

Comments of
Patti Petersen-Klein, Executive Director
Kansas Corporation Commission

Before the Senate Utilities Committee
Regarding FCC's Order on Reform of Universal Service and Intercarrier Compensation
January 24, 2012

Chairman Apple and Committee Members:

My name is Patti Petersen-Klein and I am the Executive Director of the Kansas Corporation Commission. Thank you for allowing me to appear before you this afternoon on behalf of the Commission. Our presentation is divided into two parts: First, I will be providing you with a summary of the Commission's efforts to review and implement the FCC's Order. Thereafter, Christine Aarnes, the Chief of Telecom at the KCC will be giving you a technical overview of the FCC's November Order on Reform of the Universal Service Fund and Intercarrier Compensations.

Shortly after stepping into my role in June of this past year, it became apparent that the Commission needed to be prepared to address three broad issues concerning the Kansas Universal Service Fund. It also needed a placeholder to collect all the Staff time being spent on these issues and assess the proper industry, Telecom, rather than generally assessing these costs across all industries. To those ends, I asked my Staff to prepare and present a report and recommendation to open a General Investigation Proceeding to address three issues:

- Review the impact of the FCC's reform on Kansas and the KUSF as necessary, including a review of the state's definition of universal service;
- Review the KUSF, pursuant to K.S.A. 66-2008(c), to determine if the costs of qualified telecommunications public utilities, telecommunications carriers and wireless telecommunications service providers to provide local service justify modification of the KUSF are prudent, including a review of the fund's performance against the policy objectives set forth in K.S.A. 66-2001; and,
- Address any findings from the pending audit of the KUSF third-party administrator in this proceeding. An audit of the two third-party administrators had not been performed for three years.

A copy of the Commission's Order issued on September 12, 2011 is attached. The Commission agreed that an investigation should be opened to explore changes needed to maintain a KUSF that would be consistent with the FCC's rules to preserve and advance universal service. The investigation would include a review of the definition of universal service that will consider the

impact of the FCC's USF and ICC reform efforts. The Commission determined it would also evaluate whether modification of the KUSF is justified under K.S.A. 2010 Supp. 66-2008(c), taking into account the policy objectives of the Kansas Telecommunications Act as articulated by the Legislature in K.S.A. 66-2001. And finally, the Commission also noted that findings from the KUSF audit would be examined to determine whether they should be addressed in this proceeding.

The FCC released its Order and Further Notice of Proposed Rulemaking on November 16, 2011. The document is voluminous – including the appendices, it is 759 pages. So as you can see, we were prepared 60 days ahead of the FCC's Order. Still, it is taking considerable time and resources to comprehend the ramifications of the Order. Christine and her team are fully engaged, as are the Commissioners. I authorized three sole source contracts—two with consultants - and expanded the budget of our FCC Counsel in Washington D.C., who filed comments on the KCC's behalf, and assisted Chairman Sievers with Ex Parte meetings with key FCC staffers. If you are interested in following the Commission's progress, the Docket Number is 12-GIMT-170-GIT. As the KCC Order indicates, issues may need to be reviewed in phases as they are ripe for consideration.

At this time it might be helpful for me to indicate where things stand procedurally at the KCC regarding our Docket. Noting that Commission staff and the industry had been reviewing this extensive FCC Order, on December 23, 2011, the Commission scheduled an informal industry conference to be moderated by the Commission staff on January 9, 2012, for the purpose of developing issues to be discussed in the proceeding and for the purpose of informal discussion and development of a procedural schedule. The parties developed a list of issues as a foundation for further identification and prioritization of issues. Comments addressing further identification of issues, prioritization of the issues and proposed procedures and timelines for addressing the issues as prioritized are to be filed with the Commission by March 1, 2012.

In the coming months, the Commission will be addressing the various issues raised and addressing the potential impacts of the FCC's Order on Kansas and the KUSF. I have a copy of the issues generated from the industry conference participants attached to my testimony. While it is not final, this list may assist you with the rest of your proceedings on this important matter.

Thank you for your consideration of these comments. I am available for questions at the appropriate time.

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Chairman Mark Sievers
Commissioner Ward Loyd
Commissioner Thomas E. Wright

In the Matter of a General Investigation into)
the Kansas Universal Service Fund pursuant) Docket No. 12-GINT-170-61T
to K.S.A. 2010 Supp. 66-2008(c).)

