

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on February 14, 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
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Others in attendance: See attached list

Chair opened for discussion and possible action on

SB 350 - Regulation of Telecommunications

Chairman Emler announced that various handouts had been provided to the Committee to consider during the deliberations on **SB 350**.

1. Balloon amendments to **SB 350** (Attachment 1)
2. Proposed changes to **S.B. 350** from Nex-Tech (Attachment 2)
3. Comparison Chart of Current Law and **SB 350** (Attachment 3)
4. Explanation on current law and **S.B. 350** from KCC (Attachment 4)
5. Proposed changes to **SB 350** from AT&T (Attachment 5)
6. KCC response to question from the committee on Quality of Service Standards (Attachment 6)

Senator Lee explained the proposed amendments inserted on pages 8 and 9 of **SB 350** (Attachment 1). Senator Reitz commented on the fairness shown and Senator Francisco questioned whether it was clear on the definition of bundles. Senator Apple cautioned that the first step may be to cover only the largest markets and Senator Pine agreed.

The Chairman had announced those parties who had participated in the hearing would be allowed to comment. At this time he called on Jeff Wick of Nex-Tech to review their suggested amendments (Attachment 2) and to explain their new language.

Dave Kerr of AT&T felt the proposed amendments by the committee were a step in the right direction and a positive approach. He noted this addresses the competitive nature of the market and provides clarification. He reviewed the proposed amendments of AT&T. (Attachment 5) Some question on what consists of the stand alone line and the Chairman noted the intent of the committee was to define the "stand alone" residential and small business lines as subject to price cap regulation.

KCC responded to questions on the proposed amendments. John Federico of Kansas Cable Telecommunications asked for clarification on promotional price. David Springe, CURB, voiced his concern with language referenced in the bill.

Moved by Senator Lee, seconded by Senator Reitz, to amend **SB 350** as prepared by the committee and to further consider amendments offered by participants. Motion carried.

Approval of Minutes

Moved by Senator Reitz, seconded by Senator Taddiken, minutes of the meetings of the Senate Utilities Committee held on February 9, 2006 and February 13, 2006. Motion carried.

Adjournment.

Respectfully submitted,
Ann McMorris, Secretary
Attachments - 6

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: FEBRUARY 14, 2006

Name	Representing
- Coleen Jennison	Cox Communications
Pat Dubleee	AT&T
Linda Langston	Cox Comm.
TOM DAY	KCC
GLOTT SCHNORR	Cox COMMUNICATIONS
Jay Milbaugh	"
Math Bodd	Sen. Lee
Math Lucht	49 News
JOHN C. BOTTENBERG	AT&T
DINA FISK	VZW
Jim Gartner	AT&T
Anne Siess	KTIA
Cinda Johnson	Nex-TECH - RTS.

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: FEBRUARY 14, 2006

Name	Representing
Debra Schmidt	WorldNet LLC
Don Low	KLL
Dan Sprung	Curb
S. RARRICK	curb
David Kerr	AT&T
Tim Pickering	AT&T
Paul Snider	PSI
ROGER RANDALL	KCPL
LARRY BERG	MIDWEST ENERGY
DAVID KERR	AT&T
Jeff Wick	Nex-Tech
Nelson Krueger	EVEREST
STEVE KEARNEY	Alltel
Kurt David	NexTech

SENATE BILL No. 350

By Committee on Utilities

1-11

9 AN ACT relating to telecommunications; concerning regulation thereof;
10 amending K.S.A. 2005 Supp. 66-2005 and repealing the existing
11 section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2005 Supp. 66-2005 is hereby amended to read as
15 follows: 66-2005. (a) Each local exchange carrier shall file a network in-
16 frastructure plan with the commission on or after January 1, 1997, and
17 prior to January 1, 1998. Each plan, as a part of universal service protec-
18 tion, shall include schedules, which shall be approved by the commission,
19 for deployment of universal service capabilities by July 1, 1998, and the
20 deployment of enhanced universal service capabilities by July 1, 2003, as
21 defined pursuant to subsections (p) and (q) of K.S.A. 66-1,187, and
22 amendments thereto, respectively. With respect to enhanced universal
23 service, such schedules shall provide for deployment of ISDN, or its tech-
24 nological equivalent, or broadband facilities, only upon a firm customer
25 order for such service, or for deployment of other enhanced universal
26 services by a local exchange carrier. After receipt of such an order and
27 upon completion of a deployment plan designed to meet the firm order
28 or otherwise provide for the deployment of enhanced universal service,
29 a local exchange carrier shall notify the commission. The commission shall
30 approve the plan unless the commission determines that the proposed
31 deployment plan is unnecessary, inappropriate, or not cost effective, or
32 would create an unreasonable or excessive demand on the KUSF. The
33 commission shall take action within 90 days. If the commission fails to
34 take action within 90 days, the deployment plan shall be deemed ap-
35 proved. This approval process shall continue until July 1, 2000. Each plan
36 shall demonstrate the capability of the local exchange carrier to comply
37 on an ongoing basis with quality of service standards to be adopted by
38 the commission no later than January 1, 1997.

39 (b) In order to protect universal service, facilitate the transition to
40 competitive markets and stimulate the construction of an advanced tel-
41 ecommunications infrastructure, each local exchange carrier shall file a
42 regulatory reform plan at the same time as it files the network infrastruc-
43 ture plan required in subsection (a). As part of its regulatory reform plan,

1 a local exchange carrier may elect traditional rate of return regulation or
2 price cap regulation. Carriers that elect price cap regulation shall be ex-
3 empt from rate base, rate of return and earnings regulation. However,
4 the commission may resume such regulation upon finding, after a hearing,
5 that a carrier that is subject to price cap regulation has: violated minimum
6 quality of service standards pursuant to subsection (l) of K.S.A. 66-2002,
7 and amendments thereto; been given reasonable notice and an oppor-
8 tunity to correct the violation; and failed to do so. Regulatory reform plans
9 also shall include:

10 (1) A commitment to provide existing and newly ordered point-to-
11 point broadband services to: Any hospital as defined in K.S.A. 65-425,
12 and amendments thereto; any school accredited pursuant to K.S.A. 72-
13 1101 et seq., and amendments thereto; any public library; or other state
14 and local government facilities at discounted prices close to, but not be-
15 low, long-run incremental cost; and

16 (2) a commitment to provide basic rate ISDN service, or the tech-
17 nological equivalent, at prices which are uniform throughout the carrier's
18 service area. Local exchange carriers shall not be required to allow retail
19 customers purchasing the foregoing discounted services to resell those
20 services to other categories of customers. Telecommunications carriers
21 may purchase basic rate ISDN services, or the technological equivalent,
22 for resale in accordance with K.S.A. 66-2003, and amendments thereto.
23 The commission may reduce prices charged for services outlined in pro-
24 visions (1) and (2) of this subsection, if the commitments of the local
25 exchange carrier set forth in those provisions are not being kept.

