Approved: January 27, 2010
Date

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Pat Apple at 1:30 p.m. on January 14, 2010, in Room 548-S of the Capitol.

All members were present except
Sen Emler, excused
Sen. McGinn, excused
Sen. Taddiken, excused

Committee staff present:
Kristen Kellems, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Cindy Lash, Kansas Legislative Research Department
Ann McMorris, Committee Assistant
Jeannine Wallace, Sen. Apple's Office Assistant

Conferees appearing before the Committee:
Janet Buchanan, KCC

Others attending:
See attached list.

Introduction of Bills

Nelson Krueger, Government Liaison for U.S. Cellular, presented the proposed language for a bill which would enable more Federal Universal Service (FUS) support to be used in rural areas served by AT&T. (Attachment 1)

Moved by Senator Lee, seconded by Senator Reitz, approve introduction of the proposed bill from U.S. Cellular. Motion carried.

Overview of Telecommunications Industry in Kansas

Janet Buchanan, KCC, provided information on LEC Quality of Service Standards to expand further on the presentation she made at the January 13, 2010 committee meeting on telecommunications technology and issues. (Attachment 2)

Janet presented a comprehensive paper on the telecommunications industry covering the following areas: Industry from 1996 to Present; state of competition with land line carriers, wireless carriers and VoIP; interconnection/wholesale regulation; eligible telecommunications carriers; price deregulation, universal service; and broadband. (Attachment 3)

The next meeting is scheduled for January 19, 2010.

The meeting was adjourned at 2:30 p.m.

Respectfully submitted,

Ann McMorris
Committee Assistant

Attachments - 3

SENATE UTILITIES
COMMITTEE GUEST LIST
JANUARY 14, 2010

NAME	REPRESENTING
Tom DAY	KCC
JANET BUCHANAN	KCC
STEVE JOHNSON	ONEOK
Shirley Allen	KRITC
Nelson Krueger	U.S. Cellular
LON STANTON	NORTHERN NATURAL GAS
Mick Urban	Kansas Gas Service
Andy Fry	KCC
Christine Aarnes	KCC
Michael Wegner	KCC
Kendra Hanson	Intern, Heinlaw Firm
STEVE KARRICH	CURB
John Idoux	Centurylink
Bruce Ney	AT&T
Corey Mohn	KDOC
Dina Fisk	VERIZON
Chris Cardinal	KS Sierra Club
Jarrod Sterling	KARA

Chairman Apple, Members of the Committee, I am Nelson Krueger, Governmental Liaison for U. S. Cellular. I am a rural Kansan having grown up in Natoma on K-18 about 60 miles south of Kensington and 30 miles North of Hays. Thank you for allowing this opportunity to ask you to introduce a committee Bill which would enable more Federal Universal Service (USF) support to be used in rural areas served by ATT.

· Currently, competitive Eligible Telecommunications Carriers ("ETCs") in Kansas are prohibited by KCC Order from using all but a small portion of their federal universal service support in rural areas served by AT&T simply because AT&T is deemed a "non-rural" company – a regulatory label broadly applied that ignores the highly rural nature of much of the AT&T service area. ETC's face this restriction despite the fact that these areas were originally designated by the KCC to receive the benefits of USF support. Kansas is the only state that has restricted the use of USF support in this manner, even though originally these rural areas were deemed eligible to receive USF support. The designation of AT&T as a non-rural company then eliminated or wiped out their eligibility.

· AT&T's service area in Kansas contains extensive rural areas with very low population densities. Many of these areas are more costly to serve than some "rural" telephone company areas where competitors do not face such a restriction.

· Without the ability to spend this support in the AT&T areas, U.S. Cellular and other competitors have not been able to serve the vast rural portions of AT&T's service area in Kansas, only urban areas where it makes business sense leaving the rural areas without the benefits of competition.

