

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on February 7, 2006 in Room 526-S of the Capitol.

Committee members absent:

Committee staff present: Athena Andaya, Kansas Legislative Research Department  
Raney Gilliland, Kansas Legislative Research Department  
Bruce Kinzie, Revisor of Statutes' Office  
Diana Lee, Revisor of Statutes' Office  
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Others in attendance: See attached list

Briefing on Price Deregulation of Certain States

Athena Andaya, Research Analyst, Legislative Research, had researched the deregulation laws of several Midwestern States and prepared a matrix showing a comparison to Kansas in several areas. States included in this comparison were Kansas, Arkansas, Colorado, Iowa, Michigan, Missouri, Nebraska, Oklahoma and Texas. Areas covered in the comparison were (1) competition; (2) basic business lines; (3) basic residential lines; (4) call management; (5) packages/bundles; (6) CLEC/cable regulation; and (7) authority to re-regulate. (Attachment 1)

Committee asked for additional clarification on some of the language and discussed length of time the laws had been in effect in other states.

Information on SB 350

Linda Langston of Cox Communications provided information on a question raised at the hearing on **SB 350**. (Attachment 2)

Approval of Minutes

Moved by Senator Reitz, seconded by Senator Francisco, minutes of the meeting of the Senate Utilities held on February 6, 2006, be approved. Motion carried.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 2

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: FEBRUARY 7, 2006

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Name	Representing
- Don Low	KCC
Melissa Walburn	KCC
Jane Spess	KTIA
Linda Yonon	Rural Telephone
Tim Bergsaver	at&t
Tim Pickering	at&t
Shirley Allen	KRTC
Paul Snide	ATT
Debra Schmidt	WorldNet LLC
Rachel Reiber	EVEREST
Nelson Kraeger	EVEREST
Gary Hamm	EAGLE

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**SB 350**  
**REVISED COMPARISON CHART OF PRICE DEREGULATION OF CERTAIN STATES**

STATE	YEAR/METHOD	COMPETITION	BASIC BUSINESS LINES	BASIC RESIDENTIAL LINES	CALL MANAGEMENT	PACKAGES/BUNDLES	CLEC/CABLE REGULATION	AUTHORITY TO RE-REGULATE
<b>Kansas</b>	1996 State Law (KSA 66-2001 <i>et seq.</i> )  2005 Regulatory Order (Docket No. 05-SWBT-997-PDR)	There is no automatic deregulation provision.  The commission may price deregulate within an exchange area, or at its discretion on a statewide basis, any individual service or service category upon a finding by the commission that there is a telecommunications carrier or an alternative provider providing a comparable product or service, considering both function and price, in that exchange area. KSA 66-2005(q).  KCC did not find sufficient competition to discipline prices for single-line business service and to protect consumers of the stand-alone residential access line in the Kansas City, Topeka, and Wichita exchanges.	All small business lines under price cap regulation. KCC found sufficient and sustainable competition in Wichita exchange (but not in the Kansas City or Topeka exchanges) to justify deregulation of multi-line business service, Plexar business service and Digital Loop business service.  KCC price deregulated flat rate trunk business service, Smart Trunk business service, and Digital Loop business services with the Super Trunk option in all three exchanges.	All residential lines under price cap regulation.	All call management features under price cap regulation, except for those features associated with price deregulated lines or trunks.	Most packages/bundles under price cap regulation. Packages /bundles in Kansas City and Wichita exchanges granted "pricing flexibility" in 2005 if there was at least one facilities-based provider currently offering service in the exchange.	No price regulation of competitors. CLECs are required to file a one-page annual report with the Commission.	The commission shall resume price regulation of a service provided . . . upon a determination by the commission that there is no longer a telecommunications carrier or alternative provider providing a comparable product or service, considering both function and price, in that exchange area. KSA 66-2005( r).  Pursuant to Docket 997, the KCC determined that in those instances where price deregulation was granted, AT&T is still obligated to price its services in a manner that is not "unjust or unreasonably discriminatory or unduly preferential (KSA 66-1,187).