26 (c) Subject to the commission's approval, all local exchange carriers
27 shall reduce intrastate access charges to interstate levels as provided
28 herein. Rates for intrastate switched access, and the imputed access por-
29 tion of toll, shall be reduced over a three-year period with the objective
30 of equalizing interstate and intrastate rates in a revenue neutral, specific
31 and predictable manner. The commission is authorized to rebalance local
32 residential and business service rates to offset the intrastate access and
33 toll charge reductions. Any remaining portion of the reduction in access
34 and toll charges not recovered through local residential and business serv-
35 ice rates shall be paid out from the KUSF pursuant to K.S.A. 66-2008,
36 and amendments thereto. Each rural telephone company shall adjust its
37 intrastate switched access rates on March 1 of each odd-numbered year
38 to match its interstate switched access rates, subject to the following:

39 (1) Any reduction of a rural telephone company's cost recovery due
to reduction of its interstate access revenue shall be recovered from the
KUSF;

40 (2) any portion of rural telephone company reductions in intrastate
41 switched access rates which would result in an increase in KUSF recovery
42
43

1 in a single year which exceeds .75% of intrastate retail revenues used in
2 determining sums which may be recovered from Kansas telecommuni-
3 cations customers pursuant to subsection (a) of K.S.A. 66-2008, and
4 amendments thereto, shall be deferred until March 1 of the next following
5 odd-numbered year; and

6 (3) no rural company shall be required at any time to reduce its in-
7 trastate switched access rates below the level of its interstate switched
8 access rates.

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

29 (e) For purposes of determining sufficient KUSF support, an afford-
30 able rate for local exchange service provided by a rural telephone com-
31 pany subject to traditional rate of return regulation shall be determined
32 as follows:

33 (1) For residential service, an affordable rate shall be the arithmetic
34 mean of residential local service rates charged in this state in all exchanges
35 served by rural telephone companies and in all exchanges in rate groups
36 1 through 3 as of February 20, 2002, of all other local exchange carriers,
37 weighted by the number of residential access lines to which each such
38 rate applies, and thereafter rounded to the nearest quarter-dollar, subject
39 to the following provisions:

40 (A) If a rural telephone company's present residential rate, including
41 any separate charge for tone dialing, is at or above such weighted mean,
42 such rate shall be deemed affordable prior to March 1, 2007.

43 (B) If a rural telephone company's present residential rate, including

1-4

1 any separate charge for tone dialing, is below such average: (i) Such rate
 2 shall be deemed affordable prior to March 1, 2003; (ii) as of March 1,
 3 2003, and prior to March 1, 2004, a rate \$2 higher than the company's
 4 present residential monthly rate, but not exceeding such weighted mean,
 5 shall be deemed affordable; (iii) as of March 1, 2004, and prior to March
 6 1, 2005, a rate \$4 higher than the company's present residential monthly
 7 rate, but not exceeding such weighted mean, shall be deemed affordable;
 8 and (iv) as of March 1, 2005, and prior to March 1, 2006, a rate \$6 higher
 9 than the company's present residential monthly rate, but not exceeding
 10 such weighted mean, shall be deemed affordable.

11 (C) As of March 1, 2007, and each two years thereafter, an affordable
 12 residential service rate shall be the weighted arithmetic mean of local
 13 service rates determined as of October 1 of the preceding year in the
 14 manner hereinbefore specified, except that any increase in such mean
 15 exceeding \$2 may be satisfied by increases in a rural telephone company's
 16 residential monthly service rate not exceeding \$2 per year, effective
 17 March 1 of the year when such mean is determined, with the remainder
 18 applied at the rate of \$2 per year, but not to exceed the affordable rate.

19 (2) For single line business service at any time, an affordable rate
 20 shall be the existing rate or an amount \$3 greater than the affordable rate
 21 for residential service as determined under provision (1) of this subsec-
 22 tion, whichever is higher, except that any increase in the business service
 23 affordable rate exceeding \$2 may be satisfied by increases in a rural tel-
 24 ephone company's business monthly service rate not exceeding \$2 per
 25 year, effective March 1 of the year when such rate is determined, with
 26 the remainder applied at the rate of \$2 per year, but not to exceed the
 27 affordable rate.

28 (3) Any flat fee or charge imposed per line on all residential service
 29 or single line business service, or both, other than a fee or charge for
 30 contribution to the KUSF or imposed by other governmental authority,
 31 shall be added to the basic service rate for purposes of determining an
 32 affordable rate pursuant to this subsection.

33 (4) Not later than March 1, 2003, tone dialing shall be made available
 34 to all local service customers of each rural telephone company at no
 35 charge additional to any increase in the local service rate to become ef-
 36 fective on that date. The amount of revenue received as of March 1, 2002,
 37 by a rural telephone company from the provision of tone dialing service
 38 shall be excluded from reductions in the company's KUSF support oth-
 39 erwise resulting pursuant to this subsection.

40 (5) A rural telephone company which raises one or more local service
 41 rates on application made after February 20, 2002, and pursuant to sub-
 42 section (b) of K.S.A. 66-2007, and amendments thereto, shall have the
 43 level of its affordable rate increased by an amount equal to the amount

1 of the increase in such rate.

