

## MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on March 24, 2008 in Room 526-S of the Capitol.

Committee members absent:

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

Conferees appearing before the committee:

Earl Watkins, Sunflower Electric Power Corporation

Others in Attendance: See attached sheet

Chair opened the hearing on:

**SB 692 - Establishing the joint committee on energy and environmental policy**

Revisor's staff review - **SB 692** establishes a joint committee on energy and environmental policy. Selection of members, topics to be studied and compensation is set forth in the bill. Committee members asked about when and how often the committee would meet. Fiscal note indicated compensation for 12 days of meetings.

Proponent:

Earl Watkins, Sunflower Electric Power Corporation, who spoke on behalf of Sunflower and Midwest Energy, noted the need for the legislature to develop sound energy and environmental policies so utilities can make difficult long-range planning decisions. (Attachment 1)

Chair closed the hearing on **SB 692**.

Approval of Minutes

Moved by Senator Lee, seconded by Senator Taddiken, to approve the minutes of the Senate Utilities Committee meeting held on February 12, 2008. Motion carried.

Action on **HB 2805** - Establishing the Kansas emergency communications preservation act.

Moved by Senator Apple, seconded by Senator Reitz, to move **HB 2805** out favorably. Motion carried.

Continued discussion on **HB 2637** - telecommunications; pricing, flexibility; lifeline service program.

Revisor had prepared a balloon (z2637g4) of **HB 2637** incorporating all the amendments made at the March 20, 2008 meeting. (Attachment 2)

Moved by Senator Francisco, seconded by Senator Taddiken, to amend **HB 2637** (z2637g5) on page 1 by changing the title description; on page 8 by deleting the amendment (shown in z2637g4); and on page 10 line 14 by adding the language "*and the commission shall also send a report of such findings to each member of the legislature.*" (Attachment 3)

Request by Senator Lee, seconded by Senator Apple, for division of question.

Chairman Emler explained the division of question - (1) Report to full legislature; (2) 2.5% ('no' vote will keep this in the bill; 'yes' vote will delete); (3) CPIU ('no' vote will keep this in the bill; 'yes' vote will delete).

Chair asked for vote on:

Question 1 - Motion carried

Question 2 - Motion failed. "no" votes from Senators Apple and Lee.

Question 3 - Motion failed.

CONTINUATION SHEET

MINUTES OF THE Senate Utilities Committee at 9:30 A.M. on March 24, 2008 in Room 526-S of the Capitol.

Moved by Senator Apple, seconded by Senator Petersen to amend **SB 20** into **HB 2637**. Motion failed. 3 yes, five no.

Moved by Senator Reitz, seconded by Senator Taddiken, to pass **HB 2637** out favorably as amended. Motion carried.

Moved by Senator Taddiken, seconded by Senator Lee, to pass **SB 692** out favorably. Motion carried.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 3

# SENATE UTILITIES COMMITTEE GUEST LIST


DATE: MARCH 24, 2008

| Name              | Representing           |
|-------------------|------------------------|
| - Sue Simon       | EMBARQ                 |
| - MIKE MURRAY     | "                      |
| - JUDY BADD       | "                      |
| - CAROLYN GASTON  | "                      |
| Ernie Kutzly      | AARP                   |
| Cyndi Hallagher   | ATT                    |
| Jeff Reeves       | ATT                    |
| Nate Michel       | Hein Law Firm          |
| Earl Watkins      | Sunflower/Wichita West |
| Loren Yehon       | Rural Telephone        |
| Les Desverschandt | AT&T                   |
| DAN JACOBSEN      | AT&T                   |
| B. Manani         | BRJ                    |
| J. B. BUTTENBERG  | AT&T                   |
| D. Meyer          | Granger Smith, Assoc.  |
| Shaly Allen       | Rural Ind Telco's      |
| Janet Buchanan    | Kee                    |





# SUNFLOWER ELECTRIC POWER CORPORATION

A Touchstone Energy® Cooperative 

**TESTIMONY OF  
L. EARL WATKINS, Jr., PRESIDENT AND CEO  
SUNFLOWER ELECTRIC POWER CORPORATION  
ON SENATE BILL 692  
BEFORE THE SENATE UTILITIES COMMITTEE  
March 24, 2008**

Mr. Chairman and distinguished members of the Committee, my name is Earl Watkins. I am the President and CEO of Sunflower Electric Power Corporation. I come before you today to speak in support of Senate Bill 692.