· Some of the more rural counties in AT&T's area where competitors are largely prohibited from investing support include: Lincoln , Mitchell, Phillips, Norton, Decatur, Rawlins, Cheyenne, Sherman, Thomas, Sheridan, Rooks, Logan, Scott, Haskell, Meade, Clark, Comanche, Barber, Marshall , Clay , Washington,

Republic, Cloud , Ottawa, Ellsworth, Greenwood, Elk, Chautauqua, Harper, Kingman , Stafford, Pratt , Kiowa, Edwards, Pawnee , Rush, Jewell, Mitchell , Smith, Marion , Woodson, Nemaha , Wabaunsee, and Chase. All of these counties have fewer than 15 people per square mile, yet competitors are precluded from investing any substantial level of federal support in bringing competitive service to these areas.

· The bill would not change the amount of federal USF support that competitors receive in Kansas, but it changes the way they can spend the support within Kansas. For example, U.S. Cellular receives around $8.5 million/year in Kansas. Of that, only around $290,000/year – less than four percent – is available for spending in the AT&T areas. Yet AT&T areas make up roughly one-third of U.S. Cellular's overall eligible area in Kansas. With the average cost to build a cell site at over $400,000 it is impossible to build even one per year with this restriction.

· If the restriction is lifted, thus giving competitors the ability to devote appropriate amounts of USF support to rural areas served by AT&T, consumers living in those areas will begin to experience benefits of competition.

On behalf of U. S. Cellular, I respectfully request the Committee introduce a bill lifting the restriction on ETC's so they may spend USF support in the rural areas served by AT&T. Thank you.

LEC Quality of Service Standards

-Administrative Guidelines-

Performance standards and reporting apply to all, facilities based, Kansas Local Exchange Carriers.

- Standards are applicable to company or state level results, results are to be computed monthly and reported quarterly.

- These standards apply to wholesale and/or retail services commonly referred to as Plain Old Telephone service (POTs), including Coin service, provided for either Residential and/or Business customers. Foreign Exchange, ISDN and other switched services requiring special engineering/design treatments are not included.

- One copy of monthly results (Attachment B) is to be sent quarterly, via transmittal letter, to:

  Director - Utilities Division
  1500 Arrowhead Road
  Topeka KS 66604-4027

  Report is due not later than the 20th of the month following each calendar quarter, except when jeopardy and/or noncompliance conditions occur; then immediate reporting is required.

- Failing benchmark level for two (2) consecutive months constitutes a *jeopardy condition,* requires immediate reporting and a corrective action plan to be filed with the report. If the reporting company wishes to have their corrective action plan treated as proprietary, it must be clearly marked as such.

- Failing benchmark for three (3) consecutive months constitutes a *noncompliance condition* and requires immediate reporting with an updated corrective action plan. Staff will evaluate the provided action plan, current results and make a recommendation to the Commission regarding the assessment of fines; unless the condition is *exempt*, in which case no staff analysis or recommendation will be made.

- An *exempt condition* is defined as an extraordinary condition or event that is clearly outside of the Company's control, such as an "Act of God" or force majeure. In claiming such condition the reporting company should comprehensively describe the scope and magnitude of the event(s) including references to governmental declarations (e.g. FEMA, Emergency Management, etc.) as appropriate. A corrective action plan discussing measures being taken to manage the situation is required.

Quality of Service
Reporting Detail

Customer Trouble Reports (CTRs)/100 Access Lines:

This indicator is intended to provide a broad gauge indication of consumer satisfaction with the quality and reliability of services being provided. This indicator is to include both retail and, if applicable, wholesale services.

All CTRs reported to the provider's designated trouble reporting facility, less allowed exclusions, are to be included in this indicator. Multiple reports of trouble on the same service are to be included in this count. Complaints about optional features (i.e. Touch Tone, Custom Calling and CLASS) are to be included.

Conditions identified through other channels (i.e. Informal contacts with the customer, routine maintenance activity, etc.) are not considered as CTRs under this plan.

Allowed CTR Exclusions:
- Troubles which locate in another network.
- Troubles which locate on the customer's side of the demarcation point.
- Troubles which are the result of inappropriate customer action.
- Billing and/or collection complaints.

The count of POTs Access Lines is to be made at the end of the report month and is to include all lines capable of originating or terminating calls to and from the Public Switched Network. Foreign Exchange (FX), ISDN and other switched services requiring special engineering/design treatments are not to be included. Lines provided for internal company use (often referred to as Official Service lines) are not to be included in this count.