2 (6) Upon motion by a rural telephone company, the commission may
3 determine a higher affordable local residential or business rate for such
4 company if such higher rate allows the company to provide additional or
5 improved service to customers, but any increase in a rural telephone
6 company's local rate attributable to the provision of increased calling
7 scope shall not be included in any subsequent recalculation of affordable
8 rates as otherwise provided in this subsection.

9 (7) A uniform rate for residential and single line business local service
10 adopted by a rural telephone company shall be deemed an affordable rate
11 for purposes of this subsection if application of such uniform rate gen-
12 erates revenue equal to that which would be generated by application of
13 residential and business rates which are otherwise deemed affordable
14 rates for such company under this subsection.

15 (8) The provisions of this subsection relating to the implementation
16 of an affordable rate shall not apply to rural telephone companies which
17 do not receive KUSF support. When recalculating affordable rates as
18 provided in this subsection, the rates used shall include the actual rates
19 charged by rural companies that do not receive KUSF support.

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

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

1 shall apply to the price caps for the local residential and single-line busi-
2 ness basket after December 31, 1999, and to the miscellaneous services
3 basket after December 31, 1997. The price cap formula, but not actual
4 prices, shall be reviewed every five years.

5 (h) The price caps for the residential and single-line business service
6 basket shall be capped at their initial level until January 1, 2000, except
7 for any increases authorized as a part of the revenue neutral rate rebal-
8 ancing under subsection (c). The price caps for this basket and for the
9 categories in this basket, if any, shall be adjusted annually after December
10 31, 1999, based on the formula determined by the commission under
11 subsection (g).

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

18 (j) The price caps for the miscellaneous services basket shall be ad-
19 justed annually after December 31, 1997, based on the adjustment for-
20 mula determined by the commission under subsection (g).

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

32 (l) A local exchange carrier may offer promotions within an exchange
33 or group of exchanges. All promotions shall be approved by the commis-
34 sion and may not be unjust, unreasonably discriminatory or unduly
35 preferential.

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

42 (n) On or before July 1, 1997, the commission shall establish guide-
43 lines for reducing regulation prior to price deregulation of price cap reg-

1 related services in the miscellaneous services basket, the switched access
2 services basket, and the residential and single-line business basket.

3 (o) Subsequent to the adoption of guidelines pursuant to subsection
4 (n), the commission shall initiate a petitioning procedure under which the
5 local exchange carrier may request rate range pricing. The commission
6 shall act upon a petition within 21 days, subject to a 30-day ~~suspension~~
7 *extension*. The prices within a rate range shall be tariffed and shall apply
8 to all customers in a nondiscriminatory manner in an exchange or group
9 of exchanges.

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

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

41 (q) (1) Beginning July 1, 2006, price regulation of telecommunica-
42 tions services in the residential and single-line business service basket and
43 the miscellaneous services basket for local exchange carriers subject to

1 price cap regulation shall be as follows:

2 (A) Packages or bundles of services shall be price deregulated state-
3 wide, however the individual telecommunication service components of
4 such packages or bundles shall remain available for purchase on an in-
5 dividual basis at prices subject to price cap regulation in any exchange in
6 which the standards in subsections (q)(1)(B), (C) or (D) have not been
7 met;

. If standards in subsection (q)(1)(B), (C) or (D) have been met, prices for packages or bundles shall not exceed the sum of the highest prices of the ala carte components of the package or bundle

8 (B) in any exchange in which there are 75,000 or more local exchange
9 access lines served by all providers, rates for all telecommunications serv-
10 ices shall be price deregulated;

11 (C) in any exchange in which there are fewer than 75,000 local
12 exchange access lines served by all providers, the commission shall price
13 deregulate all business telecommunication services upon a demonstration
14 by the requesting local telecommunications carrier that there are two or
15 more nonaffiliated telecommunications carriers or other entities providing
16 local telecommunications service to business customers, regardless of
17 whether the entity provides local service in conjunction with other services
18 in that exchange area, no more than one of which may be a nonaffiliated
19 radio communication services provider licensed by the federal commu-
20 nications commission to provide commercial mobile radio services in that
21 exchange;

, one of which must be a facilities based carrier or entity,

22 (D) in any exchange in which there are fewer than 75,000 local
23 exchange access lines served by all providers, the commission shall price
24 deregulate all residential telecommunication services upon a demonstra-
25 tion by the requesting local telecommunications carrier that there are two
26 or more nonaffiliated telecommunications carriers or other entities provid-
27 ing local telecommunications service to residential customers, regard-
28 less of whether the entity provides local service in conjunction with other
29 services in that exchange area, ~~being in whole or in part facilities in~~
30 ~~which it or one of its affiliates has an ownership interest~~ no more than
31 one of which may be a nonaffiliated radio communication services pro-
32 vider licensed by the federal communications commission to provide com-
33 mercial mobile radio services in that exchange;

, one of which must be a facilities based carrier or entity,

34 (E) rates for lifeline services shall remain subject to price cap
35 regulation;

; (F) rates for the initial residential local exchange access line and up to four business local exchange access lines at one location shall remain subject to price cap regulation; and (G) local exchange carriers shall offer a uniform price throughout each such exchange for services subject to price deregulation, under this subsection, including packages or bundles of services.

36 (2) For the purposes of this subsection:

37 (A) Any entity providing voice service shall be considered as a local
38 telecommunications service provider regardless of whether such entity is
39 subject to regulation by the commission;

40 (B) a provider of local telecommunications service that requires the
41 use of a third party, unaffiliated broadband network or dial-up internet
42 network for the origination of local voice service shall not be considered
43 a local telecommunications service provider;

6-1

1 (C) telecommunications carriers offering only prepaid telecommuni-
2 cations service shall not be considered entities providing local telecom-
3 munications service.

4 (3) If the services of a local exchange carrier are classified as price
5 deregulated under this subsection, the carrier may thereafter adjust its
6 rates for such price deregulated services upward or downward as it de-
7 termines appropriate in its competitive environment, with tariffs for such
8 services deemed effective upon filing with the commission.