I am here today to speak to you on behalf of myself and Midwest Energy, whose President and CEO, Earnie Lehman has a Board of Directors meeting today.

Mr. Chairman, we wholeheartedly support the establishment of the Joint Committee on Energy and Environmental Policy. As the leaders of two small customer-owned utilities in Kansas, I can tell you that both of us have struggled fiercely to build our new plants in order to provide low-cost power for the 500,000 people we collectively serve in central and western Kansas.

Both Sunflower and Midwest need you to develop sound energy and environmental policies. Today, we are at a crossroads without a map. Since we are rapidly running out of the generating capacity necessary to serve the people that own our cooperatives, we need certainty in our energy and environmental policies so we can make difficult long-range planning decisions.

We like the idea that this committee would be comprised of members from both the House of Representatives and the Senate. While not specified, we presume the appointments to this committee would likely be comprised of the Legislature's experts from both the energy and the environmental standing committees.

Through those appointments, we believe the Legislature will be able to set an agenda that truly will give Kansans the best chance for consistent, fair-minded legislation that will keep the lights on across Kansas and it will be done in ways that continue to protect our Kansas environment.

Thank you for the opportunity to speak on this bill, we urge you to act favorably on SB 692. I would be happy to answer your questions.

Senate Utilities Committee  
March 24, 2008  
Attachment 1-1



# HOUSE BILL No. 2637

By Committee on Energy and Utilities

1-17

Balloon Amendment

9 AN ACT concerning telecommunications; relating to pricing flexibility  
10 and the lifeline service program; amending K.S.A. 66-2006 and K.S.A.  
11 2007 Supp. 66-2005 and repealing the existing sections.

utilities; relating to

concerning the citizens' utility ratepayer board  
contracting for professional services;

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

14 Section 1. K.S.A. 2007 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 KUSE. 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,

Senate Utilities Committee  
March 24, 2008  
Attachment 2-1

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  
40 to reduction of its interstate access revenue shall be recovered from the  
41 KUSF;

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

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

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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 subsection,  
22 whichever is higher, except that any increase in the business service  
23 affordable rate exceeding \$2 may be satisfied by increases in a rural telephone  
24 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 effective  
36 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 otherwise  
39 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 subsection  
42 (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

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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-

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1 ulated 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 extension.  
7 The prices within a rate range shall be tarified and shall apply to all  
8 customers in a nondiscriminatory manner in an exchange or group of  
9 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 an  
15 extension period of an additional 30 days, and upon a good cause showing  
16 of the commission in the extension order, or within such shorter time as  
17 the commission shall approve. The commission shall issue a final order  
18 within the 21-day period or within a 51-day period if an extension has  
19 been issued. Following an order granting reduced regulation of an indi-  
20 vidual service or service category, the commission shall act on any request  
21 for price reductions within seven days subject to a 30-day extension. The  
22 commission shall act on other requests for price cap adjustments, adjust-  
23 ments within price cap plans and on new service offerings within 21 days  
24 subject to a 30-day extension. Such a change will be presumed lawful  
25 unless it is determined the prices are below the price floor or that the  
26 price cap for a category, if any, within the entire basket has been  
27 exceeded.

