Approved: February 15, 2010
Date

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Pat Apple at 1:30 p.m. on February 2, 2010, in Room 548-S of the Capitol.

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

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

Conferees appearing before the Committee
Coleen Jennison, Cox Communications
Steve Rarrick, Citizens' Utility Ratepayer Board
David Wilson, AARP Kansas

Others attending: See attached list.

KCC provided additional information about Federal Universal Service Fund support which was requested at the briefing. (Attachment 1)

Chair continued hearing on:
SB 384 Modifying requirements for telecommunications carriers and allowing local exchange carriers to elect to be regulated as telecommunications carriers.

Neutral
Coleen Jennison, Cox Communications, voiced approval for the new language that protects interconnection rights for their customers and for the other changes worked into the bill. (Attachment 2)

Opponents:
Steve Rarrick, Citizens' Utility Ratepayer Board (CURB), voiced opposition to **SB 384** for several reasons which he elaborated upon. These included (1) price deregulates small rural exchanges without any showing of competition in those exchanges; (2) eliminates the existing annual price increase cap; (3) eliminates the carrier of last resort obligations; (4) place Kansas Lifeline, elderly and low income customers at risk for price increases; (5) eliminates minimal internet access requirements; (6) eliminates tariff filing requirements; and (7) eliminates published telephone directories. (Attachment 3)

David Wilson, Volunteer State President for AARP Kansas, stated that AARP opposes **SB 384** because it will allow telephone companies to raise rates for service for which there is little competition, eliminate necessary consumer protections, and fail to provide a positive benefit for consumers. (Attachment 4)

Written only testimony from: Theresa Gorenc, Philips Healthcare (Attachment 5)
Shannon Jones, SILCK (Statewide Independent Living Counsel of Kansas) (Attachment 6)

Chair opened for questions. Committee questioned purpose of carrier of last resort, quality of service required, printing of phone books, consumer price index.

Chair requested AT&T and Centurylink to provide information on similar legislation in other states, number of deregulated exchanges and related data.

The next meeting is scheduled for February 3, 2010. The meeting was adjourned at 2:30 p.m.
Respectfully submitted,
AnnMcMorris
Committee Assistant
Attachments - 6

SENATE UTILITIES
COMMITTEE GUEST LIST
FEBRUARY 2, 2010

NAME	REPRESENTING
Clare Gaslin	Sunflower Electric Power
Shirley Allen	KRITC
Jim Gardner	AT&T
DAN JACOBSEN	AT&T
Nelson Krueger	SureWest
John Idoux	CenturyLink
Mari Tucker	Commerce
Bill Sneed	AT&T
Ernie Kutzley	AARP
Dave Wilson	AARP
LES PEPPERSCHMIDT	AT&T
Christine Aarnes	KCC
Mike Scott	AT&T
Bryan Dey	AT&T
Patrick Fucik	Sprint
TOM DAY	KCC
Mick Urban	ONEOK
Whitney Damron	Pixius

SENATE UTILITIES
COMMITTEE GUEST LIST
FEBRUARY 2, 2010

NAME	REPRESENTING
Barb Conant	KDOA
DINA FISK	VERIZON

KANSAS
CORPORATION COMMISSION

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

February 1, 2010

The Honorable Senator Pat Apple
Chairman, Senate Utilities Committee
State Capitol
300 SW 10th
Topeka, KS 66612

Dear Senator Apple:

During the briefing on the Kansas Universal Service Fund (KUSF) provided to the Senate Utilities Committee (Committee), additional information about Federal Universal Service Fund (USF) support was requested. Attached you will find the amount of USF support received by states surrounding Kansas. In addition, Table 3.14 from The Universal Service Monitoring Report 2009 which is prepared by the Federal-State Joint Board on Universal Service is attached. Table 3.14 provides the total amount of high-cost support each state has received in each year from 1998 to 2009.

Please do not hesitate to contact me if you need additional information. I can be reached at 785-271-3132 or c.aarnes@kcc.ks.gov

Sincerely,

Christine Aarnes
Sr. Managing Telecommunications Analyst
Kansas Corporation Commission

Senate Utilities Committee
February 2, 2010
Attachments 1-1

2009 USF Support for Kansas and Surrounding States

Kansas	$251,934,906
Colorado	$79,192,353
Iowa	$144,674,313
Missouri	$106,476,060
Nebraska	$118,157,223
North Dakota	$107,231,616
Oklahoma	$145,831,608
South Dakota	$92,760,103

Table 3.14
Total High-Cost Support Payments by State or Jurisdiction
(Dollars)