ORDER OPENING DOCKET, DESIGNATING PREHEARING OFFICER,
AND DIRECTING ACTIVE PARTIES TO FILE ENTRY OF APPEARANCE

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the files and being fully advised of all matters of record, the Commission summarizes the arguments of the parties and finds and concludes as follows:

1. Since 1934, universal service has focused on providing voice communications service to all Americans at reasonable charges. In early 2009, the United States Congress directed the Federal Communications Commission (FCC) to develop a National Broadband Plan (NBP) to ensure ubiquitous access to broadband services. In response, the FCC issued created and released the *Connecting America: The National Broadband Plan* on March 16, 2010. Under this proposal, the focus of universal service will change, reflecting the need for broadband infrastructure for many forms of communication, including voice communication.

2. Carriers throughout Kansas have received assistance in providing universal service to high-cost areas of the state and to low-income consumers through support received from both the federal universal service fund (FUSF) and the Kansas universal service fund (KUSF). The FCC's proposed NBP-related wireless/mobility, universal service and intercarrier compensation reform initiatives necessitates this Commission initiating an investigation to explore the impact of

universal service reform on Kansas and more particularly on the KUSF. The Commission has jurisdiction to initiate this investigation pursuant to K.S.A. 2010 Supp. 66-2008(c).

I. Background

3. The Kansas Legislature enacted the Kansas Telecommunications Act of 1996 (KTA), K.S.A. 66-2001, *et seq.*, in part, to promote telecommunications competition within the state. In K.S.A. 66-2001, the Legislature declared it is the public policy of the state to:

- (a) Ensure that every Kansan will have access to a first class telecommunications infrastructure that provides excellent services at an affordable price;
- (b) ensure that consumers throughout the state realize the benefits of competition through increased services and improved telecommunications facilities and infrastructure at reduced rates;
- (c) promote consumer access to a full range of telecommunications services, including advanced telecommunications services that are comparable in urban and rural areas throughout the state;
- (d) advance the development of a statewide telecommunications infrastructure that is capable of supporting applications, such as public safety, telemedicine, services for persons with special needs, distance learning, public library services, access to internet providers and others; and
- (e) protect consumers of telecommunications services from fraudulent business practices and practices that are inconsistent with the public interest, convenience and necessity.

4. As part of the KTA, the Legislature charged this Commission with establishing the KUSF on or before January 1, 1997.¹ This is the fifteenth year the KUSF has provided support to carriers with service territory in Kansas to ensure universal service is available in high-cost areas of the state, to provide dual-party relay service and telecommunications equipment for persons with disabilities, and to assist those with lower incomes through the Lifeline program. For the last several years, the KUSF has also provided funding for Kan-Ed, which benefits distance learning and public library services. Currently, the fund provides support of approximately \$65.7 million annually to fulfill the requirements for which the KUSF was established.²

¹ K.S.A. 2010 Supp. 66-2008.

² KCC Docket No. 11-GIMT-201-GIT, Direct Testimony of Sandra K. Reams, filed December 22, 2011, page 2.

5. Initially, KUSF support was used to replace lost access charge revenues with explicit, rather than implicit, support. In delegating to the Commission the responsibility to implement the KUSF, the Legislature also required that the fund be reviewed periodically to determine if the cost to provide local service by carriers eligible to receive such funds justified modification. In the event the Commission determined changes were needed, the Legislature directed the Commission to modify the KUSF accordingly.³

6. In addition to the KUSF, support for universal service in Kansas is provided from the FUSF. The most significant relationship between KUSF and FUSF involves support for high-cost service. In determining the amount of KUSF support that will be provided to an incumbent carrier, the Commission takes into account the amount of FUSF received by the carrier. For this reason, any change in FUSF support will have a direct impact on KUSF support.

II. Purpose of this General Investigation

7. Kansas currently ranks third in receiving high-cost support from the FUSF. In 2010, Kansas carriers received approximately \$256 million in federal high-cost support for service areas located in Kansas. From 1998 to 2010, Kansas carriers have received approximately \$1.9 billion in federal high-cost support for Kansas service areas.⁴ As a result of the large amount of FUSF high-cost support used for Kansas service areas, any changes in how this support is administered will directly impact the amount that is available for Kansas service areas.