28 (q) (1) Beginning July 1, 2006, price regulation of telecommunica-  
29 tions services in the residential and single-line business service basket and  
30 the miscellaneous services basket for local exchange carriers subject to  
31 price cap regulation shall be as follows:

32 (A) Packages or bundles of services shall be price deregulated state-  
33 wide, however the individual telecommunication service components of  
34 such packages or bundles shall remain available for purchase on an in-  
35 dividual basis at prices subject to price cap regulation in any exchange in  
36 which the standards in subsection (q)(1)(B), (C) or (D) have not been  
37 met. If standards in subsection (q)(1)(B), (C) or (D) have been met, the  
38 individual telecommunication service components of such packages or  
39 bundles shall remain available for purchase on an individual basis and  
40 prices for packages or bundles shall not exceed the sum of the highest  
41 prices of the ala carte components of the package or bundle;

42 (B) in any exchange in which there are 75,000 or more local exchange  
43 access lines served by all providers, rates for all telecommunications serv-

1 ices shall be price deregulated;

2 (C) in any exchange in which there are fewer than 75,000 local  
3 exchange access lines served by all providers, the commission shall price  
4 deregulate all business telecommunication services upon a demonstration  
5 by the requesting local telecommunications carrier that there are two or  
6 more nonaffiliated telecommunications carriers or other entities, that are  
7 nonaffiliated with the local exchange carrier, providing local telecom-  
8 munications service to business customers, regardless of whether the en-  
9 tity provides local service in conjunction with other services in that  
10 exchange area. One of such nonaffiliated carriers or entities shall be re-  
11 quired to be a facilities-based carrier or entity and not more than one of  
12 such nonaffiliated carriers or entities shall be a provider of commercial  
13 mobile radio services in that exchange;

14 (D) in any exchange in which there are fewer than 75,000 local  
15 exchange access lines served by all providers, the commission shall price  
16 deregulate all residential telecommunication services upon a demonstra-  
17 tion by the requesting local telecommunications carrier that there are two  
18 or more nonaffiliated telecommunications carriers or other entities, that  
19 are nonaffiliated with the local exchange carrier, providing local telecom-  
20 munications service to residential customers, regardless of whether the  
21 entity provides local service in conjunction with other services in that  
22 exchange area. One of such nonaffiliated carriers or entities shall be re-  
23 quired to be a facilities-based carrier or entity and not more than one of  
24 such nonaffiliated carriers or entities shall be a provider of commercial  
25 mobile radio services in that exchange;

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

28 (F) *up to and continuing until July 1, 2008*, rates for the initial resi-  
29 dential local exchange access line and up to four business local exchange  
30 access lines at one location shall remain subject to price cap regulation.  
31 Such rates shall not be affected by purchase of one or more of the fol-  
32 lowing: Call management services, intraLATA long distance service or  
33 interLATA long distance service; and

34 (G) local exchange carriers shall offer a uniform price throughout  
35 each such exchange for services subject to price deregulation, under this  
36 subsection, including packages or bundles of services, except as provided  
37 in subsection (1) or as otherwise approved by the commission.

38 (2) For the purposes of this subsection:

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

42 (B) a provider of local telecommunications service that requires the  
43 use of a third party, unaffiliated broadband network or dial-up internet

On and after July 1, 2008, the local exchange carrier shall be authorized to adjust such rates without commission approval by not more than the percentage increase in the consumer price index for all urban consumers, as officially reported by the bureau of labor statistics of the United States department of labor, or its successor index except that such upward adjustment shall not exceed 2.5% in any one year period and such rates shall not be adjusted below the price floor established in subsection (k).



1 network for the origination of local voice service shall not be considered  
2 a local telecommunications service provider;

3 (C) telecommunications carriers offering only prepaid telecommu-  
4 nications service shall not be considered entities providing local telecom-  
5 munications service.

6 (3) If the services of a local exchange carrier are classified as price  
7 deregulated under this subsection, the carrier may thereafter adjust its  
8 rates for such price deregulated services upward or downward as it de-  
9 termines appropriate in its competitive environment, with tariffs for such  
10 services deemed effective upon filing with the commission. Price dereg-  
11 ulated services shall be subject to the price floor in subsection (k), and  
12 shall not be unreasonably discriminatory or unduly preferential within an  
13 exchange.

14 (4) The commission shall act upon a petition filed pursuant to sub-  
15 section (q)(1)(C) or (D) within 21 days, subject to an extension period of  
16 an additional 30 days, and upon a good cause showing of the commission  
17 in the extension order, or within such shorter time as the commission  
18 shall approve. The commission shall issue a final order within the 21-day  
19 period or within a 51-day period if an extension order has been issued.