State or Jurisdiction	1998 Total	1999 Total	2000 Total	2001 Total	2002 Total	2003 Total	2004 Total	2005 Total	2006 Total	2007 Total	2008 Total	2009 Total
ALABAMA	38,830,293	36,318,951	88,214,302	93,882,843	99,862,304	92,281,837	100,839,113	109,415,152	113,140,070	111,668,488	107,802,118	122,808,426
ALASKA	64,131,034	67,816,605	70,315,653	74,543,499	79,758,279	90,253,444	100,070,063	115,799,908	145,248,282	160,123,106	162,184,003	183,299,385
AMERICAN SAMOA	0	124,410	473,151	458,928	875,238	1,230,722	1,860,943	1,605,792	2,333,386	3,154,546	3,986,405	4,378,014
ARIZONA	32,845,473	31,174,674	35,577,804	49,905,596	61,391,530	68,081,699	80,199,519	74,272,132	82,119,338	72,358,416	69,855,863	69,299,244
ARKANSAS	68,338,557	73,247,163	71,691,402	75,398,793	101,091,641	113,093,878	134,304,295	142,419,813	130,665,392	125,873,723	153,518,285	154,146,972
CALIFORNIA	52,643,600	49,657,305	64,070,553	82,347,999	86,528,021	92,182,679	95,239,532	96,958,458	107,387,687	102,923,871	104,936,273	106,446,132
COLORADO	43,928,578	43,789,464	53,761,542	62,003,540	66,831,777	76,528,120	83,298,668	80,767,560	80,625,597	81,471,226	80,705,842	79,192,353
CONNECTICUT	1,212,720	958,953	952,617	1,192,074	1,506,436	2,242,663	2,445,617	2,066,227	1,728,025	531,111	179,514	383,889
DELAWARE	0	0	199,512	385,947	373,665	320,397	266,283	259,146	260,862	245,499	212,709	214,443
DISTRICT OF COLUMBIA	0	0	0	0	0	0	0	0	0	0	0	0
FLORIDA	20,036,950	18,547,026	49,781,316	84,627,004	85,609,445	80,109,504	83,780,751	89,369,266	82,583,590	85,524,910	77,293,408	76,076,631
GEORGIA	74,656,229	71,765,064	79,228,268	91,334,696	110,244,701	116,564,412	107,428,208	116,176,184	116,414,004	116,117,400	134,163,665	117,926,859
GUAM	1,006,872	2,321,256	3,169,872	2,318,838	2,326,686	5,955,731	9,578,015	17,213,836	17,872,329	12,294,445	16,228,695	15,247,671
HAWAII	286,766	1,472,913	2,403,015	5,348,833	7,010,380	9,967,573	14,138,556	28,350,975	40,864,410	52,896,115	61,859,402	60,557,967
IDAHO	28,885,473	29,219,598	35,787,777	44,531,158	49,013,604	51,909,601	53,012,454	54,675,971	51,763,751	55,153,724	53,898,384	53,583,906
ILLINOIS	22,589,490	38,898,339	31,342,473	39,137,373	48,484,898	55,082,865	57,479,322	63,229,442	62,542,311	62,515,190	71,015,843	76,648,143
INDIANA	16,278,436	17,058,453	30,488,022	42,060,071	47,141,468	53,161,533	55,473,147	58,933,950	65,393,506	71,519,974	73,993,802	75,148,425
IOWA	25,990,409	25,802,260	30,643,488	35,299,664	43,893,980	70,438,242	82,571,252	94,130,147	106,907,968	121,428,819	133,140,998	144,674,313
KANSAS	59,007,494	64,603,071	67,053,729	81,025,797	94,416,663	111,477,724	129,565,850	177,040,354	187,879,951	214,932,319	221,254,616	251,934,906
KENTUCKY	24,460,486	19,501,563	29,807,009	36,026,757	57,147,036	59,773,467	72,026,073	84,212,630	97,750,226	97,550,399	104,088,377	105,033,964
LOUISIANA	65,332,257	63,648,414	72,467,664	80,748,606	87,583,016	91,029,193	102,251,432	112,924,381	130,076,788	160,027,936	160,335,002	155,277,492
MAINE	18,175,357	18,968,121	32,099,073	30,927,750	29,496,861	30,558,142	30,021,020	31,139,393	36,179,311	33,633,937	32,449,519	30,111,717
MARYLAND	569,028	596,790	2,580,717	4,657,430	4,704,481	3,451,702	2,936,899	4,179,408	4,358,435	4,362,041	4,072,032	3,982,881
MASSACHUSETTS	489,687	641,841	1,285,080	1,657,924	1,340,972	2,120,262	2,493,872	2,996,316	2,744,122	2,459,524	2,365,158	2,382,495
MICHIGAN	31,188,240	34,738,875	39,393,036	40,442,672	45,278,445	45,932,407	49,208,767	55,160,750	59,344,260	64,854,909	63,996,479	72,899,919
MINNESOTA	37,439,032	41,442,858	48,130,605	49,793,043	65,892,881	80,638,979	94,331,448	111,480,537	120,860,253	130,116,153	133,963,672	132,713,694
MISSISSIPPI	26,793,296	26,773,044	132,785,751	141,139,843	170,586,927	170,300,475	187,668,196	211,359,992	275,151,217	280,228,119	289,125,788	293,746,351
MISSOURI	47,215,940	50,654,082	65,568,381	73,681,087	84,316,081	92,171,760	91,063,244	85,043,865	86,455,786	98,112,105	110,530,257	106,476,060
MONTANA	42,065,201	43,346,418	45,254,916	51,694,230	62,832,464	66,314,404	72,153,213	75,020,609	79,559,829	77,243,076	79,317,201	88,109,431
NEBRASKA	19,868,058	21,377,097	23,729,919	26,378,585	31,464,331	44,359,887	49,170,267	56,206,098	81,585,469	105,205,928	113,688,896	118,157,223
NEVADA	10,462,430	10,994,325	15,066,537	22,847,013	23,263,410	30,132,348	27,752,367	29,354,979	30,497,616	29,042,016	27,823,000	28,118,172
NEW HAMPSHIRE	8,487,987	8,506,026	8,489,304	9,433,625	11,898,687	11,384,021	9,372,836	9,635,647	9,601,228	8,631,484	8,661,616	11,027,148
NEW JERSEY	2,976,024	993,234	3,688,155	6,020,140	3,491,193	1,533,302	1,442,797	1,539,962	1,227,378	1,135,549	1,017,831	1,191,435
NEW MEXICO	33,552,080	34,527,114	37,100,202	41,421,404	46,431,624	50,546,709	50,765,871	57,790,231	64,165,443	69,447,908	65,224,103	83,412,366
NEW YORK	35,363,672	37,395,060	51,532,557	59,942,192	56,182,579	51,833,733	49,813,885	53,342,314	51,016,905	51,794,670	47,654,132	50,452,848
NORTH CAROLINA	40,762,084	31,719,741	33,997,699	38,944,285	55,742,932	71,561,647	80,269,482	81,819,989	80,486,465	83,433,203	78,268,577	98,276,742
NORTH DAKOTA	21,101,916	21,703,062	25,437,877	28,584,627	31,744,152	51,015,952	53,815,998	69,259,871	78,220,518	82,844,673	93,504,969	107,231,616
NORTHERN MARIANA ISLANDS	4,236,713	5,529,978	3,257,226	3,594,740	3,526,267	1,652,912	774,314	756,372	997,404	1,525,769	721,554	1,512,549
OHIO	14,040,836	15,056,667	19,503,900	29,246,406	33,911,495	38,248,134	40,738,649	41,303,165	42,214,454	40,615,823	39,973,311	37,571,370
OKLAHOMA	59,502,768	58,345,860	67,401,390	76,622,223	85,828,129	106,243,999	102,948,779	116,300,414	121,917,187	130,264,800	144,935,663	145,831,608
OREGON	35,755,689	36,809,835	47,354,850	60,851,409	67,392,263	70,843,149	70,173,166	69,355,504	73,134,145	80,098,383	83,954,986	85,032,099
PENNSYLVANIA	22,169,364	21,611,712	28,472,919	35,438,459	42,712,402	55,174,266	58,649,426	64,920,844	66,677,866	59,218,410	54,335,132	56,550,252
PUERTO RICO	138,864,798	133,459,656	141,441,540	117,948,741	96,548,538	99,628,150	81,411,184	93,286,381	131,986,212	160,755,159	215,608,607	0
RHODE ISLAND	0	0	25,686	96,477	60,198	46,491	56,457	44,472	34,734	30,948	31,182	34,776
SOUTH CAROLINA	44,424,832	40,003,113	46,068,145	55,646,667	71,350,010	79,517,759	78,116,203	78,767,113	81,997,705	80,813,393	92,472,129	98,570,670
SOUTH DAKOTA	16,924,254	19,478,967	22,225,041	23,913,594	32,350,962	48,565,139	61,761,535	76,679,926	86,499,182	94,431,924	95,246,188	92,760,103
TENNESSEE	27,395,910	28,449,801	34,482,177	40,735,155	46,355,893	52,880,294	54,745,975	54,225,036	53,949,478	52,130,759	55,820,981	62,407,026
TEXAS	123,089,671	118,600,308	138,101,139	167,709,390	189,183,733	213,580,058	230,333,036	218,775,407	233,670,072	246,442,621	259,684,504	273,566,631
UTAH	9,928,920	10,178,430	12,535,251	14,109,453	18,079,066	23,912,518	22,675,062	23,078,606	23,330,557	22,481,859	20,447,417	22,879,134
VERMONT	12,539,982	11,248,704	26,244,471	22,593,331	25,804,315	28,139,515	30,190,850	34,062,049	33,276,893	31,053,039	29,084,069	23,974,437
VIRGIN ISLANDS	16,199,322	22,973,160	23,786,676	25,253,094	27,525,044	26,869,011	25,972,598	27,342,021	23,937,558	22,877,075	21,128,755	18,764,301
VIRGINIA	12,440,891	12,837,387	38,477,018	64,489,462	69,908,969	76,629,730	78,676,247	87,642,156	80,590,605	79,086,817	74,587,099	83,707,074
WASHINGTON	40,942,959	43,165,287	53,885,595	77,047,992	78,046,801	80,293,879	87,913,564	96,427,134	106,838,157	95,146,571	77,042,021	99,882,603
WEST VIRGINIA	24,421,006	22,991,175	63,450,822	72,163,053	80,465,705	78,449,420	68,461,541	67,753,862	70,575,878	63,278,616	65,324,638	63,337,110
WISCONSIN	49,669,554	50,982,323	54,591,597	58,828,744	68,576,370	90,947,275	98,420,976	132,122,102	137,066,607	141,690,680	146,357,066	153,811,551
WYOMING	20,786,386	25,954,848	29,896,680	35,195,050	41,610,883	48,070,187	58,246,866	58,240,617	56,100,513	56,225,348	58,714,064	56,389,558
INDUSTRY	1,690,305,004	1,717,980,381	2,234,771,101	2,591,627,306	2,934,995,831	3,265,232,900	3,468,375,683	3,796,234,466	4,109,806,915	4,289,024,506	4,477,785,800	4,457,152,083