9 (4) The commission shall act upon a petition filed pursuant to sub-
10 sections (q)(1)(B), (C) or (D) within 21 days, subject to an extension pe-
11 riod of an additional 30 days, and upon a good cause showing of the
12 commission in the extension order, or within such shorter time as the
13 commission shall approve. The commission shall issue a final order within
14 the 21-day period or within a 51-day period if an extension order has
15 been issued.

16 ~~(5)~~ For the purposes of this subsection:

17 (A) "Packages or bundles of services" means the offering of a local
18 telecommunications service with one or more of the following, subscribed
19 together as one service option offered at one price, one or more call man-
20 agement services, ~~intraLATA long distance service, interLATA long dis-~~
21 ~~tance service,~~ internet access, video services or wireless services.

22 (B) "local telecommunications service" means two-way voice service
23 capable of being originated and terminated within the exchange of the
24 local exchange telecommunications company seeking price deregulation
25 of its services, regardless of the technology used to provision the voice
26 service;

27 (C) "broadband network" means a connection that delivers services
28 at speeds exceeding two hundred kilobits per second in at least one direc-
29 tion: ~~(5)~~

30 (D) "prepaid telecommunications service" means a local service for
31 which payment is made in advance that excludes access to operator as-
32 sistance and long distance service: ~~(5)~~

33 (r) Upon complaint or request, the commission may investigate a
34 price deregulated service. The commission shall resume price regulation
35 of a service provided in any exchange area by placing it in the appropriate
36 service basket, as approved by the commission, upon a determination by
37 the commission that there is no longer a telecommunications carrier or
38 alternative provider providing a comparable product or service, consid-
39 ering both function and price, the conditions in subsections (q)(1)(C) or
40 (D) are no longer satisfied in that exchange area.

41 (s) The commission shall require that for all local exchange carriers
42 all such price deregulated basic intraLATA toll services be geographically
43 averaged statewide and not be priced below the price floor established

Price deregulated services shall be subject to the price floor in subsection (k), and shall not be unreasonably discriminatory or unduly preferential within an exchange.

See (5) and (6) attached

(7)

. Packages or bundles of services shall not include intraLATA and interLATA long distance service

; and
(E) "facilities based carrier" means a telecommunications carrier or entity providing local telephone service either wholly or partially over its own network. Facilities based carrier shall not include any radio communication services provider licensed by the federal communications commission to provide commercial mobile radio services.

1 in subsection (k).

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

7 (u) A local exchange carrier may petition for individual customer pric-
8 ing. The commission shall respond expeditiously to the petition within a
9 period of not more than 30 days subject to a 30-day ~~suspension~~ extension.

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

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

Sec. 2. K.S.A. 2005 Supp. 66-2005 is hereby repealed.

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

(5) The commission may resume price cap regulation of a local exchange carrier, deregulated under this subsection upon finding, after a hearing, that such carrier has: Violated minimum quality of service standards pursuant to subsection (1) of K.S.A. 66-2002, and amendments thereto; been given reasonable notice and an opportunity to correct the violation; and failed to do so.

(6) Prior to January 1, 2007, the commission shall determine the weighted, statewide average rate of nonwireless basic local telecommunications service as of July 1, 2006. Prior to January 1, 2009, and every three years thereafter, the commission shall determine the weighted, average rate of nonwireless basic local telecommunications services in exchanges that have been price deregulated pursuant to subsection (q)(1)(B), (C) or (D). The commission shall report its findings on or before February 1, 2009, and every three years thereafter to the governor and to the legislature. If the commission finds that the weighted, average rate of nonwireless basic local telecommunications service, in exchanges that have been price deregulated pursuant to subsection (q)(1)(B), (C) or (D) in any three year period is greater than the weighted, statewide average rate of nonwireless basic local telecommunications service as of July 1, 2006, multiplied by one plus the percentage increase in the consumer price index for goods and services for the study periods, the commission shall recommend to the governor and the legislature such changes in state law as the commission deems appropriate.

From: Jeff Wick/RTSC
To: emler@senate.state.ks.us
cc: jlee@ink.org
bcc: Kurt David/RTSC

Date: Monday, February 13, 2006 11:26PM
Subject: SB 350

Chairman Emler:

Please find attached three separate proposed changes to SB 350.

We have attached PDF files with each change in a separate file.

(1) The first change is an addition to (q) (1) (G) on Page 8, which adds the following language: "and advertise the availability of this uniform price throughout the entire exchange". This is to specify not just offering the price to the entire exchange, but also advertising the availability of this uniform price to the entire exchange.

(2) The second change is an addition to (q) (3) on Page 9, which adds the following language to the amended section: "including packages or bundles of services". This is to clarify what is included in "price deregulated services" subject to the price floor.

(3) The third change is a complete new paragraph inserted as (q) (7), which adds the following language: "The commission may resume price cap regulation of a local exchange carrier, deregulated under this subsection, upon finding after a hearing that such carrier has sold or offered for sale deregulated services at prices below the price floor in subsection (k) or engaged in unfair methods of competition. Any local exchange carrier, deregulated under this subsection, that sells or offers for sale deregulated services at prices below the price floor in subsection (k) or engages in unfair methods of competition shall be liable to any person or entity injured thereby for the full amount of damages, together with a reasonable attorney's fee. Any person or entity claiming to be so damaged may seek recovery of such damages by filing a complaint with the commission or bringing suit in any court of competent jurisdiction."

This is the "unjust competition" language recommended by our attorney. You mentioned that it is probably too late to bring in this type of amendment, but we wanted to go ahead and send you the language.

We will bring you hard copies for your review in the morning.