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

26 (6) The commission on July 1, 2006, and on each date that any service  
27 is deregulated, shall record the rates of each service which has been price  
28 deregulated in each exchange.

29 (7) Prior to January 1, 2007, the commission shall determine the  
30 weighted, statewide average rate of nonwireless basic local telecommu-  
31 nications service as of July 1, 2006. Prior to January 1, 2007, and annually  
32 thereafter, the commission shall determine the weighted, average rate of  
33 nonwireless basic local telecommunications services in exchanges that  
34 have been price deregulated pursuant to subsection (q)(1)(B), (C) or (D).  
35 The commission shall report its findings on or before February 1, 2007,  
36 and annually thereafter to the governor, the legislature and each member  
37 of the standing committees of the house of representatives and the senate  
38 which are assigned telecommunications issues. The commission shall also  
39 provide in such annual report any additional information it deems useful  
40 in determining the impact of price deregulation on consumers and the  
41 competitive environment, including, but not limited to, the rates recorded  
42 under paragraph (6) of this subsection, the current rates for services in  
43 price deregulated exchanges, changes in service offerings available in

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1 price deregulated exchanges and the change in the number of competitors  
2 in price deregulated exchanges. If the commission finds that the  
3 weighted, average rate of nonwireless basic local telecommunications  
4 service, in exchanges that have been price deregulated pursuant to sub-  
5 section (q)(1)(B), (C) or (D) in any one year period is greater than the  
6 weighted, statewide average rate of nonwireless basic local telecommu-  
7 nications service as of July 1, 2006, multiplied by one plus the percentage  
8 increase in the consumer price index for goods and services for the study  
9 periods, or the commission believes that changes in state law are war-  
10 ranted due to the status of competition, the commission shall recommend  
11 to the governor, the legislature and each member of the standing com-  
12 mittees of the house of representatives and the senate which are assigned  
13 telecommunications issues such changes in state law as the commission  
14 deems appropriate.

2008

15 (8) For the purposes of this subsection:

16 (A) "Packages or bundles of services" means the offering of a local  
17 telecommunications service with one or more of the following, subscribed  
18 together, as one service option offered at one price, one or more call  
19 management services, intraLATA long distance service, interLATA long  
20 distance service, internet access, video services or wireless services. Pack-  
21 ages or bundles of services shall not include only a single residential local  
22 exchange access line or up to four business local exchange access lines at  
23 one location and intraLATA long distance service or interLATA long dis-  
24 tance service, or both;

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

30 (C) "broadband network" means a connection that delivers services  
31 at speeds exceeding two hundred kilobits per second in both directions;

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

35 (E) "facilities based carrier" means a telecommunications carrier or  
36 entity providing local telecommunications service either wholly or par-  
37 tially over its own network. Facilities based carrier shall not include any  
38 radio communication services provider licensed by the federal commu-  
39 nications commission to provide commercial mobile radio services; and

40 (F) "call management services" means optional telecommunications  
41 services that allow a customer to manage call flow generated over the  
42 customer's local exchange access line.

43 (r) (1) Upon complaint or request, the commission may investigate

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1 a price deregulated service.

2 (2) The commission shall resume price cap regulation of a service  
3 provided in any exchange area by placing it in the appropriate service  
4 basket, as approved by the commission, upon a determination by the  
5 commission that the conditions in subsection (q)(1)(C) or (D) are no  
6 longer satisfied in that exchange area.

7 (3) The commission shall resume price cap regulation of business  
8 services in any exchange meeting the conditions of subsection (q)(1)(B)  
9 by placing it in the appropriate service basket, as approved by the com-  
10 mission, upon a determination by the commission that the following con-  
11 dition is not met: There are at least two nonaffiliated telecommunications  
12 carriers or other entities, that are nonaffiliated with the local exchange  
13 carrier, providing local telecommunications service to business customers,  
14 regardless of whether the entity provides local service in conjunction with  
15 other services in that exchange area. One of such nonaffiliated carriers or  
16 entities shall be required to be a facilities-based carrier or entity and not  
17 more than one such nonaffiliated carriers or entities shall be a provider  
18 of commercial mobile radio services in that exchange.