Source: Universal Service Administrative Company filings to the FCC.

Note: Payments shown here are the sums of payments shown in Tables 3.6 through 3.13.

931 SW Henderson Rd.
Topeka, KS 66615
785.215.6700 **tel** 785.215.6127 **fax**
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Senate Utilities Committee
SB 384 Testimony
Coleen Jennison, Director of Government Affairs
Cox Communications
February 2, 2010

Mr. Chairman and members of the committee thank you for holding this hearing and for allowing me the opportunity to present our views regarding this legislation. Cox Communications is neutral on SB 384.

It was very interesting last week listening to Cindy Lash's recap of the telecom legislation that has been passed over the years. Specifically Senate Sub for HB 2728 passed in 1996 which set out as one public policy objective "ensuring that Kansans realize the benefits of competition."

That same bill set out obligations of Local Exchange Carriers. The Telecommunications Act of 1996 required that ILECs give competitive local exchange carriers (CLECs) access to their existing networks. This access can be accomplished in three different ways: the CLEC may purchase and resell local telephone services at wholesale rates, lease elements of the ILEC's network on an unbundled basis, and interconnect its own facilities with the ILEC's network.

In 2005 I offered testimony before the Senate Utilities Committee outlining Cox's answer to the call of competition. Cox began offering telephone service in Wichita in March 2003 and subsequently the surrounding areas. Ours is a facilities based Competitive Local Exchange Carrier (meaning we build and utilize our own separate infrastructure). Cox has always paid into E911 and the Kansas Universal Service Fund, even before legislation required it. We now offer telephone service in every one of the 85 Kansas communities we serve.

But as much as things change, some things remain the same. In order for our customers to have their calls go through – we must be able to interconnect with the Incumbent Local Exchange Carrier (ILEC).