Jeff Wick
NEX-TECH
2418 Vine Street
Hays, KS 67601

(785) 625-7070

Senate Utilities Committee
February 14, 2006
Attachment 2-1

2-2

1 price cap regulation shall be as follows:

2 (A) Packages or bundles of services shall be price deregulated state-
3 wide, however the individual telecommunication service components of
4 such packages or bundles shall remain available for purchase on an in-
5 dividual basis at prices subject to price cap regulation in any exchange in
6 which the standards in subsections (q)(1)(B), (C) or (D) have not been
7 met;

. If standards in subsection (q)(1)(B), (C) or (D) have been met, prices for packages or bundles shall not exceed the sum of the highest prices of the ala carte components of the package or bundle

8 (B) in any exchange in which there are 75,000 or more local exchange
9 access lines served by all providers, rates for all telecommunications serv-
10 ices shall be price deregulated;

11 (C) in any exchange in which there are fewer than 75,000 local
12 exchange access lines served by all providers, the commission shall price
13 deregulate all business telecommunication services upon a demonstration
14 by the requesting local telecommunications carrier that there are two or
15 more nonaffiliated telecommunications carriers or other entities providing
16 local telecommunications service to business customers, regardless of
17 whether the entity provides local service in conjunction with other services
18 in that exchange area, no more than one of which may be a nonaffiliated
19 radio communication services provider licensed by the federal commu-
20 nications commission to provide commercial mobile radio services in that
21 exchange;

, one of which must be a facilities based carrier or entity,

22 (D) in any exchange in which there are fewer than 75,000 local
23 exchange access lines served by all providers, the commission shall price
24 deregulate all residential telecommunication services upon a demonstra-
25 tion by the requesting local telecommunications carrier that there are two
26 or more nonaffiliated telecommunications carriers or other entities pro-
27 viding local telecommunications service to residential customers, regard-
28 less of whether the entity provides local service in conjunction with other
29 services in that exchange area, ~~being in whole or in part, facilities in~~
30 ~~which it or one of its affiliates has an ownership interest~~ no more than
31 one of which may be a nonaffiliated radio communication services pro-
32 vider licensed by the federal communications commission to provide com-
33 mercial mobile radio services in that exchange;

, one of which must be a facilities based carrier or entity,

34 (E) rates for lifeline services shall remain subject to price cap
35 regulation;

; (F) rates for the initial residential local exchange access line and up to four business local exchange access lines at one location shall remain subject to price cap regulation; and

36 (2) For the purposes of this subsection:

37 (A) Any entity providing voice service shall be considered as a local
38 telecommunications service provider regardless of whether such entity is
39 subject to regulation by the commission;

40 (B) a provider of local telecommunications service that requires the
41 use of a third party, unaffiliated broadband network or dial-up internet
42 network for the origination of local voice service shall not be considered
43 a local telecommunications service provider;

(G) local exchange carriers shall offer a uniform price throughout each such exchange for services subject to price deregulation, under this subsection, including packages or bundles of services and advertise the availability of this uniform price throughout the entire exchange.

1 (C) telecommunications carriers offering only prepaid telecommuni-
2 cations service shall not be considered entities providing local telecom-
3 munications service.

4 (3) If the services of a local exchange carrier are classified as price
5 deregulated under this subsection, the carrier may thereafter adjust its
6 rates for such price deregulated services upward or downward as it de-
7 termines appropriate in its competitive environment, with tariffs for such
8 services deemed effective upon filing with the commission.

9 (4) The commission shall act upon a petition filed pursuant to sub-
10 sections (q)(1)(B), (C) or (D) within 21 days, subject to an extension pe-
11 riod of an additional 30 days, and upon a good cause showing of the
12 commission in the extension order, or within such shorter time as the
13 commission shall approve. The commission shall issue a final order within
14 the 21-day period or within a 51-day period if an extension order has
15 been issued.

16 ~~(5)~~ For the purposes of this subsection:

17 (A) "Packages or bundles of services" means the offering of a local
18 telecommunications service with one or more of the following, subscribed
19 together, as one service option offered at one price, one or more call man-
20 agement services, ~~intraLATA long distance services, interLATA long dis-~~
21 ~~tance services,~~ Internet access, video services or wireless services.

22 (B) "local telecommunications service" means two-way voice service
23 capable of being originated and terminated within the exchange of the
24 local exchange telecommunications company seeking price deregulation
25 of its services, regardless of the technology used to provision the voice
26 service;

27 (C) "broadband network" means a connection that delivers services
28 at speeds exceeding two hundred kilobits per second in at least one direc-
29 tion; ~~and~~

30 (D) "prepaid telecommunications service" means a local service for
31 which payment is made in advance that excludes access to operator as-
32 sistance and long distance service; ~~and~~

33 (r) Upon complaint or request, the commission may investigate a
34 price deregulated service. The commission shall resume price regulation
35 of a service provided in any exchange area by placing it in the appropriate
36 service basket, as approved by the commission, upon a determination by
37 the commission that there is no longer a telecommunications carrier or
38 alternative provider providing a comparable product or service, consid-
39 ering both function and price, the conditions in subsections (q)(1) (C) or
40 (D) are no longer satisfied in that exchange area.

41 (s) The commission shall require that for all local exchange carriers
42 all such price deregulated basic intraLATA toll services be geographically
43 averaged statewide and not be priced below the price floor established

[including packages or bundles
of services,
Price deregulated services shall be subject to the price floor in subsection
(k), and shall not be unreasonably discriminatory or unduly preferential
within an exchange.

See (5) and (6) attached

(7)

. Packages or bundles of services shall not include intraLATA and
interLATA long distance service

; and
(E) "facilities based carrier" means a telecommunications carrier or
entity providing local telephone service either wholly or partially over its
own network. Facilities based carrier shall not include any radio
communication services provider licensed by the federal communications
commission to provide commercial mobile radio services.

2-4

1 (C) telecommunications carriers offering only prepaid telecommuni-
2 cations service shall not be considered entities providing local telecom-
3 munications service.

4 (3) If the services of a local exchange carrier are classified as price
5 deregulated under this subsection, the carrier may thereafter adjust its
6 rates for such price deregulated services upward or downward as it de-
7 termines appropriate in its competitive environment, with tariffs for such
8 services deemed effective upon filing with the commission.

Price deregulated services shall be subject to the price floor in subsection (k), and shall not be unreasonably discriminatory or unduly preferential within an exchange.

9 (4) The commission shall act upon a petition filed pursuant to sub-
10 sections (q)(1)(B), (C) or (D) within 21 days, subject to an extension pe-
11 riod of an additional 30 days, and upon a good cause showing of the
12 commission in the extension order, or within such shorter time as the
13 commission shall approve. The commission shall issue a final order within
14 the 21-day period or within a 51-day period if an extension order has
15 been issued.

