a) of K.S.A. 2001 Supp. 66-2009, and~~
36 ~~amendments thereto, distributions from the KUSF shall be made in a~~
37 ~~competitively neutral manner to qualified telecommunications public util-~~
38 ~~ities, telecommunications carriers and wireless telecommunications pro-~~
39 ~~viders, that are deemed eligible eligible telecommunications carriers~~
40 ~~which are designated both under subsection (e)(1) of section 214 of the~~
41 ~~federal act and by the commission.~~

42 ~~(d) (c) The commission shall periodically review the KUSF to deter-~~
43 ~~mine if the costs of qualified telecommunications public utilities, tele-~~

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1 ~~communications carriers and wireless telecommunications service provid-~~
 2 ~~ers to provide local service~~ *eligible telecommunications carriers to provide*
 3 *service for which KUSF support is received* justify modification of the
 4 KUSF. If the commission determines that any changes are needed, the
 5 commission shall modify the KUSF accordingly. ~~Costs to be used by the~~
 6 ~~commission shall be the actual costs incurred by the eligible telecommu-~~
 7 ~~nications carrier.~~

8 ~~(e) (d)~~ Any ~~qualified telecommunications carrier, telecommunica-~~
 9 ~~tions public utility or wireless telecommunications service provider~~ *eli-*
 10 *gible telecommunications carrier* may request supplemental funding from
 11 the KUSF based upon a percentage increase in access lines over the 12-
 12 month period prior to the request. The supplemental funding shall be
 13 incurred for the purpose of providing services to and within the service
 14 area of the ~~qualified telecommunications carrier, telecommunications~~
 15 ~~public utility or wireless telecommunications service provider~~ *eligible tel-*
 16 *ecomunications carrier*. Supplemental funding from the KUSF shall be
 17 used for infrastructure expenditures necessary to serve additional custom-
 18 ers within the service area of such ~~qualifying utility, provider or eligible~~
 19 ~~telecommunications carrier~~. All affected parties shall be allowed to review
 20 and verify a request of such a ~~qualified utility, carrier or provider~~ *an*
 21 *eligible telecommunications carrier* for supplemental funding from the
 22 KUSF, and to intervene in any commission proceeding regarding such
 23 request. The commission shall issue an order on the request within 120
 24 days of filing. Additional funding also may be requested for: The recovery
 25 of shortfalls due to ~~additional rebalancing of~~ *reduction of intrastate access*
 26 *rates to continue maintenance of parity with interstate access rates; short-*
 27 *falls due to changes to access revenue requirements* ~~(based on the in-~~
 28 ~~curring revenue requirement of that carrier)~~ resulting from changes in
 29 federal rules; additional investment ~~(based on the incurred investment of~~
 30 ~~that carrier)~~ required to provide universal service and enhanced universal
 31 service, deployed subject to subsection (a) of K.S.A. 66-2005, and amend-
 32 ments thereto; and for infrastructure expenditures ~~(based on the incurred~~
 33 ~~expenditure of that carrier)~~ in response to facility or service requirements
 34 established by any legislative, regulatory or judicial authority. ~~Such re-~~
 35 ~~quests~~ *Supplemental funding will be received by an eligible telecommu-*
 36 *nications carrier only if the carrier files a request for such funding which*
 37 *shall be subject to simplified filing procedures and the expedited review*
 38 *procedures, as outlined in the stipulation attached to the order of No-*
 39 *vember 19, 1990, in docket no. 127,140 U (Phase IV). The request will*
 40 *be authorized by the commission if such procedures are met.*

(e) Prior to June 30, 2006, for each eligible telecommunica-
 tions carrier electing pursuant to K.S.A. 66-2005(b) and amend-
 ments thereto to operate under traditional rate of return
 regulation all KUSF support, including any adjustment thereto
 pursuant to this section (K.S.A. 66-2008 and amendments thereto),
 shall be based on that carrier's actual incurred costs, revenue
 requirements, investments and expenses.

41 ~~(f) (e)~~ Additional supplemental funding from the KUSF, other than
 42 as provided in subsection ~~(e) of this section~~ *(d)*, may be authorized at the
 43 discretion of the commission. However, the commission may require ap-

(f)

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1 proval of such funding to be based upon a general rate case filing. With
2 respect to any request for additional supplemental funding from the
3 KUSF, the commission shall act expeditiously, but shall not be subject to
4 the 120 day deadline set forth in subsection ~~(e)~~ (d).