Senate Utilities Committee
February 2, 2010
Attachments 2-1

To that end, we appreciate the willingness of ATT to work with us to incorporate language into SB 384 that will protect those interconnection rights.

Specifically we requested the addition of language that clarifies the ILEC will continue to have interconnection obligations under 251 and 252 of the Telecommunications Act, even if the Carrier of Last Resort (COLR) obligations are removed and regardless of the technology used to provide service. Additionally, we required that the Kansas Corporation Commission will be able to enforce those state and federal laws with regard to interconnection. (Page 14, lines 15 – 25)

SB 384 also provides for the relief of the COLR requirement. Cox believes that should the ILEC be relieved of its COLR obligation in a service area, it would be anti-competitive to pass that obligation to another non-ILEC carrier in that service area. If the ILEC is relieved of the COLR obligation in a service area, it must be assumed that the competitive conditions exist such that there is no need for a COLR provider in that service area. (Page 14, lines 26 – 28)

An additional change that Cox requested was to firm up the language relating to the printing of telephone directories and the requirements to provide those directories under the interconnection agreements should the electing carrier be relieved of their obligation to publish, issue, or distribute dated, paper printed copies of telephone directories. (Page 14 line 43, Page 15 lines 1 – 13)

Again, Cox is neutral on this bill with the incorporated changes. I appreciate the opportunity to testify and will stand for any questions.

2-2

Citizens' Utility Ratepayer Board

State of Kansas
Mark Parkinson, Governor

David Springe, Consumer Counsel
1500 S.W. Arrowhead Road
Topeka, Kansas 66604-4027
Phone: (785) 271-3200
Fax: (785) 271-3116
http://curb.kansas.gov

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By Steve Rarrick, Staff Attorney
Before the Senate Utility Committee
Re: Senate Bill 384
February 1-2, 2010

Chairman Apple and Members of the Committee:

Thank you for the opportunity to appear before you this afternoon on behalf of the Citizens' Utility Ratepayer Board (CURB) to testify in opposition to Senate Bill 384. My name is Steve Rarrick and I am an attorney with CURB.

CURB opposes Senate Bill 384 because the bill:

- ✓ Price deregulates small rural exchanges without any showing of competition in those exchanges.
- ✓ Eliminates the existing annual price increase cap tied to the consumer price index for residential and small business basic local service.
- ✓ Abandons Kansas and federal universal service goals by eliminating the carrier of last resort obligation, yet still allows universal service subsidies.
- ✓ Places Kansas Lifeline, elderly, and low income customers at risk for any resulting price increases.
- ✓ Eliminates minimal internet access requirements.
- ✓ Eliminates tariff filing requirements.
- ✓ Eliminates published telephone directories.

Janet Buchanan with the Kansas Corporation Commission (KCC) recently provided the Committee with a historical perspective of telecommunications, including the history of price deregulation in Kansas. However, her presentation failed to mention the price deregulation docket filed by AT&T (formerly Southwestern Bell) and fully litigated in 2005. In that docket, extensive evidence and testimony was presented regarding whether sufficient and sustainable competition existed in the State's three largest exchanges (Kansas City, Topeka, and Wichita) to justify price deregulation. For the majority of AT&T's services, the KCC determined that sufficient and sustainable competition was not present, and declined AT&T's request for price deregulation for the majority of its services, including residential and single line business service.

Notwithstanding the KCC's determination, the 2006 legislature price deregulated the Kansas City, Topeka, and Wichita exchanges (exchanges with over 75,000 access lines) with no evidence of increased competition. The 2006 legislation changed the rules for price deregulation in all other exchanges, eliminating the requirement of sufficient and sustainable competition for comparable services. To obtain price deregulation, a local carrier must now merely *demonstrate that two unaffiliated carriers, one which is facilities-based, provide local service to more than one customer in* *the exchange*. Under this much lower threshold, AT&T has price deregulated the majority of its service lines in Kansas. Importantly, the 2006 legislature wisely included an annual price cap for basic residential service and up to four business lines for small business service based on the consumer price index for all rural consumers. The legislature also required exchange-wide pricing to prevent price differences outside the footprint of the local cable telephone provider.

We're not here today because customer preferences are shifting to broadband. We're here today because AT&T is not satisfied with the ease in which it has obtained price deregulation for the vast majority of its total lines in Kansas, and wishes to eliminate the remaining critical consumer protections for residential and small businesses. The critical consumer protections eliminated in this bill are described below:

- <u>The bill price deregulates small rural exchanges without any showing of competition in those exchanges</u>. The bill eliminates all pretence of demonstrating the existence of competition in an exchange to obtain price deregulation.
  - In recent applications for price deregulation, AT&T has failed to demonstrate that *two competitors actually served two customers in the exchange,* and as a result the KCC denied price deregulation in those exchanges. CURB participated in those dockets to ensure consumers were provided the protections contained in the current statutory standard. Understandably, AT&T is unhappy with not achieving price deregulation in those exchanges, and anticipates continued difficulty demonstrating that *two carriers serve just two customers* in its remaining regulated rural exchanges.
  - Under this bill, AT&T seeks to avoid any required showing of competition in its remaining rural exchanges to achieve price deregulation. This bill requires no competitive presence to achieve price deregulation in those small rural exchanges, but would deregulate AT&T statewide merely because it has achieved price deregulation for the majority of its lines *in other (larger) exchanges.* Customers in the numerous small rural Kansas exchanges shown in blue on the map provided by KCC Staff will find no comfort in learning their exchanges were deregulated under this bill simply because there were competitive options in larger exchanges.
  - Moreover, the bill doesn't distinguish between residential and business lines. Traditionally and under current law, a local carrier must show competition for residential service to price deregulate residential service, and competition for business service to price deregulate business service. This bill doesn't distinguish between business and residential service, but simply deregulates all services simply because the carrier has achieved price deregulation for the majority of its lines in the State.
- <u>The bill eliminates the existing annual price increase cap tied to the consumer price index for residential and small business basic local service</u>. The bill eliminates the remaining price protection for basic local service in deregulated exchanges under current law.
  - Basic residential service and up to four business lines will no longer be protected by the current annual price increase cap that is tied to the consumer price index for all rural consumers,[1] which has limited the increases AT&T could make.
  - Without this annual cap tied to the consumer price index, price increases will be made. In California, AT&T raised basic residential service prices 22% this year and 23% last year, and that's under current regulatory limits. In 2011, AT&T will have no limits on basic residential

