

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Vice Chairman Pat Apple at 9:30 A.M. on January 17, 2008 in Room 526-S of the Capitol.

Committee members absent: Senator Emler (excused)
Senator Taddiken (excused)

Committee staff present: Raney Gilliland, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Mike Corrigan, Revisor of Statutes
Ann McMorris, Committee Assistant

Conferees appearing before the committee:

Others in attendance: See attached guest list

Introduction of Bills

Mike Murray of Embarq Corporation, explained a proposed bill concerning telecommunications; relating to local exchange carriers and carriers of last resort. (Attachment 1)

Moved by Senator Lee, seconded by Senator Petersen, draft 7rs1771 be introduced. Motion carried.

Discussion on Use of Electronics in Committee

Dave Larson, Director of Computer Services, appeared before the Committee to explain the changes in providing computer services for electronic committees. For five years, the Senate Utilities Committee (and some House committees) have been electronic (non paper) committees, but the LCC had recently appointed a Strategy Group to study the results of the pilot program using computers in committee work and the goal of the Strategy Committee is for all committees to be paperless and on the same electronic system. The committees in the electronics pilot program were advised they could decide what their individual committee would prefer.

The Senate Utilities Committee members agreed on:

1. Testimony would be emailed to the Secretary and the conferee would also provide 25 copies for distribution. Secretary would forward the emailed testimony to Committee members and staff.
2. Emailed testimony would be placed in a shared folder for the committee and staff to have available for reference.

Dave said Computer Services technicians would be available to assist at committee meetings when any help was needed.

Chair Apple introduced the interns of Senators Emler, Lee and Pine.

Adjournment.

Respectfully admitted,

Ann McMorris, Secretary

Attachment – 1

Amendment to 66-2009

Eligibility for KUSF Funding.

(a) Local exchange carriers that provided switched local exchange services in the state prior to January 1, 1996, or their successors shall serve as the carrier of last resort in their exchanges and shall be eligible to receive KUSF funding. However, with respect to the Hill City exchange in which multiple carriers were certificated prior to January 1, 1996, the commission's determination, subject to court appeals, shall determine which authorized carrier shall serve as carrier of last resort. The local exchange carrier serving as the carrier of last resort shall remain the carrier of last resort and shall be entitled to recover the costs of serving as carrier of last resort.

(b) Beginning March 1, 1997, the amount of KUSF funds owed to each qualifying telecommunications carrier, telecommunications public utility or wireless telecommunications service provider in the state, based upon the revenue requirements assigned to the fund for such qualifying utility, carrier or provider, shall be allocated by the fund administrator in equal monthly installments.

(c) (1) A local exchange carrier obligated by this section to serve as the carrier of last resort, is automatically and immediately relieved of that obligation and is not obligated to provide basic local telecommunications service to any occupants of real property if the owner or developer of the real property, or a person acting on behalf of the owner, or developer of real property engages in any of the following acts:

(A) Permits only one alternative service provider to install its facilities or equipment used to provide local telecommunications service or internet access

service, to the exclusion of the local exchange carrier, during the construction phase of the real property; or

(B) Accepts or agrees to accept incentives or rewards from an alternative service provider that are contingent upon the provision of any or all local telecommunications services or internet access service by one or more alternative service providers to the exclusion of the local exchange carrier; or

(C) Collects from the occupants or residents of the real property charges for the provision of any local telecommunications service or internet access service, provided by an alternative service provider to the occupants or residents in any manner, including, but not limited to, collection through rent, fees, or dues; or

(D) Enters into an agreement with an alternative service provider which grants incentives or rewards to such owner or developer contingent upon restriction or limitation of the local exchange carrier's access to the real property.

(2) The local exchange carrier relieved of its carrier-of-last-resort obligation to provide basic local telecommunications service to the occupants of the real property pursuant to subsection (c) shall notify the commission of that fact in a timely manner.

(3) A local exchange carrier that is not automatically relieved of its carrier-of-last-resort obligation pursuant to subsection (c)(1) (A) - (D) may seek a waiver of its carrier-of-last-resort obligation from the commission for good cause shown based on the facts and circumstances of provision of local telecommunications service or internet access service to a particular real property, including arrangements such as those in subsection (c)(1)(A) - (D) for the provision of video service to the occupants of the real property. Upon petition for such relief, notice shall be given by the local exchange carrier at the same

time to the relevant building owner or developer. The commission shall have 90 days to act on the petition.

(4) If all conditions described in subsection (c)(1)(A) - (D) cease to exist at a property, and the owner or developer requests in writing that the local exchange carrier make local telecommunications service available to occupants of the real property and confirms in writing that all conditions described in subsection (c)(1)(A) - (D) have ceased to exist at the property and the owner or developer has not arranged and does not intend to arrange with another alternative service provider to make local telecommunications service or internet access service available to customers at the property, the carrier-of-last-resort obligation under this section shall again apply to the local exchange carrier at the real property; however, the local exchange carrier may require that the owner or developer pay to the local exchange carrier in advance a reasonable fee to recover costs that exceed the costs that would have been incurred to construct or acquire facilities to serve customers at the real property initially, and the local exchange carrier shall have a reasonable period of time following the request from the owner or developer to make arrangements for local telecommunications service availability. An incumbent local exchange carrier may meet the carrier's obligations under this section using any available alternative technology. If any conditions described in subsection (c)(1)(A) - (D) again exist at the real property, the relief in subsection (c)(1) shall again apply.

(5) When real property is located in a greenfield area, a carrier of last resort is not automatically excused from its obligations under subsection (c)(1)(A) - (D) unless the alternative service provider possesses or will possess at the time of commencement of

service the capability to provide local telecommunications service or the functional equivalent of such service through any form of technology.

(6) For purposes of this subsection:

(A) "Owner or developer" means the owner or developer of a business or residential property, any condominium association or homeowners' association thereof, any other person or entity having ownership in or control over the property, or any person acting on behalf of such owner or developer.

(B) "Alternative service provider" means any person or entity providing local telecommunications services or internet access services, any person or entity allowing another person or entity to use its equipment or facilities to provide local telecommunications services or internet access services, or any person or entity securing rights to select an alternative service provider for a property owner or developer. For purposes of this subsection, "alternative service provider" does not include a local exchange carrier providing service within its commission-approved local exchange service area.

(C) "Local telecommunications service" means two-way voice service capable of being originated and terminated within a local exchange service area, regardless of the technology used to provision the voice service.

(D) "Real property" includes, but is not limited to, any single tenant or multitenant business or residential property, subdivisions, condominiums, apartments, office buildings, or office parks.

(E) "Alternative technology" means any technology that offers local telecommunications service and functionality comparable to that provided through an

existing alternative service provider's facilities, and may include a technology that does not require the use of any public right-of-way.

(F) "Greenfield area" means an area that requires entirely new construction of local loops, in addition to the deployment of any necessary switching and other network equipment, to serve new real property developments.