Benchmarks:
6 CTRs/100 access lines, or less, for LECs serving more than 10,000 access lines.
8 CTRs/100 access lines, or less, for LECs serving between 1,000 and 10,000 access lines.
10 CTRs/100 access lines, or less, for LECs serving less than 1,000 access lines.

Failing benchmark level for two (2) consecutive months constitutes a *jeopardy condition,* requires immediate reporting and a corrective action plan to be filed with the report.

Failing benchmark for three (3) consecutive months constitutes a *noncompliance condition* and requires immediate reporting with an updated corrective action plan.

Quality of Service
Reporting Detail

% Repeat Customer Trouble Reports:

This indicator is intended to provide a broad gauge indication of the quality of repair services being provided. It is the count of repeat troubles occurring within a minimum of 10 days, expressed as a percent of total CTRs for the month. This indicator is to include both retail and, if applicable, wholesale services.

The number of repeat trouble reports received during the previous 10 days on a given service, as a percentage of the total Customer Trouble Reports received during the report month.

Repeat reports need not be of the same trouble condition. CTRs are to be counted in accordance with Attachment A-1.

Benchmark:
20%, or less, repeat trouble reports.

Failing benchmark level for two (2) consecutive months constitutes a *jeopardy condition,* requires immediate reporting and a corrective action plan to be filed with the report.

Failing benchmark for three (3) consecutive months constitutes a *noncompliance condition* and requires immediate reporting with an updated corrective action plan.

Quality of Service
Reporting Detail

Average Customer Repair Intervals:

This indicator, along with % of appointments met, is intended to provide a broad gauge indication of responsiveness to the customer and is applicable whether personnel were dispatched to the customer's premises, or not. This indicator is to include both retail and, if applicable, wholesale service.

The average time required to repair POTs service affecting conditions. The same trouble counting consideration, as presented in Attachment A-1, apply to this indicator. No distinction is made concerning "out of service" and "other" conditions.

Allowed exclusions:

- Troubles which locate in another network.
- Troubles which locate on the customer's side of the demarcation point.
- Trouble which are the result of inappropriate customer action.
- Time during which access to the demarcation point is denied.

Timing starts with the time the trouble is reported to the designated trouble reporting facility and ends when service has been restored to the customer. Clock hours are to be used in determining the respective intervals with no exclusions for week ends, evenings or late night hours.

Benchmark:
An average of thirty (30) hours, or less, for repair service.

Failing benchmark level for two (2) consecutive months constitutes a *jeopardy condition,* requires immediate reporting and a corrective action plan to be filed with the report.

Failing benchmark for three (3) consecutive months constitutes a *noncompliance condition* and requires immediate reporting with an updated corrective action plan.

Quality of Service
Reporting Detail

Percent (%) Appointments met:

This indicator, along with Average Report Intervals, is intended to provide a broad gauge indication of responsiveness to the customer and is applicable whether personnel were dispatched to the customer's premises, or not. This indicator is to include both retail and, if applicable, wholesale service.

This indicator applies to all POTs Installation and Repair activity, whether premise visits are required or not. It is intended to reflect the "on time" aspect of meeting customer commitments.

Allowed appointment exclusions:

- Marketing/Sales calls.
- Appointment made for reasons other than providing service.

Appointment expectation times should be adjusted when requested by the customer or with the prior agreement of the customer.

Benchmark:
Ninety percent (90%), or greater, of all appointments met on time.

Failing benchmark level for two (2) consecutive months constitutes a *jeopardy condition,* requires immediate reporting and a corrective action plan to be filed with the report.

Failing benchmark for three (3) consecutive months constitutes a *noncompliance condition* and requires immediate reporting with an updated corrective action plan.

Report to be forwarded the KCC, not later than
the 20th of the month following each calendar quarter.