[1] K.S.A. 66-2005a(q)(1)(F). CURB sought and supported this cap in deregulated exchanges on annual price increases to basic residential service and up to four business lines – tied to the consumer price index for all rural consumers.

service in California. Since California deregulated vertical services in 2006, significant price increase for vertical services have occurred, including price increases of 345% for an unlisted number, 226% for directory assistance, and 85% for call waiting.
  - If the Committee goes forward with this bill, CURB urges you to amend the bill to include the existing annual price increase cap for basic residential and up to four business lines tied to the consumer price index for all rural consumers. That protection has prevented AT&T from significantly raising those rates over the past several years. If you pass this bill without providing an annual price increase cap, there will be no price protection to Kansas residential and small business customers for basic phone service.
- The bill abandons Kansas and federal universal service goals by eliminating the carrier of last resort obligation, yet still allows universal service subsidies.
  - The bill will allow the electing carrier to simply offer new or existing customers wireless or VoIP service with the service quality and reliability problems associated with those technologies.
  - The bill eliminates the obligation to run wireline service to new homes or developments.
  - The bill does not prohibit AT&T from discontinuing traditional wireline service to existing consumers and offering VoIP or wireless as an alternative.
  - While retaining KCC service quality standards, the KCC will have no ability to resume price regulation if the electing carrier fails to meet them.
  - There is no requirement that the voice service provided by the electing carrier is functionally comparable to wireline circuit switched service. Examples of concerns in this area include:
    - Unlimited local calling. While the monthly charge for the alternative technology voice service may be the same as AT&T's wireline service, the usage charges for calling beyond a designated monthly usage allotment will result in unaffordable rates for some consumers.
    - Actual voice quality problems associated with wireless service. Wireline phone service remains clearer and rarely disconnects.
    - Reliability concerns during times of power outages.
    - Access to 911 services. While 911 services have improved for wireless and VoIP, neither are as reliable as wireline 911 services.
  - If the market is truly competitive and an electing carrier will no longer have carrier of last resort obligations to provide traditional landline voice service, then why should that carrier continue to receive any further universal service support? The carrier of last resort responsibility imposed by State law on incumbent carriers is a key justification for continuing universal service support. If AT&T no longer has the carrier of last resort obligation to provide traditional wireline voice service, then AT&T should no longer receive federal and State universal service support.
- The bill places Lifeline, low income, and elderly customers at risk for any resulting price increases. While the bill may still require AT&T to continue to provide Lifeline service, Lifeline customers will be negatively impacted by this legislation because a recent KCC decision changed the way Lifeline is provided. The current Lifeline discount no longer insulates low income customers from price increases,[2] so price increases resulting from this bill will directly impact Lifeline customers, as well as other elderly and low income customers.
- The bill contains an illusory and ineffective price cap for rural exchanges. The provision at page 14, lines 32-39, providing that until July 1, 2015, *standalone* residential service in rural exchanges may not be priced higher than urban exchanges, is meaningless since without the current annual cap tied

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[2] In KCC Docket No. 07-GIMT-1353-GIT, the KCC abandoned the "hold harmless" basis for Lifeline support which insulated lifeline customers from rate increases. Under the current "equal credit" approach, Lifeline customers receive the same Lifeline credit (currently $7.77), which leaves them at risk to local rate increases.

to the consumer price index, AT&T will be able to raise the price in urban exchanges (and therefore rural exchanges as well). In addition, this provision raises several additional concerns:

- First, why don't exchanges with between 2,500 and 75,000 lines receive the same urban price ceiling? Are the consumers in Dodge City, Garden City, Hutchinson, Junction City, Lawrence, Manhattan, McPherson, Salina, and other mid-size exchanges less deserving of the urban exchange price ceiling than rural AT&T exchanges?
- In addition, why is there no similar price ceiling for small businesses with up to four business lines? Are Kansas small businesses no longer deserving of the price protection provided in current law?[3]
- Finally, why does this bill use the term "standalone" residential service? By using the term "standalone," this limited price ceiling could be interpreted to apply only to residential service subscribed without any ala cart vertical services. This is inconsistent with other provisions of current law that provides a price increase cap for the "initial" residential local exchange access line and up to four business local exchange access lines, even if subscribed with vertical services such as caller ID.

- The bill eliminates minimal internet access requirements. The bill will eliminate current law requiring local exchange carriers to meet minimal statutory standards for providing internet access under K.S.A. 66-2011.
- The bill eliminates tariff filing requirements. The bill eliminates existing requirements to file tariffs or to file individual case basis contracts with the Commission. Instead, an electing carrier is only required to post service terms on public websites or at company locations accessible to the public. Consumers without internet access will find it difficult to access the terms of their contracts with AT&T if this provision is passed.
- The bill eliminates published telephone directories. The bill eliminates the requirement for electing carriers to issue telephone directories. Consumers, especially those who still don't have access to the internet, continue to rely upon published telephone directories.

While the KCC may not be testifying for or against this bill, it should be noted that the KCC had extensive discussions with AT&T regarding its proposal. However, the KCC refused to publicly disclose documents in its possession that reflected its discussions with AT&T, including draft testimony provided by AT&T to the KCC, communications to and from AT&T, and Staff recommendations to Commissioners regarding AT&T's deregulation proposal. It is disturbing that the KCC believes it is appropriate to meet and communicate in secret with a regulated utility about deregulation legislation the regulated utility is proposing.