19 (4) The commission shall resume price cap regulation of residential  
20 services in any exchange meeting the conditions of subsection (q)(1)(B)  
21 by placing it in the appropriate service basket, as approved by the com-  
22 mission, upon a determination by the commission that the following con-  
23 dition is not met: There are at least two or more nonaffiliated telecom-  
24 munications carriers or other entities, that are nonaffiliated with the local  
25 exchange carrier, providing local telecommunications service to residen-  
26 tial customers, regardless of whether the entity provides local service in  
27 conjunction with other services in that exchange area. One of such non-  
28 affiliated carriers or entities shall be required to be a facilities-based car-  
29 rier or entity and not more than one such nonaffiliated carriers or entities  
30 shall be a provider of commercial mobile radio services in that exchange.

31 (s) The commission shall require that for all local exchange carriers  
32 all such price deregulated basic intraLATA toll services be geographically  
33 averaged statewide and not be priced below the price floor established  
34 in subsection (k).

35 (t) Cost studies to determine price floors shall be performed as re-  
36 quired by the commission in response to complaints. In addition, not-  
37 withstanding the exemption in subsection (b), the commission may re-  
38 quest information necessary to execute any of its obligations under the  
39 act. In response to a complaint that a price deregulated service is priced  
40 below the price floor set forth in subsection (k), the commission shall  
41 issue an order within 60 days after the filing of the complaint unless the  
42 complainant agrees to an extension.

43 (u) A local exchange carrier may petition for individual customer pric-

1 ing. The commission shall respond expeditiously to the petition within a  
2 period of not more than 30 days subject to a 30-day extension.

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

5 (w) Telecommunications carriers shall not be subject to price regu-  
6 lation, except that: Access charge reductions shall be passed through to  
7 consumers by reductions in basic intrastate toll prices; and basic toll prices  
8 shall remain geographically averaged statewide. As required under K.S.A.  
9 66-131, and amendments thereto, and except as provided for in subsec-  
10 tion (c) of K.S.A. 66-2004, and amendments thereto, telecommunications  
11 carriers that were not authorized to provide switched local exchange tel-  
12 ecommunications services in this state as of July 1, 1996, including cable  
13 television operators who have not previously offered telecommunications  
14 services, must receive a certificate of convenience based upon a dem-  
15 onstration of technical, managerial and financial viability and the ability  
16 to meet quality of service standards established by the commission. Any  
17 telecommunications carrier or other entity seeking such certificate shall  
18 file a statement, which shall be subject to the commission's approval,  
19 specifying with particularity the areas in which it will offer service, the  
20 manner in which it will provide the service in such areas and whether it  
21 will serve both business customers and residential customers in such ar-  
22 eas. Any structurally separate affiliate of a local exchange carrier that  
23 provides telecommunications services shall be subject to the same regu-  
24 latory obligations and oversight as a telecommunications carrier, as long  
25 as the local exchange carrier's affiliate obtains access to any services or  
26 facilities from its affiliated local exchange carrier on the same terms and  
27 conditions as the local exchange carrier makes those services and facilities  
28 available to other telecommunications carriers. The commission shall  
29 oversee telecommunications carriers to prevent fraud and other practices  
30 harmful to consumers and to ensure compliance with quality of service  
31 standards adopted for all local exchange carriers and telecommunications  
32 carriers in the state.

33 Sec. 2. K.S.A. 66-2006 is hereby amended to read as follows: 66-  
34 2006. (a) On or before January 1, 1997, the commission shall establish  
35 the Kansas lifeline service program, hereinafter referred to as the KLSP.  
36 The purpose of the KLSP shall be to promote the provision of universal  
37 service by local exchange carriers to persons with low income. The KLSP  
38 shall be targeted to maintain affordable rates for residential local  
39 exchange service. The commission shall approve a means test to deter-  
40 mine the eligibility of customers for such low-income assistance.