5 Sec. 8. K.S.A. 2001 Supp. 66-2009 is hereby amended to read as
6 follows: 66-2009. (a) Local exchange carriers that provided switched local
7 exchange services in the state prior to January 1, 1996, or their successors,
8 *shall be designated as the provider of the primary line for their customers,*
9 *shall serve as the carrier of last resort in their exchanges and shall be*
10 *eligible to receive KUSF funding.* ~~However, with respect to the Hill City~~
11 ~~exchange area in which multiple carriers were certified prior to January~~
12 ~~1, 1996, the commission's determination, subject to court appeals, shall~~
13 ~~determine which authorized carrier shall serve as carrier of last resort.~~
14 ~~The local exchange carrier serving as the carrier of last resort shall remain~~
15 ~~the carrier of last resort and shall be entitled to recover the costs of serving~~
16 ~~as carrier of last resort for all primary and secondary lines. All eligible~~
17 ~~telecommunications carriers may receive portable KUSF funding if they~~
18 ~~meet all applicable requirements of this act relating to eligible telecom-~~
19 ~~munications carriers. Continuing eligibility to receive KUSF funding shall~~
20 ~~be contingent upon a showing that the carrier is meeting the requirements~~
21 ~~pursuant to subsection (g) of K.S.A. 2001 Supp. 66-2002, subsection (f)~~
22 ~~of K.S.A. 2001 Supp. 66-2003 and subsection (b) of K.S.A. 2001 Supp.~~
23 ~~66-2004, and amendments thereto. Support per line payable to an eligible~~
24 ~~telecommunications carrier other than a local exchange carrier shall be~~
25 ~~portable based on its actual incurred costs. Pursuant to subsection (b) of~~
26 ~~K.S.A. 2001 Supp. 66-2004, and amendments thereto, the local exchange~~
27 ~~carrier of last resort for the area, shall be entitled to receive its per line~~
28 ~~KUSF support for all primary and secondary lines lost to other eligible~~
29 ~~carriers in order to recover its ongoing actual incurred costs of continuing~~
30 ~~to provide facilities to serve as carrier of last resort. Supplemental KUSF~~
31 ~~funding pursuant to subsection (d) of K.S.A. 2001 Supp. 66-2008, and~~
32 ~~amendments thereto, shall be portable to another eligible telecommuni-~~
33 ~~cations carrier if that carrier meets the requirements for such funding~~
34 ~~pursuant to subsection (d) of K.S.A. 2001 Supp. 66-2008, and amend-~~
35 ~~ments thereto.~~

for the costs of serving as
carrier of last resort

only to the extent necessary

36 (b) Beginning March 1, 1997, the amount of KUSF funds owed to
37 each ~~qualifying telecommunications carrier, telecommunications public~~
38 ~~utility or wireless telecommunications service provider~~ *eligible telecom-*
39 *munications carrier* in the state, based upon the revenue requirements
40 assigned to the funds for such ~~qualifying utility, carrier or provider~~ *eligible*
41 *carrier*, shall be allocated by the fund administrator in equal monthly
42 installments.

43 Sec. 9. K.S.A. 2001 Supp. 66-2010 is hereby amended to read as

b-16

1 follows: 66-2010. (a) The commission shall utilize a competitive bidding
2 process to select a neutral, competent and bonded third party to admin-
3 ister the KUSF.

4 (b) The administrator shall be responsible for: (1) Collecting and au-
5 diting all relevant information from all qualifying telecommunications
6 public utilities, telecommunications carriers or wireless telecommunica-
7 tions service providers receiving funds from or providing funds to the
8 KUSF; (2) verifying, based on the calculations of each qualifying telecom-
9 munications carrier, telecommunications public utility or wireless tele-
10 communications service provider, the obligation of each such qualifying
11 carrier, utility or provider to generate the funds required by the KUSF;
12 (3) collecting all moneys due to the KUSF from all telecommunications
13 public utilities, telecommunications carriers and wireless telecommuni-
14 cations service providers in the state; and (4) distributing amounts on a
15 monthly basis due to ~~qualifying telecommunications public utilities, wire-~~
16 ~~less telecommunications service providers and~~ *eligible* telecommunica-
17 tions carriers receiving KUSF funding.

18 (c) Any information made available or received by the administrator
19 from carriers, utilities or providers receiving funds from or providing
20 funds to the KUSF shall not be subject to any provisions of the Kansas
21 open records act and shall be considered confidential and proprietary.