See (5) and (6) attached and (7) attached

16 ~~(4)~~ For the purposes of this subsection:

(7) (8)

17 (A) "Packages or bundles of services" means the offering of a local
18 telecommunications service with one or more of the following, subscribed
19 together, as one service option offered at one price, one or more call man-
20 agement services, ~~intraLATA long distance services, interLATA long dis-~~
21 ~~tance services,~~ internet access, video services or wireless services.

. Packages or bundles of services shall not include intraLATA and interLATA long distance service

22 (B) "local telecommunications service" means two-way voice service
23 capable of being originated and terminated within the exchange of the
24 local exchange telecommunications company seeking price deregulation
25 of its services, regardless of the technology used to provision the voice
26 service;

27 (C) "broadband network" means a connection that delivers services
28 at speeds exceeding two hundred kilobits per second in at least one direc-
29 tion; ~~and~~

30 (D) "prepaid telecommunications service" means a local service for
31 which payment is made in advance that excludes access to operator as-
32 sistance and long distance services.

; and
(E) "facilities based carrier" means a telecommunications carrier or entity providing local telephone service either wholly or partially over its own network. Facilities based carrier shall not include any radio communication services provider licensed by the federal communications commission to provide commercial mobile radio services.

33 (r) Upon complaint or request, the commission may investigate a
34 price deregulated service. The commission shall resume price regulation
35 of a service provided in any exchange area by placing it in the appropriate
36 service basket, as approved by the commission, upon a determination by
37 the commission that there is no longer a telecommunications carrier or
38 alternative provider providing a comparable product or service, consid-
39 ering both function and price, the conditions in subsections (q)(1) (C) or
40 (D) are no longer satisfied in that exchange area.

41 (s) The commission shall require that for all local exchange carriers
42 all such price deregulated basic intraLATA toll services be geographically
43 averaged statewide and not be priced below the price floor established

(5) The commission may resume price cap regulation of a local exchange carrier, deregulated under this subsection upon finding, after a hearing, that such carrier has: Violated minimum quality of service standards pursuant to subsection (1) of K.S.A. 66-2002, and amendments thereto; been given reasonable notice and an opportunity to correct the violation; and failed to do so.

(6) Prior to January 1, 2007, the commission shall determine the weighted, statewide average rate of nonwireless basic local telecommunications service as of July 1, 2006. Prior to January 1, 2009, and every three years thereafter, the commission shall determine the weighted, average rate of nonwireless basic local telecommunications services in exchanges that have been price deregulated pursuant to subsection (q)(1)(B), (C) or (D). The commission shall report its findings on or before February 1, 2009, and every three years thereafter to the governor and to the legislature. If the commission finds that the weighted, average rate of nonwireless basic local telecommunications service, in exchanges that have been price deregulated pursuant to subsection (q)(1)(B), (C) or (D) in any three year period is greater than the weighted, statewide average rate of nonwireless basic local telecommunications service as of July 1, 2006, multiplied by one plus the percentage increase in the consumer price index for goods and services for the study periods, the commission shall recommend to the governor and the legislature such changes in state law as the commission deems appropriate.

(7) The commission may resume price cap regulation of a local exchange carrier, deregulated under this subsection, upon finding after a hearing that such carrier has sold or offered for sale deregulated services at prices below the floor price in subsection (k) or engaged in unfair methods of competition. Any local exchange carrier, deregulated under this subsection, that sells or offers for sale deregulated services at prices below the price floor in subsection (k) or engages in unfair methods of competition shall be liable to any person or entity injured thereby for the full amount of damages, together with reasonable attorney's fee. Any person or entity claiming to be so damaged may seek recovery of such damages by filing a complaint with the commission or bringing suit in any court of competent jurisdiction.

COMPARISON CHART OF CURRENT LAW AND SB 350

STATE	YEAR METHOD	COMPETITION	BASIC BUSINESS LINES	BASIC RESIDENTIAL LINES	CALL MANAGEMENT	PACKAGES/ BUNDLES	CLEC/CABLE REGULATION	AUTHORITY TO RE-REGULATE
Kansas	1996 State Law (KSA 66-2001 <i>et seq.</i>) 2005 Regulatory Order (Docket No. 05-SWBT-99 7-PDR)	<p>There is no automatic deregulation provision.</p> <p>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).</p> <p>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.</p>	<p>All small business lines under price cap regulation.</p> <p>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.</p> <p>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.</p>	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.	<p>Most packages/bundles under price cap regulation. Packages/bundles in Kansas City and Wichita ex-changes granted "pricing flexibility" in 2005 if there was at least one facilities-based provider currently offering service in the exchange. Pricing flexibility are conditions imposed on the pricing freedom to ensure sufficient protection of consumers. One of the protections was to require that the individual services that are contained in the bundle must be available at rates under price caps for purchase on an <i>a la carte</i> basis.</p> <p>KCC defined a bundle as "the offering of a basic access line with one or more of the following, subscribed together, as one service option offered at one price: one or more call management features, intraLATA long distance service, interLATA long distance service, DSL, video service, or wireless service."</p>	No price regulation of competitors. CLECs are required to file a one-page annual report with the Commission.	<p>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).</p> <p>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).</p>

