SESSION OF 2008

SUPPLEMENTAL NOTE ON SENATE BILL NO. 469

As Amended by House Committee of the Whole

Brief*

SB 469 would amend existing law regarding carrier of last resort responsibilities; telephone service deregulation in certain areas; procedures for enrollment in the Kansas Lifeline Service Program; and designation of telecommunication carriers to receive federal Universal Service Fund support.

Carrier of Last Resort Responsibilities

The bill would relieve a local exchange carrier of its responsibility as carrier of last resort to occupants of real property if the owner or developer of the real property does any of the following:

- Permits an alternative service provider, during construction of the property, to install its local telecommunications services based on a condition of exclusion of the local exchange carrier; or
- Accepts incentives from an alternative service provider contingent on one or more alternative service providers providing local telecommunications service to the exclusion of the local exchange carrier; or
- Collects from occupants or residents of the real property mandatory charges for local telecommunications service provided by an alternative service provider, including collection through rent, fees, or dues.

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

A local exchange carrier that is relieved of its responsibility to provide local telecommunication services as a result of this provision would be required to notify the Kansas Corporation Commission (KCC) within 120 days. In addition, a local exchange carrier would be allowed to petition the KCC to be relieved of its responsibility as carrier of last resort for good cause.

If a local exchange carrier is relieved of its carrier of last resort obligations for the reasons described above, the owner or developer of the property would be required to provide all occupants and any subsequent owner of the property with the following information:

- The incumbent local exchange carrier does not have facilities installed to serve the property and has been relieved of its carrier of last resort obligations; and

- The name of the person that will be providing local telecommunications service to the property and the type of technology that will be used.

If the conditions described above cease to exist, and if the developer of the real property makes a written request for service, a local exchange carrier's obligation to serve as carrier of last resort would again apply. The carrier would be required to notify the KCC that it is resuming that obligation. The local exchange carrier would be allowed to require that the developer pay a reasonable fee, in advance, to allow the carrier to recover the costs that exceed the costs that would have been incurred initially. The KCC would be allowed to verify that the fee enables recovery of excess costs.

If an owner or developer of real property has an exclusive relationship with an alternative provider in telecommunication services, written notice must be provided to any purchaser of the property. The written notice must state that the local exchange carrier is excluded and that the alternative service provider is the exclusive provider of service to such property.

Telephone Service Deregulation

The bill also would amend existing law related to price regulations for basic local telecommunications service by removing the price cap for the initial residential telephone line and up to four business lines at a single location.

Lifeline Program Amendments

The bill also would amend existing law related to the lifeline service program. Local carriers that have been price deregulated would be required to automatically enroll in the program their customers who are eligible for lifeline services. Other carriers also may automatically enroll their eligible customers in the lifeline program. This enrollment would be based on a list of eligible customers provided to the companies by the Department of Social and Rehabilitation Services (SRS). The companies would enter into a confidentiality agreement with SRS prior to receiving customers' information. Customers would have to consent to the release of their personal information. Upon a customer's request, a carrier would have to discontinue the lifeline service.

Eligibility for Universal Service Fund Support

Finally, the bill would authorize the Kansas Corporation Commission (KCC) to approve a wireline service provider's application for eligible telecommunications carrier designation in nonrural service areas in order that the carrier may receive federal Universal Service Fund support equal to that received in the carrier's own service area.

Background

The bill was introduced at the request of Embarq Corporation. A representative of AT&T Kansas also testified in support of the bill at the Senate and House Committee hearings. The companies stated that it is financially impractical for them to provide telecommunications infrastructure as the carrier of last resort in a building or development where a developer has signed an exclusive arrangement with an alternative carrier for delivery of telecommunications services.

Representatives of the Kansas Cable Telecommunications Association and of the Citizens' Utility Ratepayer Board testified in opposition to the introduced bill.

The House Committee of the Whole amended the bill to require property owner developers who enter into exclusive arrangements with alternative telecommunication service providers to provide written notice of those arrangements to subsequent purchases of property. The House amendment also added to the bill provisions of HB 2637 as that bill passed the House. Those provisions include the telephone service deregulation, lifeline program amendments, and eligibility for universal service fund support.

The Senate Committee amended the bill to modify two of the conditions under which a local exchange carrier would be relieved of its responsibility to serve as carrier of last resort: they indicated that the process only would apply if it were mandatory that a resident pay for service provided by the alternative provider, and they deleted a provision that would have allowed relief if the developer entered into an agreement that restricted or limited the local exchange carrier's access to the real property. The Committee added a provision that would require a local exchange carrier to notify the KCC if the carrier resumed its carrier-of-last resort obligation, as well as a provision that would allow the KCC to verify that a fee charged by a local exchange carrier, upon resuming its role as carrier of last resort, would recover the costs that exceed the costs the carrier would have incurred initially. The Committee also made technical corrections to the bill.

The Senate Committee of the Whole amended the bill to place specific notification requirements on the owner or developer of a property for which a local exchange carrier has been relieved of its responsibility to serve as carrier of last resort for reasons cited in the bill. Specifically, the owner or developer would be required to notify all occupants and any subsequent owner of the property that the incumbent local exchange carrier does not have facilities installed to serve the property and has been relieved of its carrier of last resort obligations, and would be required to provide the name of the person that will be providing local telecommunications service to the property and the type of technology that will be used.

The fiscal note prepared by the Division of the Budget on the introduced version of SB 469 indicates that passage of the bill would have no effect on the state budget. The fiscal note prepared by the Division of the Budget for the introduced version of HB 2637 states that the bill would not have a fiscal impact on operation of either the KCC or the Citizen's Utility Ratepayer Board (CURB). The fiscal note states that CURB believes that deregulation of telephone service could result in higher rates for affected customers, but that automatic enrollment in KLSP would benefit low income customers.