41 (b) *Every local exchange carrier providing residential local telecom-*  
42 *munications services that have been price deregulated in this state pur-*  
43 *suant to subsection (q) of K.S.A. 66-2005, and amendments thereto, shall,*

1 and any other local exchange carrier or telecommunications carrier may,  
2 automatically enroll its existing and eligible customers in the KLSP, sub-  
3 ject to the following:

4 (1) On or before January 1, 2009, the department of social and re-  
5 habilitation services, hereinafter referred to as the department, or any  
6 other successor state agency, may provide each participating carrier a list  
7 of those persons residing in the state that participate in programs which  
8 also qualify such persons to receive KLSP services. This listing shall con-  
9 sist of those persons who have consented to the release of their personal  
10 information to the KLSP carrier to receive KLSP services and include at  
11 a minimum the name, address and telephone number of such persons.  
12 Every six months thereafter, the department may provide to each partic-  
13 ipating carrier an updated list of persons consenting to such KLSP serv-  
14 ices. The secretary of the department may adopt rules and regulations to  
15 coordinate the acquisition and provision of the information to be provided  
16 pursuant to this subsection (b).

17 (2) The participating carrier shall use the list for the sole purpose of  
18 identifying those of its existing customers to whom it is currently provid-  
19 ing telephone service.

20 (3) The participating carrier shall discontinue providing KLSP serv-  
21 ices to an eligible customer if the eligible customer notifies the partici-  
22 pating carrier that the customer wishes to discontinue receiving those  
23 services.

24 (4) Each participating carrier receiving customer information pur-  
25 suant to this subsection (b) shall execute a confidentiality agreement with  
26 the department prior to receiving non-public customer eligibility infor-  
27 mation. The agreement will specify that the customer information is re-  
28 leased by the department to the participating carrier for the sole purpose  
29 of providing KLSP to eligible customers, and that the information cannot  
30 be released or used by the carrier for any other purpose unless authorized  
31 by the customer or otherwise required by law.

32 (c) To generate and facilitate participation in the lifeline service pro-  
33 gram, provide choice for Kansas consumers, and allow collection of federal  
34 lifeline program reimbursements, the KCC shall approve a wireline (non-  
35 CMRS) facilities-based telephone service provider's application for eligi-  
36 ble telecommunications carrier, hereinafter referred to as the ETC, des-  
37 ignation in a nonrural service area for the purpose of receiving  
38 low-income federal universal service fund support for participation in the  
39 lifeline service program, for the area equal to the applicant provider's own  
40 service area, provided the applicant provider meets all other ETC eligi-  
41 bility requirements. The commission, however, may condition that such  
42 designation remain consistent with the guidelines of the federal program.

43



1 ~~Sec. 3.~~ K.S.A. 66-2006 and K.S.A. 2007 Supp. 66-2005 are hereby  
 2 repealed.  
 3 ~~Sec. 4.~~ This act shall take effect and be in force from and after its  
 5. 4 publication in the statute book.

Sec. 3. (a) The citizens' utility ratepayer board is hereby authorized to negotiate for contracts for professional services. Professional services which are required to be assessed under K.S.A. 66-1502, and amendments thereto, against the public utilities involved, include, but are not limited to, the services of engineers, accountants, attorneys and economists, in order to assist in preparing and presenting the expert testimony or otherwise carrying out the duties of the board.

(b) The negotiation for the contracts shall be performed by a negotiating committee which shall consist of the following: (1) The consumer counsel of the citizens' utility ratepayer board or the consumer counsel's designee; (2) the director of the budget or that director's designee; (3) the director of accounts and reports or that director's designee; and (4) the chairperson of the citizens' utility ratepayer board or the chairperson's designee. The consumer counsel of the citizens' utility ratepayer board or the consumer counsel's designee shall convene the negotiating committee for each such contract. The negotiating committee is authorized to negotiate for the contract for the professional services with qualified parties to provide services needed by the board. The negotiating committee shall consider all proposals by parties applying to perform such contract and award the contract to the best qualified party.