Attachment B
Docket No. 95-GIMT-047-GIT

Monthly
Quality of Service
Report to the KCC

Company: _____
Reporting Year:_____

Indicator	Reference	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
CTRs/100 Lines	A-1												
% RTRs	A-2												
Average Repair Interval	A-3												
% Appointments Met	A-4												
Jeopardy Condition?	Yes/No												
Noncompliance Condition?	Yes/No												
Condition Exempt?	Yes/No												

(May, 2008)

Signed_____

Title_____

9-2

KANSAS
CORPORATION COMMISSION

Mark Parkinson, Governor
Thomas E. Wright, Chairman
Michael C. Moffet, Commissioner
Joseph F. Harkins, Commissioner

Telecommunications Industry Overview

Presentation on behalf of the Kansas Corporation Commission
Janet Buchanan, Utilities Division Deputy Director
Before the Senate Utilities Committee
January 14, 2010

Telecommunications Industry – Early Years

For most of the 20th century, the telecommunications industry was divided between the Bell System (companies owned by or affiliated with AT&T) and the Independents (companies not affiliated with AT&T). While the Independents covered more geographic area, the Bell System served the majority of lines throughout Kansas and the nation. Because it was believed that telecommunications service was a natural monopoly (one firm can serve customers more efficiently than many competing firms because of economies of scale), these companies were the sole supplier of the local telecommunications services in their certified territory. AT&T provided most of the long distance lines at that time. At this time, the telephone companies also owned the lines and equipment on a customer's premises. This industry structure led to high service quality and nearly universal service (high penetration/subscribership). Regulation was imposed to protect consumers from the potential for exploitation inherent with a monopoly. Regulation was enforced at both the state and federal level with the state responsible for monitoring local and intrastate long distance service and the federal regulator responsible for monitoring interstate long distance service.

Early regulation focused on apportioning costs to local and long distance services. Long distance calls were likely to travel along the lines of several companies so a method of cost allocation was developed to determine how much equipment/property is utilized in a long distance call. The profit generated from long distance calls was then divided up among the carriers in proportion to the property for each that had been determined was related to long distance use. This process was referred to as separations and settlements. The process was influenced by a desire to encourage subscribership by keeping local rates affordable. As technological improvements were made, the cost of long distance facilities decreased and profits increased. Rather than allowing long distance rates to fall, the regulators required long distance carriers to provide a greater portion of its profits to the settlement process. It has been said that as much as 40% of the revenue produced by a long distance call went to the local company. All of this was accomplished within a rate-of-return regulation environment similar to that utilized for energy companies. A telecommunications carrier filed an application for rate changes when it believed it was no longer earning an acceptable return for its investors.

Senate Utilities Committee
January 14, 2010
Attachments 3-1

By the 1970's the industry began to change. New carriers began to offer long distance service in competition with AT&T. Telephones no longer had to be rented from the customer's local company. Computers were making inroads into services that had been provided by electromechanical switches owned by the local phone company. All of these changes complicated the separations and settlements process and led to many lawsuits and attempts at regulatory changes. A major change came in 1982 when AT&T and the Department of Justice entered into a consent decree to end a long antitrust suit. Under that decree, AT&T agreed that it would divest itself of all of the regional Bell Telephone companies (what would become known as a Bell Operating Company (BOC)) but would keep research divisions, Yellow Pages, and all assets related to long distance service. AT&T would be free to enter into any type of business but could not buy stock or assets of a BOC. A BOC could provide only local service as a regulated natural monopoly and provide access to all interLATA long distance providers.

The Federal Communications Commission (FCC) eventually recognized that these major industry changes required a new cost recovery scheme. In 1983, the FCC proposed that consumers pay a flat rate charge associated with the interstate portion of the local loop while long distance companies reimbursed local companies for the actual cost of providing the origination or completion of a call. These were to be called access charges. However, there was much concern that a flat charge for consumers would lead to lower subscribership and states challenged the FCC's authority to impose charges on local service. Eventually a much lower flat rate charge was agreed to and went into effect in 1984 and 1985. Yet, the lower flat rate meant that the access charges paid by long distance companies still contained a subsidy.

Telecommunications Industry – 1996 to Present

By the mid-1990s more technological changes had occurred and it was believed that competition could be introduced into the local market bringing consumer benefits as it had for the long distance consumer. On February 8, 1996, the Federal Telecommunications Act (FTA) was signed into law. It ushered in a new era for the telecommunications industry and new role for government regulation of that industry. That same year, the Kansas Legislature enacted the Kansas Telecommunications Act (KTA) to promote competition in local markets. While many carriers desired to enter into the local market, some local carriers sought permission to enter into the interLATA long distance market. The FTA also contained provisions for such entry.