22 (d) The administrator shall be authorized to maintain an action to
23 collect any funds owed by any telecommunications carrier, public utility
24 or wireless telecommunications provider in the district court in the county
25 of the registered office of such carrier, utility or provider or, if such car-
26 rier, utility or provider does not have a registered office in the state, such
27 an action may be maintained in the county where such carrier's, utility's
28 or provider's principal office is located. If such carrier, utility or provider
29 has no principal office in the state, such an action may be maintained in
30 the district court of any county in which such carrier, utility or provider
31 provides service.

32 (e) The KUSF administrator shall be responsible to ensure that funds
33 do not fall below the level necessary to pay all amounts collectively owed
34 to all ~~qualifying telecommunications public utilities, wireless telecom-~~
35 ~~munications service providers and~~ *eligible* telecommunications carriers.
36 The administrator shall have the authority to retain and invest in a prudent
37 and reasonable manner any excess funds collected in any period to help
38 ensure that adequate funds are available to cover amounts payable in
39 other periods.

40 Sec. 10. K.S.A. 2001 Supp. 66-2011 is hereby amended to read as
41 follows: 66-2011. (a) As used in this section, "the internet" means the
42 international network of interconnected government, educational, and
43 commercial computer networks. An "internet service provider" means an

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1 entity that provides end user access to the internet. Nothing in this section
2 shall be construed to mean that the commission has any regulatory jurisdic-
3 tion over internet service providers. The provisions of this section ap-
4 ply only to those locations of the state where local (7-digit) internet access,
5 which supports at least ~~14.4~~ 19.2 kilobits per second service with no more
6 than 5% blockage during the busiest hour of the service, is not available
7 on or after ~~October 1, 1996~~ July 1, 2002.

8 (b) On or after July 1, 1996 and prior to October 1, 1996, rural tel-
9 ephone companies shall file concurring tariffs to offer internet access in
10 locations identified in subsection (a) to an intraLATA internet service
11 provider of the customer's choice. All rural telephone companies, includ-
12 ing local exchange carriers pursuant to subsection (c), shall provide dial-
13 up access to support at least 14.4 kilobit per second service ubiquitously
14 throughout the exchange service area, ~~with 19.2 kilobit per second service~~
15 ~~on and after July 1, 1999. All eligible telecommunications carriers shall~~
16 ~~provide not less than 19.2 kilobit per second service ubiquitously through-~~
17 ~~out their respective service areas in order to obtain or maintain eligible~~
18 ~~telecommunications carrier status.~~ The commission shall increase the 19.2
19 kilobit per second requirement when the commission determines that
20 more advanced technology is both technically and economically feasible.

21 (c) On or after July 1, 1996 and prior to October 1, 1996, all local
22 exchange carriers, other than rural telephone companies, shall file tariffs
23 with the commission for two flat-rate dial-up plans, which would provide
24 internet access in locations identified in subsection (a) to an intraLATA
25 internet service provider of the customer's choice. All such plans shall be
26 approved by the commission if they meet the criteria established in this
27 section. The first plan includes: (1) For off-peak users, a monthly rate of
28 not more than \$15 per line for the hours of 5 p.m. through 7:59 a.m.
29 weekdays and all hours on weekends and federal holidays. Calls placed
30 outside this specified off-peak period shall be billed at prevailing toll rates.
31 (2) For unlimited usage, the rate shall not exceed \$30 per line per month.
32 The commission shall waive imputation considerations in reviewing and
33 approving these service offerings.

34 (d) If a location was previously eligible for the plans provided in sub-
35 section (c) and a new internet service provider establishes a local presence
36 in that location, the local exchange carrier serving the location shall:

37 (1) Notify all subscribers of the discounted internet access service
38 that a local internet service provider is now available;

39 (2) continue to make the discounted internet access service available
40 to existing subscribers of such service with no deterioration of such serv-
41 ice; and

42 (3) allow no new subscribers of the discounted internet access
43 service.

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1 (e) Nothing in this section shall be construed to imply that the com-
2 mission has any regulatory jurisdiction over the internet or internet serv-
3 ice providers with respect to quality of service, rates, billing and collection
4 practices, end-to-end bandwidth, technical support or any other aspects
5 of the business of providing internet access service. However, the com-
6 mission shall monitor the adequacy of connectivity to internet service
7 providers. Upon complaints of inadequate access, commission staff shall
8 request a seven-day traffic busy line study from the local exchange carrier
9 serving the internet service provider. Commission staff shall analyze the
10 study results to determine whether there is more than 5% access blockage
11 and shall provide the analysis to the internet service provider for consid-
12 eration and possible action. If the analysis indicates a need for additional
13 capacity and the internet service provider fails to take a corrective action
14 within 45 days after the analysis is provided to such provider by the com-
15 mission staff, the internet service provider shall be removed from the
16 commission's internet service provider registry and subscribers of such
17 internet service subscriber shall be eligible for the plans provided in sub-
18 section (c) if there is no other local internet service provider serving the
19 location.