(c) Contracts entered into under this section shall not be subject to the provisions of K.S.A. 75-3739 or 75-37,102, and amendments thereto.

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# HOUSE BILL No. 2637

By Committee on Energy and Utilities

1-17

Balloon Amendment

9 AN ACT concerning telecommunications; relating to pricing flexibility  
10 and the lifeline service program; amending K.S.A. 66-2006 and K.S.A.  
11 2007 Supp. 66-2005 and repealing the existing sections.

utilities; relating to

concerning the citizens' utility ratepayer board  
contracting for professional services;

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

14 Section 1. K.S.A. 2007 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,

NOTE - INTENT  
AMENDMENT ON PAGE 8 OF 2637g4  
TO BE DELETED.  
Chairman Embler

Senate Utilities Committee  
March 24, 2008  
Attachment 3-1

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1 price deregulated exchanges and the change in the number of competitors  
 2 in price deregulated exchanges. If the commission finds that the  
 3 weighted, average rate of nonwireless basic local telecommunications  
 4 service, in exchanges that have been price deregulated pursuant to sub-  
 5 section (q)(1)(B), (C) or (D) in any one year period is greater than the  
 6 weighted, statewide average rate of nonwireless basic local telecommu-  
 7 nications service as of July 1, 2006, multiplied by one plus the percentage  
 8 increase in the consumer price index for goods and services for the study  
 9 periods, or the commission believes that changes in state law are war-  
 10 ranted due to the status of competition, the commission shall recommend  
 11 to the governor, the legislature and each member of the standing com-  
 12 mittees of the house of representatives and the senate which are assigned  
 13 telecommunications issues such changes in state law as the commission  
 14 deems appropriate.

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and the commission shall also send a report of such findings  
 to each member of the legislature

15 (8) For the purposes of this subsection:

16 (A) "Packages or bundles of services" means the offering of a local  
 17 telecommunications service with one or more of the following, subscribed  
 18 together, as one service option offered at one price, one or more call  
 19 management services, intraLATA long distance service, interLATA long  
 20 distance service, internet access, video services or wireless services. Pack-  
 21 ages or bundles of services shall not include only a single residential local  
 22 exchange access line or up to four business local exchange access lines at  
 23 one location and intraLATA long distance service or interLATA long dis-  
 24 tance service, or both;

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

30 (C) "broadband network" means a connection that delivers services  
 31 at speeds exceeding two hundred kilobits per second in both directions;

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

35 (E) "facilities based carrier" means a telecommunications carrier or  
 36 entity providing local telecommunications service either wholly or par-  
 37 tially over its own network. Facilities based carrier shall not include any  
 38 radio communication services provider licensed by the federal commu-  
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 41 services that allow a customer to manage call flow generated over the  
 42 customer's local exchange access line.

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 2 repealed.  
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Sec. 3. (a) The citizens' utility ratepayer board is hereby authorized to negotiate for contracts for professional services. Professional services which are required to be assessed under K.S.A. 66-1502, and amendments thereto, against the public utilities involved, include, but are not limited to, the services of engineers, accountants, attorneys and economists, in order to assist in preparing and presenting the expert testimony or otherwise carrying out the duties of the board.

(b) The negotiation for the contracts shall be performed by a negotiating committee which shall consist of the following: (1) The consumer counsel of the citizens' utility ratepayer board or the consumer counsel's designee; (2) the director of the budget or that director's designee; (3) the director of accounts and reports or that director's designee; and (4) the chairperson of the citizens' utility ratepayer board or the chairperson's designee. The consumer counsel of the citizens' utility ratepayer board or the consumer counsel's designee shall convene the negotiating committee for each such contract. The negotiating committee is authorized to negotiate for the contract for the professional services with qualified parties to provide services needed by the board. The negotiating committee shall consider all proposals by parties applying to perform such contract and award the contract to the best qualified party.

(c) Contracts entered into under this section shall not be subject to the provisions of K.S.A. 75-3739 or 75-37,102, and amendments thereto.

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