Both the FTA and KTA required Commission action to achieve the goals of the policy changes. In implementing provisions of the FTA and KTA, the Commission has been guided by the public policy declaration in K.S.A 66-2001. In brief, this statute declares it to be the policy of the state to ensure all Kansans have access to quality telecommun-ications services at an affordable price; ensure all Kansans realize the benefits of competition through improved service at reduced rates; promote access to a full range of telecommunications services, including advanced services at comparable rates in urban and rural areas; and protection of consumers from fraudulent business practices and practices inconsistent with the public interest. In developing a competitive market for local telecommunications services, both the KTA and the FTA emphasized maintaining

universal service. In implementing provisions of the KTA and FTA, the Commission has also been guided by this principle.

State of Competition

The FTA and KTA required the Commission to implement policies to advance competition. Over the years, interpretations of the FTA have varied and policies decisions of the FCC have been altered and required states to modify their implementation schemes. Decisions by the Courts have also modified the policy direction given to states. As policy has developed over the years, the types and number of competitors has shifted. At this time, the cable based providers are the most prevalent land-line competitor. At the national level, cable based providers serve 31% of the total number of lines served by competitive carriers and 71% lines served by facilities-based competitive carriers.[1] At the same time, wireless service has become more prevalent and long distance service is on the decline. Broadband technology is allowing a new mode of provisioning telecommunications using internet protocol. This method of provisioning is referred to as Voice over Internet Protocol (VoIP). Below are brief statistics illustrating the status of competition.

a. Land-line Carriers

As of October 30, 2009, the Commission has authorized 129 competitive local exchange carriers (CLECs) to provide local telephone service in the exchanges of ATT and CenturyLink. The number of CLECs has been larger in prior years; however, as conditions for entry into the local market have changed, many CLECs have exited the market. For those that remain, Annual Reports filed with the Commission indicate that approximately 64 CLECs were actually serving customers in Kansas. Of those CLECs, 12 were facilities-based providers providing service entirely over their own facilities, 25 resold the services of the incumbent local exchange carrier (ILEC), 11 were providers utilizing a commercial agreement, and another 16 provided service via a combination of resale, facilities-based modes of provisioning, and commercial agreements. Of the ten CLECs serving the most lines in Kansas, seven are facilities-based providers.

While the number of land-line competitors has declined, the CLECs that remain have gained market share over the years. The most recent data from the Federal Communications Commission (FCC) indicate that by June 31, 2008, CLECs served 28% of the local market in Kansas compared with 19% nationwide.[2] As illustrated by the chart below, the FCC's data indicate that the CLECs' share of the market in Kansas has increased, nearly consistently, since 2001.

CLEC Share of End User Access Lines[3]

	June 2001	June 2002	June 2003	June 2004	June 2005	June 2006	June 2007	June 2008
Kansas	8 %	12 %	21 %	22 %	25 %	24 %	25 %	28 %
Nationwide	9 %	11 %	15 %	18 %	19 %	17 %	18 %	19 %

[1] Local Telephone Competition: Status as of June 30, 2008, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, Released July 2009, Table 5.
[2] Id., Table 7.
[3] Id., Table 8.

The number of interexchange service providers authorized by the KCC to offer intrastate (long distance or toll) service in Kansas was 290, as of October 30, 2009. While once there were over 400 carriers certified to offer service in Kansas, changes in technology have led consumers to turn to alternative means of long distance communication.

b. Wireless Carriers

One of those alternative means of long distance communication is wireless communications. According to the FCC, there are over 2 million subscribers to wireless service in Kansas. FCC data reveal that wireless subscribers have increased by 9% from June 2007 and by 158% since June 2001.[4]

Kansas Wireless Subscribers[5]
(11 Carriers Reporting)

	June 2001	June 2002	June 2003	June 2004	June 2005	June 2006	June 2007	June 2008
Kansas	901,225	1,061,171	1,195,230	1,345,160	1,659,662	1,905,342	2,133,399	2,326,444

The Commission's authority over wireless carriers is limited to collection of assessments for the Kansas Universal Service Fund (discussed briefly below) and requirements for those that have been designated as carriers eligible to receive federal or state universal service fund support. Therefore, the Commission has limited data on wireless carriers. According to universal service fund contribution data, there are 43 wireless carriers (including those that provide only paging services), providing service in Kansas.