On behalf of CURB, I urge you to vote against passage of Senate Bill 384. However, should the Committee decide to proceed with the bill, CURB urges you to retain the annual cap on price increases for basic residential and up to four business lines tied to the consumer price index for all rural consumers. In addition, CURB urges you to amend the bill to require as a condition of deregulation under this bill, that any electing carrier voluntarily decline to receive any further federal and State universal subsidies.

[3] K.S.A. 66-2005a(q)(1)(F). *See,* Senate Bill 384, p. 8, lines 30-41.

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February 2, 2010

The Honorable Pat Apple, Chair
Senate Utilities Committee

SB 384 – AT&T Deregulation – Carrier of Last Resort

My name is Dave Wilson and I am the Volunteer State President for AARP Kansas. Thank you for this opportunity to express our comments on SB 384. AARP opposes SB 384 because it will allow telephone companies to raise rates for service for which there is little competition, eliminate necessary consumer protections, and fail to provide a positive benefit for consumers.

AARP has more than 359,000 members living in rural and urban Kansas who rely on phone service to meet basic needs. SB 384 will disproportionately impact AARP members and other aged 50-plus Kansans, as well as all lower income households who rely on basic stand alone telephone service. Telephone communication is a basic necessity that allows older people to maintain social contact, preserve health and safety, and gain assistance in an emergency. Even as more people use wireless phones and "cut the cord", people age 65 and older are more likely than any other age group to have traditional wireline telephone service. Older households (age 65 and older) spend about twice as much of their income (4 percent) as younger households (2 percent), just to use the average amount of telephone service.

Basic Local Phone Service is Not Competitive

SB 384 is premised on the notion that a competitive market exists that could keep a lid on price increases and ensure consumers continue to have access to service. We do not agree. Residential customers have a limited choice of providers, especially in rural areas. And the choices available to residential customers exist only for consumers who are interested in purchasing a package of multiple services, such as phone service with additional features, including video and Internet. Those who rely on stand alone basic

Senate Utilities Committee
February 2, 2010
Attachments 4-1

service have little or no price-comparable options. While some wireless carriers may be marketing their service as a competitive local service alternative, and some consumers are "cutting the cord," the high majority of consumers use wireless much more as a supplement to, not an alternative for, wireline local service. Research suggests that about 17.5% of consumers have cut their wireline cord, with most of these being age 30 or under. In contrast, only 2.8% of persons aged 65 and older live in households with only wireless phones. It's important to bear in mind that, in contrast to basic local telephone service, wireless service is generally more expensive, the service quality is not nearly as good, and consumers are charged for incoming as well as outgoing calls.

Similarly, Voice over Internet Protocol (VoIP) service is not a true competitor to basic local phone service either. VoIP is inherently more expensive than local telephone service, since a consumer must first have and pay for a monthly broadband connection in order to subscribe to VoIP. Consumers also have to put up with additional hassles that are not an issue for wireline subscribers, such as the risk that VoIP service will not function during a power outage, a nuisance that does not happen with wireline service.

SB 384 Will Result in Rate Increases

SB 384 removes the price cap on basic local service that is tied to the CPI. We are confident that rates will increase if this bill passes because that's just what has happened in other states that have adopted similar measures. A 2008 survey conducted by the National Association of State Utility Consumer Advocates found rate increases in all but two of the surveyed jurisdictions (no rates were reduced). These rate increases ranged from $2-$3.22 per month for basic service to increases as high as 185% for non-basic services (which include features such as Caller ID and Call Waiting). Last month AT&T raised basic service rates in California by 22% following a 23% increase in 2009. Charges for non-basic service also increased by as much as 226%. A news story regarding the California price increases is attached.

SB 384, if passed, will hit low-income Lifeline customers especially hard. The Lifeline discount that is meant to keep phone service affordable for lower income households reduces phone bills by applying a discount to the current rate. The discount does not rise as phone bills increase. As basic service rates rise, the discount will become less significant and we expect that even Lifeline rates will become unaffordable for some consumers.

Rates in rural parts of the state will almost certainly rise after 2015. Prior to that time an electing carrier must price stand-alone basic service in rural areas no higher than in urban parts of the state. While this ceiling on rural states is somewhat meaningless without the rate cap, it nonetheless assures rural Kansans their rates won't increase more than in urban areas. However, after July 1, 2015 this price protection for rural Kansas expires.

SB 384 Eliminates Necessary Consumer Protections

SB 384 reduces information available to customers about terms and conditions of their service (p. 13, line 6). The bill removes the requirement that carriers file tariffs, which are publicly available documents about price, terms and conditions of service. Terms and conditions of service are essential information for consumers about company-imposed conditions on service, such as billing periods, late fees, change notices and early termination fees. The bill would require that phone companies make such information available only on the company website OR at a location accessible to the public. Typically, as is the case with wireless service for example, once a customer signs up for service they receive a copy of the terms and conditions of service at the point of sale or in the mail. Under this provision of SB 384 the customer will have to have access to a computer and the Internet in order to find the terms of service information. As an alternative to posting on the website, a company could make the information available at one of their offices, making it even more difficult for consumers to access.

SB 384 eliminates the "carrier of last resort" obligation (p. 14, line 11). Carrier of last resort (COLR) is a protection that has existed for decades, which ensures that consumers will always have access to telecommunications service. SB 384 removes the COLR obligation and replaces it with a requirement that the "electing carrier" provide only voice service with "any technology". Any technology could presumably include wireless or even broadband service. However, there would be no control over the price of this back up voice service. Consumers could be left without access to viable or affordable phone service. Meanwhile, the state's phone companies would continue to receive hundreds of millions of dollars of universal service support, yet have no obligation to provide anything in return.