20 (f) All internet service providers operating in the state shall register
21 with the commission. Such registration shall include the name of the
22 internet service provider and the provider's address, contact name, phone
23 number, and access line numbers. This information shall be maintained
24 by the commission at the commission's internet home page (<http://www.kcc.state.ks.us>). This information shall be used to determine a re-
25 questing customer's eligibility for the plans provided in subsection (c) and
26 to provide a single authoritative listing of internet service provider access
27 numbers for local exchange carriers to use in processing service orders.
28 Absent complaints to commission staff, internet service providers shall be
29 assumed to provide service with 5% or less access blockage upon regis-
30 tration. If, upon complaint and subsequent investigation, access blockage
31 is determined to exceed 5%, the provider shall be removed from the
32 commission's registry.
33

34 ~~(g) During the 1999 session of the Kansas legislature, the commission~~
35 ~~shall transmit a report to the chairperson, vice-chairperson and ranking~~
36 ~~minority member of the house standing committee on energy and natural~~
37 ~~resources [°], the senate standing committee on transportation and util-~~
38 ~~ities [°°] and the joint committee on computers and telecommunications~~
39 ~~[°°°] concerning implementation of this section. The report shall include~~
40 ~~recommendations for revisions in this section necessitated by technolog-~~
41 ~~ical innovation or market changes in the telecommunications industry.~~
42 ~~The report also may include an expiration date for this section.~~

43 Sec. 11. K.S.A. 2001 Supp. 66-1,187, 66-2001, 66-2002, 66-2003, 66-

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1 2004, 66-2005, 66-2008, 66-2009, 66-2010, 66-2011, 66-2012 and 66-2016
2 are hereby repealed.

3 Sec. 12. This act shall take effect and be in force from and after its
4 publication in the statute book.

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Citizens' Utility Ratepayer Board

Board Members:

Gene Merry, Chair
A.W. Dirks, Vice-Chair
Frank Weimer, Member
Francis X. Thorne, Member
Nancy Wilkens, Member
Walker Hendrix, Consumer Counsel



State of Kansas
Bill Graves: Governor

1500 S.W. Arrowhead Road
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Phone: (785) 271-3200
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February 12, 2002

HOUSE BILL No. 2754

Testimony By
The Citizens' Utility Ratepayers Board
Walker Hendrix, Consumer Counsel

CURB is appearing today as a proponent of this Bill primarily because of the emphasis the Bill places on maintaining affordable basic local service rates for rural Kansans. CURB does have some recommended wording changes for sections of the Bill and those recommendations will be discussed later in my testimony.

Basic local service rates are directly addressed in several sections. In Section 6(d), the Bill defines affordable local residential and business rates for each rural telephone company as the "higher of the current basic local residential and business service rate or the statewide local exchange carrier average basic local residential and business service rate." This definition recognizes that the current rates, developed over many years, are to be deemed affordable; provides a relatively simple methodology that ensures compliance; and yet recognizes that all rural companies have an obligation to price basic local service in line with other companies. The reliance on current rates in establishing affordable rates is very important for consumers in rural areas in that it provides rate stability and is understandable. This is in contrast to attempts to define "affordable" local rates based on arbitrary measures such as income levels or on methodologies used in other states that may or may not be germane to Kansas.

Section 2(a) states, "Ensure that every Kansan will have access to a first class telecommunications infrastructure that provides excellent services at an affordable price." This

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section is not new but what is new are proposed changes to Sections 2(b) and 2(c) emphasizing the importance of affordable rates. Each of those Sections begins, “to the extent possible without negative impact on achievement of the policy set forth in subsection (a).” Section 2(b) and 2(c) then call for increased services, improved telecommunications facilities and advanced telecommunications services. Clearly everyone wants those advancements, but to gain these benefits and lose affordable basic local service is not in the best interests of most Kansas consumers. CURB endorses putting advanced services and infrastructure in the proper perspective.

As stated previously in my testimony CURB does have several suggestions for this Bill. Section 1(d) defines “Consumer broadband” as “the transmission of digital signals at rates equal to or greater than 200 kilobits per second.” Section 1(g) states that the definition of “Enhanced universal service” includes consumer broadband service that provides “video telecommunications.” It is generally recognized, and has been my experience, that high quality video telecommunications requires a bandwidth of at least 400 kilobits per second. CURB recommends that the definition of consumer broadband state that 400 kilobits per second is a goal and perhaps a timeframe of 3-5 years should be added for broadband providers to achieve that speed.