8. In building on the NBP, the FCC issued a Notice of Inquiry (NOI) and Notice of Proposed Rulemaking (NPRM) Regarding the Connect America Fund (CAR) – A National Broadband Plan for our Future (the CAR NPRM), seeking comment on the use of a model to determine universal service support levels, on the best way to accelerate targeting of funding toward unserved areas, and on specific reforms to cap growth and cut inefficient funding in the legacy high-cost support mechanisms. In addition, the FCC issued a NPRM (the Mobility Fund NPRM) on October 14, 2010, concerning the development of a Mobility Fund and seeking

³ K.S.A. 2010 Supp. 66-2008(c).

⁴ Federal-State Joint Board on Universal Service Monitoring Report: Status through October 2010, released December 30, 2010, Table 3.14.

comment on using the FUSF “reserves” to improve mobile voice coverage and wireless broadband access to the Internet. To further its previously noted initiatives, the FCC released a Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking (NPRM) addressing reform of the FUSF to promote broadband deployment and of the Intercarrier Compensation (ICC) regime and requesting comments on a myriad of issues aimed at “[b]ringing robust, affordable broadband to all Americans.”⁵ The FCC seeks to fundamentally change the FUSF and ICC systems to eliminate waste and inefficiency and to reorient FUSF and ICC to meet the nation’s broadband availability challenge. Because the FCC views broadband deployment, FUSF reform, and ICC reform as interrelated, these issues were addressed in one NPRM.

9. The FCC recognizes that state regulators and the FCC share oversight responsibilities related to the FUSF and ICC.⁶ During the last 15 years, this Commission has implemented the KUSF and has addressed ICC issues within its jurisdiction to promote the goals of the KTA. Where required and/or applicable, the Commission has incorporated FCC policies to encourage competition within the telecommunications industry in Kansas. The FCC’s newest reform proposals will substantially affect Kansans and this Commission’s continuing implementation of the KTA.

10. Based upon its review of anticipated changes, the Commission’s staff (Staff) has recommended that, as the FCC revisits its definition of universal service and reconsiders the role of advanced networks in today’s world, this Commission undertake an evaluation of priorities for providing communication services throughout Kansas, including what policies are needed to promote these priorities and this state’s goals as defined in K.S.A. 66-2001. Staff has urged the Commission to open a proceeding to explore issues related to the KUSF. But Staff has recognized policy issues reviewed within this proceeding may be broad reaching and are not

⁵ Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking (NPRM), FCC 11-13, *rel.*, released February 9, 2011,, ¶ 1.

⁶ See, e.g., FCC USF-ICC NPRM dated February 8, 2011, *supra*, at ¶13: “We recognize that USF and ICC are both hybrid state-federal systems, and that reform will work best with the Commission and state regulators cooperating to achieve shared goals.”

interdependent. As a result, issues may need to be reviewed in phases as they become ripe for consideration. For now, Staff has recommended the Commission open this proceeding for the following four reasons:

(1) Staff believes the Commission will need to review the impact any FCC USF/ICC reform will have on Kansas and the KUSF, including a review of the state's definition of universal service.

(2) Staff believes it is prudent for the Commission to review the KUSF pursuant to K.S.A. 66-2008(c) to determine if the costs of qualified telecommunications public utilities, telecommunications carriers and wireless telecommunications service providers to provide local service justify modification of the KUSF. It is also prudent to review the fund's performance against the policy objectives set forth in K.S.A. 66-2001.

(3) Staff believes it is most efficient to address any findings from the pending audit of the KUSF third party administrator in this docket.

(4) The orderly progression of a docket where costs can be properly assessed is the most efficient, effective and transparent way for the Commission, as a whole, to address these issues exploring the KUSF.