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STATE	YEAR/METHOD	COMPETITION	BASIC BUSINESS LINES	BASIC RESIDENTIAL LINES	CALL MANAGEMENT	PACKAGES/BUNDLES	CLEC/CABLE REGULATION	AUTHORITY TO RE-REGULATE
<b>Arkansas (Deregulated)</b>	1997 State Law (Ark. Code Ann. 23-17-401 <i>et seq.</i> )	23-17-407(d) requires only one other telecommunications provider in an exchange in order to be considered competitive.  Telecommunications provider is broadly defined by 23-17-403(24) to be any person, firm, partnership, corporation, association, or other entity that offers telecommunications services to the public for compensation.	Basic lines capped at existing levels until 2000; afterwards could increase by 75 percent of inflation (GDP-PI) until competitive test is met. All other business lines are price deregulated.  Now, over 90 percent of all business lines in the state are in competitive exchanges and are price deregulated.	Basic lines capped at existing levels until 2000; afterwards could increase by 75 percent of inflation (GDP-PI) until competitive test is met.  Now, over 90 percent of all residential lines in the state are in competitive exchanges and are price deregulated.	All call management services were price deregulated in 1997.	All packages/bundles were price deregulated in 1997.	No price regulation of competitors.	Did not find any provision for Commission to assume re-regulation.
<b>Colorado</b>	2005 Regulatory Order (Docket No. 04A-411T)	The Colorado Commission issued a survey of telecommunications competition in response to Qwest's filing to deregulate the Commission oversight of all retail services.	Small business lines under price cap (five or fewer lines); all other lines are price deregulated.	Single lines under price cap; additional lines are price deregulated in five largest exchanges.	Most call management services are price deregulated.	All packages/bundles are price deregulated; residential telecom packages may be reviewed if price exceeds total of <i>a la carte</i> pricing.	Basic single residential line rate capped at ILEC level unless bundled.	Did not find any provision for Commission to assume re-regulation.
<b>Iowa</b>	2005 State Law (Iowa Code Section 476.1D)	There is no automatic deregulation provision. The Iowa Utilities Board (IUB) determines whether there is competition by considering if there is comparable service offered and whether the market forces in that market are sufficient to keep rates reasonable and just. Wireless, cable, VoIP and economic barriers are specifically identified to be considered. [478.1D Section 1(b)]  IUB initiated a deregulation proceeding on its own motion as a result of the IUB survey report, issued in January of 2004, on the extent of competition in local exchange services.	Single lines may increase by \$2 per month, per year, until 2008 (2010 if regulatory order) not to exceed \$38 per month; thereafter, single lines are price deregulated. Also, 19 exchanges now deemed competitive and price deregulated. Multi-line business lines are price deregulated.  (Increases cannot be banked).	Single lines may increase by \$1 per month, per year, until 2008 (2010 if regulatory order) not to exceed \$19 per month; thereafter, single lines are price deregulated. Also, 19 exchanges now deemed competitive and price deregulated. DSL deployment required within 18 months in area if either business or residential rate increases.  (Increases cannot be banked).	All call management services are price deregulated.	All packages/bundles are price deregulated.	No price regulation of competitors.	IUB has the power to reimpose rate regulation if there is no longer competition or if a competitor uses anti-competitive practices to gain unfair market power.  IUB may extend its authority over rate regulation for two more years if it is in the public interest.  IUB continues to regulate service. Commission retains authority to resolve antitrust disputes among carriers and to conduct discovery to obtain information from providers to determine if there is effective competition.

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STATE	YEAR/METHOD	COMPETITION	BASIC BUSINESS LINES	BASIC RESIDENTIAL LINES	CALL MANAGEMENT	PACKAGES/BUNDLES	CLEC/CABLE REGULATION	AUTHORITY TO RE-REGULATE
Michigan	2005 State Law (HB 5237)  1-1-06	Michigan Telecommunications Act directs the Michigan Public Service Commission (Commission) to submit an annual report describing the status of competition in telecommunications service in Michigan. The study impacted the decision to deregulate business service in the Detroit area.	All business lines are price deregulated.	Only one "stand alone" line per customer is regulated under price cap, and increases indexed to Detroit consumer price index (CPI) minus 1 percent are permitted.	All call management services are price deregulated.	All packages/bundles are price deregulated.	Competitors have same regulation as incumbents; also must offer one "stand alone" line per customer under index (Detroit CPI-1 percent).	Legislation empowered the Commission to establish quality of service standards for the provision of basic local service, provision of unbundled network elements (UNEs) and interconnection in furtherance of providing local service.
Missouri	2005 State Law (RSMo. Sections 392.200 and 245)	The Missouri General Assembly evaluates the success of price deregulation based upon the report by the Missouri Public Service Commission (Commission).  Changes standards by which services are deemed competitive, i.e., if there are two non-affiliated providers in addition to the incumbent providing basic local service to both business and residential customers.	In exchanges with two or more business service providers, all services are price deregulated.	In exchanges with two or more residential service providers, all services are price deregulated.	In exchanges with two or more residential or business providers, all services are price deregulated.	All bundles are price deregulated provided that each service included in the bundle is available separately from the bundle.	No price regulation of competitors.	At least every two years or upon a rate increase, the Commission shall review competition in the exchange to ensure that conditions continue to exist to support the deregulation classification. If deregulation is no longer appropriate, the law provides that the Commission shall bring the company back under price cap regulation.
Nebraska (Deregulated)	1986 State Law (Nebraska Statute 86-101 et seq.)	Commission may limit, remove, or waive regulatory requirements when it will serve the same purpose of public interest regulation and may revoke any waivers if such would protect the public interest, upon a finding that the telecommunications company is restricting market output, impairing customer interest, or engaging in anti-competitive activity (86-126).	All business services subject to reduced regulation in 1986. Automatic state review if basic local service rate increases over 10 percent within a 12-month consecutive period or with a ratepayer petition. State USF support set to benchmark rate (\$27.50 business).	All residential services subject to reduced regulation in 1986. Automatic state review if basic local service rate increases over 10 percent within a 12-month consecutive period or with a ratepayer petition. State USF support set to benchmark rate (\$17.50 residential).	All call management services are price deregulated.	All packages/bundles are price deregulated.	No price regulation of competitors.	Commission's role is primarily related to consumer protection; monitoring tariffs and interchange carriers' (IXC) filings; and reviewing and approving new applications, boundary changes, rate center consolidation, and numbering resources.