It should be noted that wireless service is increasingly becoming a substitute for land line voice service. A recent study by the Centers for Disease Control (CDC) indicates that approximately 21% of households use only wireless service.[6] Other data on wireless usage from the CDC indicate:

> Two in five adults renting their home (40.9%) had only wireless telephones. Adults renting their home were more likely than adults owning their home (12.8%) to be living in households with only wireless telephones.
>
> Nearly half of adults aged 25-29 years (45.8%) lived in households with only wireless telephones. More than one-third of adults aged 18-24 (37.6%) and approximately one-third of adults aged 30-34 (33.5%) lived in households with only wireless telephones.

[4] Id., Table 14.
[5] Id., Table 14.
[6] Blumberg SJ, Luke JV. Wireless substitution: Early release of estimates from the National Health Interview Survey, January-June 2009. National Center for Health Statistics. December 2009. Available from: http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless200912.pdf

> As age increased from 35 years, the percentage of adults living in households with only wireless telephones decreased: 21.5% for adults aged 35-44; 12.8% for adults aged 45-64; and 5.4% for adults aged 65 and over. However, [ ] the percentage of wireless-only adults within each age group has increased over time.[7]

c. VoIP

Because the Commission's jurisdiction over VoIP providers is uncertain and limited the Commission has little data on the number of VoIP providers in Kansas. To implement the statutory requirement to collect universal service fund assessments from VoIP providers, the Commission has relied on information self-reported by carriers or collected by the FCC to identify providers serving Kansas customers. Nineteen carriers self-reported the offering of VoIP services in Kansas while the FCC data indicate there are an additional 61 carriers that may offer service in Kansas.

Interconnection/Wholesale Regulation

At this time, the Commission's involvement in interconnection issues and wholesale regulation is primarily limited to the review and approval of contracts (known as Interconnection Agreements) that govern the relationship between two carriers and hearing complaints about whether carriers have violated provisions of the contracts. From time to time, the Commission is called upon to arbitrate when carriers are not able to reach an agreement on one or more of the provisions that are typically included in an Interconnection Agreement.

One aspect of these contracts that receives much attention is compensation for handling various types of traffic. Over the years, different compensation schemes have been developed for different types of traffic – long distance, wireless, VoIP, etc. However, the function provided for each is quite similar. As these services compete with each other, carriers have been pressing the FCC to address intercarrier compensation. It is expected that the FCC will attempt to address the proper level of compensation owed carriers for the origination and termination of various types of traffic. When this occurs, it will likely require the Commission to take action.

Eligible Telecommunications Carriers

In fostering competition, the FTA and KTA permit competitive carriers to receive universal service support if they meet certain requirements. The Commission has been responsible for determining whether carriers meet such requirements and for monitoring whether such carriers use the support they receive in an appropriate manner.

To be designated as an eligible telecommunications carrier (ETC) and receive universal service support, a carrier must, throughout the service area for which the designation is received,– (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of the Federal Act[8], either using its own facilities or a combination of its own

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[7] *Id.*

[8] 47 C.F.R. § 54.101(a) identifies the services or functionalities that shall be supported by federal universal service support mechanisms. The applicant must provide all of the following services that are designated for federal support: (1) voice-grade access to the public switched network; (2) local usage; (3) dual-tone multi-frequency

facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and (B) advertise the availability of such service and the charges therefore using media of general distribution. Federal law, 47 U.S.C. § 214 (e)(2), states that "Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and *shall*, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission."

In evaluation whether granting an ETC designation is in the public interest the Commission has adopted analysis used by the FCC. The Commission requires carriers to demonstrate the following:

- Benefits of Increased Competitive Choice
- Ability to Provide the Supported Services Throughout the Designated Service Area Within a Reasonable Time Frame
- Impact of Multiple Designations on the Universal Service Fund
- Unique Advantages and Disadvantages of the Competitor's Service Offering
- Commitments Made Regarding Quality of Telephone Service Provided By Competing Providers

The Commission also requires an ETC applicant to demonstrate that it has sufficient back-up power to remain functional without external power in emergency situations, is able to reroute traffic around damaged facilities, and can manage emergency traffic spikes. Further, each applicant is required to file two-year service quality improvement plans demonstrating progress, including maps and if targets were not met an explanation of why on an annual basis.