SB 384 will eliminate the delivery of a printed white pages directory (p. 14, line 43). Consumers continue to rely on the white pages for information about phone numbers. The alternatives to the white pages—accessing numbers online or paying for directory assistance, are either unavailable or unaffordable for many consumers. Older consumers in particular are not used to using the Internet for access for phone numbers. A significant portion of Kansans still do not have access to the Internet at home. The other option, calling 411 for a fee, will pad company coffers while increasing costs to consumers.

<u>SB 384 Provides No Benefit for Consumers</u>

SB 384 allows phone companies to raise rates and at the same time reduces their obligations to customers. There is nothing in the legislation that could be considered a benefit to consumers. There is no benefit in getting less information, receiving less service (no more white pages) or losing COLR protection while continuing to pay into the universal service fund AND having no protection against rate increases.

<u>Conclusion</u>

The deregulation permitted in this bill is not justified by current market conditions and will have a detrimental impact on consumers, especially those who are on lower and fixed incomes. If this bill passes it will allow incumbent carriers to price basic service at any level, despite the lack of competitive alternatives. Even as prices rise, consumers will get less for their money—no carrier of last resort protections, no white pages directory and reduced access to information about their own service. Our members and others who rely on basic service are sure to see significant price increases. AARP urges you to vote against SB 384. At a minimum, the current cap on price increases for basic local service should be maintained and the COLR obligation should not be eliminated unless there is a corresponding reduction in the electing company's draw from the universal service fund.

Thank you for your time.

4-5

latimes.com

DAVID LAZARUS

Getting hung up on basic phone rate increases

David Lazarus

January 27, 2010

AT&T customers saw their monthly rate for basic residential phone service jump 22% this month to $16.45. The increase followed a 23% rate hike last year.

And you know what? That's the good news.

The bad news is that, beginning in January 2011, AT&T and other phone companies will be permitted to jack up basic rates as much as they want -- no regulatory limits will apply.

"If you want to know what will happen then, look at how much their rates went up for directory assistance and call waiting and other services that were deregulated in 2006," said Denise Mann, who oversees telecom matters for the California Public Utilities Commission's consumer-watchdog division.

"It will make your head spin like Linda Blair," she said.

That's putting it mildly. AT&T's charge for an unlisted number has soared more than 345% since rates were deregulated four years ago, from 28 cents to $1.25, according to the PUC's Division of Ratepayer Advocates.

The company's charge for directory assistance has climbed 226%. The cost for call waiting is up 85%.

So far, however, rates for basic residential service charged by AT&T, Verizon and other phone companies have remained under state regulators' control.

Regulators threw a bone -- a small one -- to consumer advocates during the deregulation process. Rate increases for basic phone service were temporarily limited to no more than $3.25 a year. Basic service includes local and 911 emergency calls.

"For the working poor, keeping residential service affordable can make all the difference," Mann said. "This was the one thing that we really worked hard to protect. We laid our bodies on the tracks for this."

Beginning next year, however, all bets are off. "The sky's the limit," Mann said.

AT&T is already off to a flying start. It has raised the cost for basic phone service more than 50% over just two years.

Gordon Diamond, an AT&T spokesman, said this month's rate hike "represents only the second time in 16 years AT&T has increased its rate for basic phone service."

That's one way of looking at it. Another is that the state froze the rate for basic phone service for most of that time, so AT&T hit customers with double-digit increases in both years it was allowed to do so.

Diamond said the higher rates reflect changes in the cost of living over the 14 years that rates were frozen.

If so, AT&T has overcompensated just a tad. The consumer price index rose about 45% from 1994 to 2008, according to the federal government's Bureau of Labor Statistics.

Diamond declined to say whether AT&T's costs for providing basic phone service rose by a commensurate amount over the period. Nor would he speculate on what the company will do next year, when its regulatory leash is removed.

For its part, Verizon boosted its charge for basic residential service last year to $19.91 monthly from $17.66, or about 13%. The company says it has no plans for another rate hike this year.

"We feel this is the right rate," said Jon Davies, a Verizon spokesman.

He too declined to speculate on what might happen when the regulatory cap disappears next year. "That's too far ahead," Davies said.

When the PUC voted in 2005 to deregulate most phone rates, it said the California telecom market was sufficiently competitive to justify leaving phone companies to their own devices.

The thinking was that market forces would safeguard consumers by pushing prices lower. That hasn't happened.

"Market forces have not yet met the challenge of controlling price increases," the Division of Ratepayer Advocates concluded in a 2008 report. It called for prices to be regulated until officials get a better fix on whether people can afford basic service.

So far, it doesn't seem like the industry-friendly PUC is in any hurry to help consumers.

Down in flames

At least one state lawmaker believes phone customers should be given fair warning before rates go through the roof.

Sen. Fran Pavley (D-Agoura Hills) introduced a bill that would have required at least 60 days' notice of changes to phone customers' service, and for the changes to be featured prominently on monthly statements -- not unreasonable requirements.

So what happened?

The Senate Energy, Utilities and Communications Committee voted down the legislation this month.

Pavley told me that AT&T and Verizon lobbied aggressively to torpedo the measure, arguing that it would be, well, too much hassle to have to provide more than the currently required 30 days' notice or to make changes to their bills.

AT&T's Diamond said phone companies "simply explained why the bill was not necessary."

Verizon's Davies echoed that sentiment. "Sixty days seems kind of excessive," he said. "And apparently the members of the committee felt the same."

Pavley said the phone companies cited PUC data showing that hardly anyone has complained about the telecom giants' notification procedures.

"I just have to wonder how many people know who to complain to," Pavley said, "or even that they have a right to complain. This bill was intended to help protect consumers."

Sen. Ellen Corbett (D-San Leandro) was the sole committee member to vote in favor of the legislation.