2-2
3-3

STATE	YEAR METHOD	COMPETITION	BASIC BUSINESS LINES	BASIC RESIDENTIAL LINES	CALL MANAGEMENT	PACKAGES/ BUNDLES	CLEC/CABLE REGULATION	AUTHORITY TO RE-REGULATE
Kansas	SB 350	<p>Current language in KSA 66-2005(q) is stricken.</p> <p>Competition is presumed when: 1) There are 75,000 or more local exchange access lines served by all providers, 2) if less than 75,000, business service is price deregulated when two or more nonaffiliated telecommunications carriers or other entities provide service to business customers, or 3) if less than 75,000, residential service is price deregulated when there are two or more nonaffiliated telecommunications carriers or other entities that are facilities-based.</p> <p>There is no requirement that the competitive carriers offer stand-alone service or that they provide service throughout the exchange.</p> <p>Any entity providing voice service shall be considered a local telecommunications service provider.</p> <p>A local telecommunications service that requires the use of a third party, unaffiliated</p>	<p>Beginning July 1, 2006, all services in exchanges with 75,000 or more exchange access lines would be price deregulated.</p> <p>In any exchange with fewer than 75,000 local exchange access lines served by all providers, the commission shall price deregulate all business services upon a demonstration that there are two or more nonaffiliated telecommunications carriers or other entities providing local telecommunications service to business customers, regardless of whether the entity provides local services in conjunction with other services in that exchange area, no more than one of which may be a nonaffiliated radio communications services provider licensed by the FCC to provide commercial mobile radio services in that exchange.</p>	<p>Beginning July 1, 2006, all services in exchanges with 75,000 or more exchange access lines would be price deregulated.</p> <p>In any exchange with fewer than 75,000 local exchange access lines served by all providers, the commission shall price deregulate all residential services upon a demonstration that there are two or more nonaffiliated telecommunications carriers or other entities providing local telecommunications service to residential customers, regardless of whether the entity provides local service in conjunction with other services in that exchange area, using in whole or in part, facilities in which it or one of its affiliates has an ownership interest, no more than one of which may be a nonaffiliated radio communications services provided licensed by the FCC to provide commercial radio services in that exchange.</p>	<p>Beginning July 1, 2006, all services in exchanges with 75,000 or more exchange access lines would be price deregulated.</p> <p>If less than 75,000, business service is price deregulated when two or more nonaffiliated telecommunications carriers or other entities provide service to business customers</p> <p>If less than 75,000, residential service is price deregulated when there are two or more nonaffiliated telecommunications carriers or other entities that are facilities-based.</p>	<p>Beginning July 1, 2006, for local exchange carriers subject to price cap regulation, packages/bundles are price deregulated statewide.</p> <p>Individual service components of the packages or bundles shall be available for purchase individually at prices subject to price cap regulation until an exchange qualified for price deregulation of basic access lines.</p> <p>Packages or bundles is defined as local telecommunications service with one or more services, subscribed together, as one service option offered at one price: one or more call management services, intraLATA, interLATA, internet access, video services or wireless services.</p>	<p>No price regulation of competitors. CLECs are required to file a one-page annual report with the Commission.</p>	<p>The Commission shall resume price regulation of a service provided...upon a determination by the commission that the conditions for price deregulation are no longer satisfied in that exchange area.</p> <p>The Commission raised a concern that KSA 66-2005(b) which permits the Commission to move a price-cap company to rate-of-return regulation if quality of service standards are not met would seem to no longer be applicable to those exchanges where it has received price deregulation.</p>

Trigger for Price Deregulation

Current Law: The Commission may price deregulate in an exchange when it finds that there is a competitive provider offering a comparable product at a comparable rate. The Commission has determined that the discretion granted through the use of the word “may” requires a finding that price deregulation of a service is in the public interest. In considering the public interest, the Commission has stated that it will examine the extent of competition for a service and whether the competition is sustainable. The Commission requires an application for price deregulation to include a discussion of the nature of competition. This discussion is to include evidence of: whether the market is growing or declining; the strength of competitors; the substitutability of a competitor’s service for that of the incumbent; the number of competitors; and the market entry and exit conditions. In Docket Number 05-SWBT-997-PDR, the Commission began its analysis with an evaluation of the market share of each carrier in a particular exchange for each service offering for which price deregulation had been requested. If the Commission found that competitive carriers had significant market share, then it moved on to consider evidence regarding the nature of competition. Where the Commission found that the competition was sufficient and sustainable, the Commission granted price deregulation.

SB 350: All services would be price deregulated in exchanges with 75,000 or greater access lines. In exchanges with fewer than 75,000 access lines, the applicant must provide evidence to the Commission demonstrating that there are at least two carriers providing business services or residential services in an exchange. One of those carriers can be a non-affiliated wireless provider. For residential services, one of the carriers must be a facilities-based carrier. No service-by-service analysis of the nature of competition is required.

Treatment of Bundles

Current Law: The current statute does not make specific reference to bundles or packages. In Docket Number 05-SWBT-997-PDR, the Commission granted pricing flexibility for bundles in Kansas City and Wichita. The Commission determined that a facilities-based carrier should be present in the exchange. The Commission determined that constraints should be placed on the pricing flexibility to discipline the pricing behavior of the incumbent where competition might not be sufficient to do so. The Commission required that the individual services contained in the bundled product should remain available at a rate under price-cap regulation. The Commission also stated that any pricing variation within the exchange that could only be explained by the presence or lack of competition would be considered discriminatory pricing.

SB 350: Packages or bundles would be price deregulated statewide with the individual services components remaining subject to price cap regulation until the trigger for competition has been met in an exchange. The definition of the bundle is the same as that established by the Commission in Docket Number 05-SWBT-997-PDR.

Treatment of Stand-alone Access Lines

Current Law: The current statute does not make specific reference to the provision of stand-alone access lines. The Commission determined that it would examine competition for the stand-alone access line separately from the competition for the provision of bundles.

SB 350: Services are not analyzed individually. There must be two providers offering service to residential customers (or business customers); however, neither of the providers must offer stand-alone access line service.

Ability to Resume Price Cap Regulation

Current Law: The Commission is to resume price cap regulation upon a determination that there is no longer a competitive carrier providing a comparable service, in function and price, in an exchange. The Commission has not acted on this provision.

SB 350: The Commission is to resume regulation if there are no longer two competitive carriers in the exchanges with fewer than 75,000 access lines. There is no provision to resume price cap regulation in exchanges with 75,000 or more access lines.

Competitive Carriers

Current Law: The statute does not specify what types of carriers should be viewed as competitors. In Docket Number 02-GIMIT-555-GIT, the Commission determined that it would consider all types of providers in evaluating the extent of competition. In Docket Number 05-SWBT-997-PDR, SWBT did not list wireless carriers or VoIP carriers as competitors but stated that the Commission should consider that these carriers would provide additional support for its application.