To date, the Commission has found that eighteen carriers met requirements to be designated as ETCs in order to receive USF support and nine of those eighteen carriers are eligible to receive KUSF support. Three of the eighteen ETCs are eligible to receive only federal low-income (Lifeline) support.

In determining that an ETC has used support appropriately, the Commission requires ETCs to file data and narrative each year explaining how support was used and indicating where support was spent. As a result of this review, the Commission has required an audit of one ETC to conduct a more in-depth review of whether support has been used appropriately. The company is required to submit its filing by February 15, 2010.

The FCC has determined that the USF support determinations need to be revisited. For at least a temporary basis, the FCC has placed a cap on the amount of support a competitive carrier can receive in a particular area. This may discourage additional companies from seeking ETC designation. The FCC's actions in this matter may also affect the support available to ILECs and if so, will likely require the Commission to make changes to KUSF support. A separate discussion is planned for USF and KUSF issues and this will be addressed in more detail at that time.

("DTMF"); (4) single-party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange services; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers.

Price Deregulation

When enacted in 1996, the KTA contained provisions to allow price cap regulated carriers to seek price deregulation of services. The KTA required the Commission to develop a means by which price cap carriers could transition toward price deregulation and gave it the discretion to price deregulate within an exchange area, or on a statewide basis, any individual service or service category when it found that there was a telecommunications carrier or an alternative provider providing a comparable product or service, considering both function and price, in that exchange area. K.S.A. Supp 2000 66-2005(p). This led to several proceedings before the Commission to provide guidance on the evidence that would be needed to support an application for price deregulation and applications for price deregulation.

In 2006, the Legislature adopted changes to the price deregulation provisions of the KTA. The Legislature determined that price deregulation could occur for all bundles of services in all exchanges served by price cap regulated carriers throughout the state. For exchanges with greater than 75,000 access lines, residential and business lines could also be price deregulated. For smaller exchanges, the price cap regulated carrier would have to demonstrate that there are two or more nonaffiliated telecommunications carriers or other entities, that are nonaffiliated with the local exchange carrier, providing local telecommunications service to a certain class of customers (business or residential) regardless of whether the entity provides local service in conjunction with other services in that exchange area. One of such nonaffiliated carriers or entities must be a facilities-based carrier or entity and not more than one of such nonaffiliated carriers or entities may be a provider of commercial radio services in that exchange. To protect consumers, the Legislature required that Lifeline service and stand-alone access lines[9] remain under price cap regulation. In recognition that competitors may serve only a portion of an exchange, the Legislature required the price deregulated company to offer a uniform rate for services throughout an entire exchange. In addition, Commission is required to file a report in February of every year monitoring the price changes in price deregulated exchanges. The Commission may resume price cap regulation when the conditions for price deregulation no longer exist within an exchange.

Fifty-five exchanges have been price deregulated under the terms of the statute. All fifty-five exchanges are served by ATT. Three exchanges served by ATT (Kansas City, Topeka, and Wichita) have 75,000 or more access lines and were automatically deemed price deregulated on July 1, 2006, pursuant to statute. Forty-three exchanges have been price deregulated for both business and residential services following a demonstration by ATT that the requirements of K.S.A. 66-2005(q)(1)(C) and (D) had been met for each of the exchanges. Additionally, two exchanges have been price deregulated for only business services following a demonstration by ATT that the requirements of K.S.A. 66-2005(q)(1)(C) had been met, and seven exchanges have been price deregulated for only residential services following a demonstration by ATT that the requirements of K.S.A. 66-2005(q)(1)(D) had been met.

Universal Service

To ensure universal service, both the KTA and FTA contain provisions to develop universal service funds. Those funds are known as the Kansas Universal Service Fund (KUSF) and the

[9] The stand-alone access line could have additional features such as long-distance or discretionary services that were not purchased as part of a bundle and remain under price cap regulation.