Voting against the bill were Chairman Alex Padilla (D-Pacoima), Vice Chairman Bob Dutton (R-Rancho Cucamonga), Dave Cox (R-Fair Oaks), Jenny Oropeza (D-Long Beach), Joe Simitian (D-Palo Alto), Tony Strickland (R-Thousand Oaks) and Roderick Wright (D-Inglewood).

Abstaining were Christine Kehoe (D-San Diego) and Alan Lowenthal (D-Long Beach).

Keep these folks in mind the next time you think your phone company is pulling a fast one on you.

David Lazarus' column runs Wednesdays and Sundays. Send your tips or feedback to david.lazarus@latimes.com.

PHILIPS

February 1, 2010

Committee on Utilities
Kansas State Senate
Chairman Pat Apple

Chairman Apple and Senate Committee,

On behalf of Philips Lifeline, Philips Remote Patient Monitoring, and Philips Telehealth Services, I am submitting testimony to oppose SB 384. These three businesses, part of Philips Healthcare, provide telehealth, telemonitoring, and personal emergency response services (PERS) to patients in Kansas, allowing elders and those with chronic conditions to remain in their homes.

As states continue to struggle with providing quality medical care to meet increasing healthcare needs, they must also assess solutions that consider the current economic environment. Services, such as remote monitoring and PERS, help states save costs by keeping patients out of acute care facilities and nursing homes. Through the use of telecommunications- based medical alerts, patients have immediate access to medical professionals who are able to intervene before acute care is required. In the case of PERS systems, elders are able to keep their autonomy while still having a line of communication to emergency services in the event of a fall or other adverse event.

These services rely on secure landline service to guarantee expeditious communication between the patient and the provider. For this reason, Philips Healthcare opposes the changes proposed in SB 384, which would have a devastating impact on our ability to provide reliable services in the state. The provisions set forth in SB 384 would create a difficult hardship on the elderly, low income patients, and those who reside in rural areas where cell phone service is slim to non-existent. Additionally, it would negatively impact patients without access to computers or internet service. Furthermore, in order for the services above to operate, adaptive equipment must be affixed to a hard line.

Phone companies could choose to opt out of consideration as a provider of last resort, leaving entire service areas without access to hard lines. In areas of limited reception, cell phone service or voice over internet service is an unacceptable alternative for a hard line. SB 384 would allow phone companies the authority to make this determination without consideration of how this could impact the essential medical services described above.

The passage of SB 384 would put Kansas' elderly and most vulnerable populations at risk of losing access to valuable medical services. For this reason, we ask the Senate Committee on Utilities to oppose this bill. Should you have any further questions, please feel free to contact Theresa Gorenc at 202-962-8568. Thank you for your consideration.

Sincerely,

Theresa Gorenc

Senior Manager, State Government Affairs- Healthcare

Statewide Independent Living Council of Kansas **SILCK**
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Testimony to Senate Utilities Committee

In Opposition to SB 384

February 2, 2010

Thank you for the opportunity to speak in opposition to SB 384.

My name is Shannon Jones. I am the director of the Statewide Independent Living Council of Kansas, (SILCK). The SILCK envisions a world in which people with disabilities are valued equally and participate fully. To realize that vision, the SILCK works closely with the 12 Centers for Independent Living to provide five core services that promote productivity and economic self sufficiency to people with all types of disabilities of any age.

It appears that SB 384 would allow phone carriers to deregulate eliminating caps on single line residential services. Right now these phone carriers are the carrier of last resort. If this bill passes, it would mean that phone carriers would no longer have to provide single land or hard line service to people. Phone carriers could abandon lines in rural areas, not provide hard line service or demand that people use cell phone service or internet services to folks who currently use land lines.

This would have serious impact on low income seniors and people with disabilities-especially those on fixed incomes, and rural Kansans who have poor cell reception and limited or no internet options would face a great hardship. As you probably know there are large areas of KS that don't have reliable cell phone coverage. You don't have to actually go to western KS for this to be a problem.

First to be harmed by this elimination of single land line usage would be individuals who use Life-Line type services, people who can't afford phones and have only 911 options, and large sections of KS where people can't get cell reception at home or can't afford to go to cell coverage and don't have internet options.

What about customers who are deaf or hard of hearing? The majority of these folks use telecommunication devices for the deaf & hearing impaired, such as TTD' & TTYs all land line users.

Other issues that have serious impacts:

- Kansans with cognitive disabilities who are living independently because of the support of Lifeline programs as well as some of the medical dispenser/monitoring services.

- Loss of reception in stormy weather for cell coverage and dropped calls, often when people need access to assistance

- Resistance of seniors to use of cell phones or internet access

- Seniors and persons with disabilities not able to afford computers or cell phones

- Current cell phones cannot support the accessibility features needed for many seniors and persons with disabilities; for example, an elderly woman in rural KS outside of Lakin uses a life line service that requires land line support. It has been set up with a switch button so her son with cerebral palsy can activate it if she is not able to do so. There is no cell phone reception at their house and her son would be unable to access any cell phones currently on the market. Voice dialing is not an option either.

- It's true android phones are getting closer on accessibility but there are pricey – out of reach for most persons with disabilities and seniors on fixed incomes.

- Accessible cell phones are particularly poor in the area of amplification – the most common need for KS seniors. Plus some seniors have found remembering to charge phones and learning basic operation to be challenging.

- Large button access with back lighting is the next most common feature and again an area of weakness for most cell phones.

- There's also finances. Many seniors and persons with disabilities rely solely on their Social Security benefits, not much, which as many of you know did NOT receive a COLA increase this year. Their household budgets are very tight, have only local phone service and use phone cards (those you can preprogram the numbers for them and it makes it very effective). Almost all cell phone plans are more expensive than local phone service only.

In conclusion, the SILCK urges the committee to oppose SB 384 and consider older Kansans and people with disabilities wanting to remain in their own homes with limited income but feel safe knowing they have reliable phone access.