SB 350: Wireless carriers are to be considered as a competitor. VoIP providers that offer service over their own broadband facilities are to be considered a competitor. Those carriers that offer service only to credit challenged subscribers are not to be considered a competitor.

Pricing

Current Law: The Commission determined that the provisions of K.S.A. 66-1,189 and 66-1,191??? apply to all carriers whether or not they are subject to price regulation. In Docket Number 05-SWBT-997-PDR, the Commission specified that any pricing variation within the exchange that could only be explained by the presence or lack of competition would be considered discriminatory pricing.

SB 350: The proposal does not specifically address discriminatory pricing. However, it is presumed that K.S.A. 66-1,189 and 66-1,191??? would be applicable.

Pricing Under Price Cap Regulation

Current Law: A carrier subject to price cap regulation is able to change its rates, increase or decrease, as long as the rate is above the price floor and as long as the revenues associated with the relevant basket are below the cap. Basket 1 contains rates for the residential access line and single line business. Basket 3 contains rates for multi-line business service, other large business customer services, and call management services. Tariffs are to be submitted to the Commission at least 21 days before they become effective so that the Commission may review the tariff.

price cap regulation shall be as follows:

(A) Packages or bundles of services shall be price deregulated state-
; however the individual telecommunication service components of
; packages or bundles shall remain available for purchase on an in-
; dividual basis at prices subject to price cap regulation in any exchange in
; which the standards in subsections (q)(1)(B), (C) or (D) have not been
; met;

. If standards in subsection (q)(1)(B), (C) or (D) have been met, prices for
packages or bundles shall not exceed the sum of the highest prices of the
ala carte components of the package or bundle

(B) in any exchange in which there are 75,000 or more local exchange
access lines served by all providers, rates for all telecommunications serv-
ices shall be price deregulated;

(C) in any exchange in which there are fewer than 75,000 local
exchange access lines served by all providers, the commission shall price
deregulate all business telecommunication services upon a demonstration
by the requesting local telecommunications carrier that there are two or
more nonaffiliated telecommunications carriers or other entities providing
local telecommunications service to business customers, regardless of
whether the entity provides local service in conjunction with other services
in that exchange area, no more than one of which may be a nonaffiliated
radio communication services provider licensed by the federal commu-
nications commission to provide commercial mobile radio services in that
exchange;

, one of which must be a facilities based carrier or entity,

(D) in any exchange in which there are fewer than 75,000 local
exchange access lines served by all providers, the commission shall price
deregulate all residential telecommunication services upon a demonstra-
tion by the requesting local telecommunications carrier that there are two
or more nonaffiliated telecommunications carriers or other entities provid-
ing local telecommunications service to residential customers, regard-
less of whether the entity provides local service in conjunction with other
services in that exchange area, ~~using in whole or in part facilities in~~
~~which it or one of its affiliates has an ownership interest~~ no more than
one of which may be a nonaffiliated radio communication services pro-
vider licensed by the federal communications commission to provide com-
mercial mobile radio services in that exchange;

, one of which must be a facilities based carrier or entity,

but with such rates available only if the line is purchased without any call
management features or broadband, video, or wireless services.

EXPLANATION: This language will keep "stand alone" residential and small
business lines subject to price cap regulation.]

(E) rates for lifeline services shall remain subject to price cap
regulation;

(2) For the purposes of this subsection:
(A) Any entity providing voice service shall be considered as a local
telecommunications service provider regardless of whether such entity is
subject to regulation by the commission;
(B) a provider of local telecommunications service that requires the
use of a third party, unaffiliated broadband network or dial-up internet
network for the origination of local voice service shall not be considered
a local telecommunications service provider;

;
(F) rates for the initial residential local exchange access line and up to
four business local exchange access lines at one location shall remain
subject to price cap regulation; and
(G) local exchange carriers shall offer a uniform price throughout each
such exchange for services subject to price deregulation, under this
subsection, including packages or bundles of services.

, however, local exchange carriers shall be authorized to offer other additional discounted
promotional or tariffed prices to retain current customers, or to gain new or former customers

EXPLANATION: This language will preserve HB 2042, enacted in 2005, and
continue to allow all providers to offer customers discounted prices.]

Senate Utilities Committee
February 14, 2006
Attachment 5-1

From: KCC, Janet Buchanan in response to a question raised by Senate Utilities Committee

Quality of Service Standards

Pursuant to K.S.A. 66-2002(1) the Commission opened a proceeding to establish quality of service standards for all facilities-based providers of telecommunications services. The Commission adopted quality of service standards through an order issued on December 24, 1996 (Docket Number 191,206-U) The intent of the Commission was to adopt measures which provide a broad gauge of customer satisfaction with the technical quality and reliability of service. Carriers collect data on a monthly basis and report that data to the Commission on a quarterly basis. The current measures are:

Customer Trouble Reports – the number of trouble conditions reported to the service provider. The benchmark is 6/100 access lines for larger carriers and 8/100 access lines for smaller carriers.

% of Repeat Trouble Reports – the number of repeat reports of trouble on a service that had a trouble report in the previous 10 days as a percentage of the total customer trouble reports for the month. The benchmark is 20% or less.

Average Customer Repair Interval – the average time to complete repair or restore service. The benchmark is an average of 30 hours or less.

% of Appointments met -- the number of appointments that are kept as scheduled divided by the total number of scheduled appointments for the month. The benchmark is 90% or greater.

On August 26, 2004, Staff submitted a memo to the Commission recommending that a docket be opened to review the existing quality of service standards and investigate whether it would be appropriate to adopt new standards. Staff recommended that the Commission seek comment on the NARUC Service Quality White Paper. On September 13, 2004, the Commission opened Docket No. 05-GIMT-187-GIT to review the quality of service standards. Comments were received. Workshops have been held. A hearing has been held permitting legal argument on whether the Commission has jurisdiction to make changes to the existing standards. The Commission is considering that legal question. If the Commission finds that it does have jurisdiction, the Commission will then determine whether to continue the investigation.

**Senate Utilities Committee
February 14, 2006
Attachment 6-1**