Universal Service Fund (USF). The funds provide telecommunications carriers with support for providing service in high cost areas and service to low-income consumers. Support is also available for telecommunications services provided to educational and medical institutions and for telecommunications relay services. The FTA allows states to develop their own universal service funds as long as the funding policies are consistent with those of the federal fund.

A separate presentation is being planned to provide you with information related to KUSF and USF support. In general, the KUSF support for providing service in high cost areas was formed to replace revenue lost by incumbent carriers as a result of access charge reform. Over time, the Commission has conducted reviews in an attempt to ensure that support provided to incumbent carriers is reflective of their cost of providing service. Support is also available to competitive ETCs. Lifeline support has been made available to provide assistance to low income consumers. Support is provided to fund telecommunications relay services and to provide assistance for consumers needing specialized telephone equipment. Support is also provided for a distance learning network Kan-Ed.

Broadband

There has been much desire by both the Legislature and national leaders to expand the reach of broadband services to more rural areas. In Kansas, customers in rural areas served by independent ILECs have seen broadband deployed more rapidly than customers in rural areas served by ATT or CenturyLink. The more rapid deployment by independent ILECs has primarily been fueled by the greater amount of USF support received by these carriers. While the Commission has no jurisdiction over the provisioning of broadband service, over the years the Commission has taken advantage of opportunities to encourage ATT and CenturyLink to deploy broadband and has negotiated more rapid deployment of broadband services to areas of the state than otherwise may have occurred.

With the passage of the American Recovery and Reinvestment Act, grants are available for the deployment and mapping of broadband services, as well as for programs that will encourage adoption of broadband services. The Kansas Department of Commerce has taken the lead in the broadband mapping effort and in developing criteria for evaluating broadband deployment proposals.

Along with several other states, the State of Kansas, through the Department of Commerce, has contracted with Connected Nations, a non-profit company specializing in the creation and maintenance of maps and data files, to assist with the creation of data files and mapping of broadband availability down to the street address level. The State of Kansas was recently awarded a $2 million matching grant to fund this effort.[10] The final map is expected to be completed in February, 2010. Currently, Connected Nation reports that 42 of the 81 identified broadband service providers have executed the necessary nondisclosure agreements and that those providers have submitted the requested data. A 'substantially complete' map is scheduled for availability on January 15, 2010. 'Substantially complete' is defined as at least 71% of the service providers responding with acceptable data. Not later than February 14, 2010, a completed mapping product is due with data from additional service providers and with

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[10]. Department of Commerce Press Release, dated November 30, 2009.

interactive capabilities.

Below is data collected by the FCC on broadband availability:

Number of High-Speed Service Providers, by Technology, as of June 30, 2008[11]

State	ADSL	Cable	Other *	Total No. Unduplicated Providers	Change from 6-07
Kansas	38	26	81	86	+ 5
Missouri	44	18	84	92	+ 4
Oklahoma	39	10	76	77	+ 5
Colorado	30	13	59	73	+ 9
Nebraska	34	16	57	68	+ 3

The data indicate that Kansas has attracted 86 broadband service providers (a gain of 5 from December 2007) and compares favorably with adjacent states.

High-Speed Lines (in service) by Technology, as of June 30, 2008[12]

Kansas:	ADSL	Cable	Other *	Total
- 6/07	216,800	351,371	309,940	869,111
- 6/08	240,921	380,063	442,936	1,063,920
% of Total	22.6%	35.7%	41.6%	
National:				
- 6/07	27.5M	34.4M	38.3M	100.2M
- 6/08	30.0M	38.1M	64.7M	132.8M
% of Total	23%	29%	49%	

* Other includes wire-line technologies other than ADSL, fiber optics to the subscriber's premises, satellite, terrestrial wireless systems, power lines, etc.

The data indicate that the technology mix in Kansas is consistent with national deployment trends. Between June 2007 and June 2008, the number of ADSL lines in Kansas increased by 11%, broadband over cable subscribers increased by 8%, and the number of broadband lines served by other technologies increased by 43%. The overall annual growth rate for Kansas was 22%. This was less than the overall growth rate for the nation as a whole which was 32%. There was substantially more growth in the "other" category on a nationwide basis than in Kansas.

[11] High-Speed Services for Internet Access: Status as of June 30, 2008, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, Released July 2009, Table 8.
[12] Id., Table 9.

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