CURB also recommends that section 3(g) be amended to add recognition of alternate technologies for the provision of basic local service. Quality of service standards are very important to overall consumer satisfaction and CURB does not propose to lessen those standards. However, there are inevitable differences in service when basic telephone service is provided over standard wired service, wireless service, cable service or broadband service. There should

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be an allowance in section 3(g) for the Commission to determine those differences and, if necessary, require technology specific quality standards.

**Testimony Offered On Behalf of
Kansas Cable Telecommunications Association**

House Utilities committee

February 14, 2002

HB2754

**Offered by Gary Shorman
EAGLE Communications, Inc.**

Mr. Chairman and members of the committee:

My name is Gary Shorman and I am President and CEO of EAGLE Communications based in Hays, Kansas. I am appearing here today in opposition to HB 2754.

I would first like to give you a short background on our company. EAGLE Communications was founded in Hays, Kansas in 1948 and since that time we have built and operated cable television systems and radio stations in western Kansas. WE also have radio stations in western Nebraska and northwest Missouri. The employees of the company are currently purchasing EAGLE Communications through an Employee Stock Ownership Plan. Over 150 of our employees now share a major part of the ownership in the company.

EAGLE currently operated 6 cable television systems in northwest Kansas. Those systems include Russell, Hays, Ellis, Wakeeney, Goodland, and Hoxie. WE offer high-speed business and home Internet and data services in Hays, Russell and Ellis. As we speak today, EAGLE is expanding our broadband and digital television service into the Goodland community.

Our concern with this bill is Competitive Fairness...a level playing field for broadband development.

We oppose this legislation because it creates an unfair advantage by subsidizing or funding broadband deployment for a select group of telecommunications companies. Additionally, this bill focuses on one technology when there are many other attractive broadband options either already being used or becoming available. I believe strongly, that legislating one preferred service...and then subsidizing that service, puts a company like ours at a definite financial and pricing disadvantage. In other words, our deployment of broadband services would need to be carefully reviewed, if not suspended altogether until we could determine the feasibility of competing against state or federally funded competitors.

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At EAGLE Communications, our growth is and has been financed the old fashioned way..we earn it or borrow it, the reinvest it in new services which can in turn created more growth. We have put our capital at risk to deploy these new services. New broadband services which now serve medical facilities, schools, businesses, libraries, and individuals. For us, and companies like ours, to continue to expand these services, we need a level and fair playing field.

Our rollout of broadband, high-speed Internet and data services in 1997 was the start of something very good as we are now providing broadband and Internet service to thousands of computers in our communities. Our expansion in to Russell and Ellis has also given small companies like Wheelchairs of Kansas, a competitive advantage with other high-speed broadband service. But frankly, our biggest challenge, not unlike other broadband providers, has been keeping up with the demand for more bandwidth and additional services.

Technology is changing as we talk here today. Don't stifle the competitive environment for new and expanded broadband services by tilting the table with funding for one group of providers. It is much better that you give all broadband providers and equal and fair opportunity to compete. If the committee believes public funding will incentivize and speed the deployment of these services in rural communities of Kansas, then find a way to give all broadband providers equal access to this funding. I believe companies like ours has.. and can make a real difference if given that fair opportunity.

As a small, employee owned, a Kansas company, we look forward to the opportunity to provide continued high-speed broadband service to the rural communities we serve in western Kansas. All we need is competitive fairness and a level playing field. With this in mind we ask that you oppose HB7254.

Gary Shorman
President, CEO

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RUSSELL PUBLIC LIBRARY

126 East 6th Street
Russell, KS 67665-2041
(785) 483-2742
ruspublib@eaglecom.net

January 28, 2002

Dear Mr. Shorman:

Please accept my thanks and appreciation for the Internet service provided for the Russell Public Library by Eagle Communications.

It is difficult to find the words to express my appreciation for this great service. There is simply no way the library budget could be stretched tight enough to cover that expense, if we would be charged. I would even have problems financing additional phone lines necessary if we were using dial-up connections. But thank goodness, we're not and we don't have to because of Eagle's continued generosity.

The connection is fast and always up and running which means a lot to us here dealing with the demanding public.

Thanks again for this outstanding service you provide to the Russell Public Library. Your generosity is certainly appreciated.

Sincerely,



Maxine Ganske
Director

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