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STATE	YEAR/METHOD	COMPETITION	BASIC BUSINESS LINES	BASIC RESIDENTIAL LINES	CALL MANAGEMENT	PACKAGES/BUNDLES	CLEC/CABLE REGULATION	AUTHORITY TO RE-REGULATE
Oklahoma	2005 Regulatory Order (Cause No. PUD 200500042)	<p>The Oklahoma Legislature adopted SCR 74 in May 2004 and created a Task Force on Deregulation, which it advises the Legislature on the necessity and feasibility of abolishing certain state laws relating to telecommunications.</p> <p style="text-align: center;"><i>erase</i></p>	All business lines are price deregulated.	All residential lines are price deregulated, except in rural exchanges (20,000 lines or less) rates may not increase by more than \$2 per month, per year, until 2011.	All call management services are price deregulated.	All packages/bundles are price deregulated.	No price regulation of competitors.	The Commission retains the ability to modify its regulation of SBC Oklahoma if the decision in PUD 200500042 leads to any market failure. OAC 165:55-5-10.1(g) provides, "the Commission, may, at any time, revoke the competitive designation of a service, after notice of hearing, if the Commission determines that the service is no longer a competitive service."
Texas	2001 and 2005 State Laws (Public Utility Regulatory Act Chapters 58 and 65)	<p>Prohibits establishment of retail rates that are anti-competitive, prejudicial, or discriminatory. Prohibits predatory or attempts at predatory pricing. [52.156(1) and (2)]</p> <p>Prohibits the Texas Public Service Commission (Commission) from determining which regulation should continue where a market's population is at least 100,000 or, if the population in a market is at least 30,000 and there are three competitors in addition to the incumbent, at least one must be facilities based; at least one certificated telecommunications provider; and at least one provider of commercial mobile radio services (CMRS) provided by an entity not affiliated with the incumbent. [65.0252(b)]</p> <p>Establishes legislative committee to conduct joint oversight with Public Utility Commission of competitiveness issues (65.252).</p>	All business lines were price deregulated in 2001.	On 1/1/06, residential lines in exchanges over 100,000 lines are price deregulated by law. Most lines in exchanges over 30,000 lines were price deregulated by Commission order. "Stand alone" single lines capped to 2007 or later.	All call management services are price deregulated, except Caller ID is capped for customers age 65 and over, and residential call waiting is capped until 7/1/06.	All packages/bundles are price deregulated.	No price regulation of competitors.	<p>Commission may re-regulate if necessary, and small companies may elect to remain regulated. Commission retains authority to adjust universal service funds, but deregulated carriers may only receive lifeline services funding. Deregulated companies exchange certificate of convenience and necessity for operating certificate.</p> <p>Establishes extensive wholesale code of conduct to be enforced by the Commission.</p>

# Memo

**To:** Senate Utilities Committee  
**From:** Linda Langston  
**Date:** February 6, 2006  
**Re:** SB350 Bundle question

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Information for Senate Utilities Committee Re: SB350  
Provided by Linda Langston, Cox Communications

A question was raised at last week's committee hearing regarding SB350 and how bundles of services are currently regulated when those bundles include other non regulated products such as cable, wireless or high speed internet.

Under the current regulatory framework, only telephone products are regulated by the Kansas Corporation Commission. Rates for telephone products included in a bundle with cable or high speed internet products are broken out of the total bundle for information and filing purposes. Tariffs or promotions are filed with the KCC on the telephone product only. The entire bundle price may be mentioned as part of the filing, however, the KCC does not have oversight over any provider's video or internet products.

Please let me know if you have any questions about this information and I would be happy to respond further.

Senate Utilities Committee  
February 7, 2006  
Attachment 2-1