11. The Commission agrees with Staff that a general investigation should be opened at this time in which the Commission will explore changes that will be needed to maintain a KUSF that is "not inconsistent with the [FCC's] rules to preserve and advance universal service."⁷ This investigation will include, *inter alia*, a review of the definition of universal service that takes into account the impact of any FCCUSF reform and ICC reform. In this review, the Commission will also evaluate whether modification of the KUSF is justified under K.S.A. 2010 Supp. 66-2008(c), taking into account the policy objectives of the KTA as articulated by the Legislature in K.S.A. 66-2001. At this time, the Commission is preparing to update audits of the KUSF third-party administrator and is aware the current administration contract expires June 30, 2012. Any findings from that audit will be examined to determine whether they should be addressed in this proceeding. The Commission finds it appropriate to open this docket. The costs of this proceeding will be assessed against all carriers or entities that contribute to the KUSF (i.e., ETCs, CLECs, IXCs, VOIPs and wireless), as discussed in a separate Order Assessing Costs that

⁷ 47 U.S.C. § 254(f).

accompanies this Order Opening Docket. Those carriers or entities shall be treated as parties to this proceeding and shall be served with this Order Opening Docket. As this docket progresses, the Commission may find it appropriate to include additional parties that might be impacted by the issues being explored in this proceeding.

III. Entry of Appearance and Electronic Service for Active Parties

12. The Commission anticipates carriers or entities that will want to be actively involved in this proceeding will be fewer than all carriers or entities being served with this Order. Active parties are those carriers or entities that desire to be involved in litigating issues that will be identified and explored in this general investigation. Only those entities that participate as active parties in this docket will be served with pleadings, testimony, briefs, and procedural orders as this proceeding progresses; only active parties will be given notice of and allowed to participate in hearings, roundtables, or other sessions that are scheduled in this proceeding. Those entities that desire to participate as an active party in this proceeding shall file an entry of appearance by September 30, 2011. Any carrier or entity that has been served with this Order but has chosen not to participate as an active party will not be served with pleadings, testimony, briefs and procedural orders during litigation of this docket. However, all entities being served with this Order will be served with any Commission decision that is a final order. Upon receipt of a Commission final order, an entity that chose not to actively participate in this docket will be allowed to petition for reconsideration, but the entity will not be allowed to introduce new issues inasmuch as it was given notice of the adjudicative proceeding with service of this Order but chose not to participate.⁸ If a carrier or entity did not previously enter its appearance in this proceeding but later desires to become an active party, that carrier or entity may do so by submitting an Entry of Appearance that states whether it is willing to receive electronic service and, if so, provides an email address for service, as discussed in ¶ 12.

13. The Commission urges entities that are involved as active parties to this proceeding consider agreeing to receive pleadings, testimony, briefs, and orders by electronic

⁸ See K.S.A. 77-617(c).

service without a hard-copy follow-up as required by K.A.R. 82-1-216(a)(6). Confidential papers will be served either electronically if confidentiality can be retained or by some other method acceptable to the parties, such as providing information on a compact disc. For entities agreeing to use electronic service, testimony, briefs, and other pleadings must be served electronically by 3:00 p.m. on the date due, without requiring service among the parties of a follow-up hard copy, but the original and at least seven paper copies of testimony, briefs, and other pleadings must still be filed in the Commission's docket room by close of business on the date of the deadline.⁹ Any electronic service without follow-up hard copies will specifically state in the electronic message that the electronic message constitutes service of the attached document and that a hard copy will not follow to make clear paper copies will not also be provided. Electronic service of testimony, briefs and other pleadings shall include service on the Prehearing Officer designated below at m.coffman@kcc.ks.gov.

VI. Confidential Information

14. In conducting this investigation, the Commission may at times seek information from parties that is confidential commercial information.¹⁰ The Commission recognizes that some information may be particularly sensitive due to the extremely competitive nature of this industry. If a party identifies information requested by the Commission as particularly sensitive due to competition in the industry, the Commission shall not disclose this information to anyone other than the Commission and members of the Commission's staff. The Commission will carefully consider whether disclosure is proper if anyone not approved by the party requests permission to allow inspect such information.¹¹

V. Prehearing Officer Designated

15. Although the Commission will conduct any evidentiary hearing in this docket, the Commission designates a prehearing officer to conduct any prehearing conferences that might be needed and to address any matters that are appropriately considered in a prehearing conference,

⁹ K.A.R. 82-1-215(a).

¹⁰ K.S.A. 2010 Supp. 66-1220a.

¹¹ K.S.A. 2010 Supp. 66-1220a(a)(3).

including all items listed in the Kansas Administrative Procedure Act (KAPA) at K.S.A. 77-517(b). These items include, for example, conversion of the proceeding to another type; recommending the opening or other dockets; exploration of settlement possibilities; clarification of issues; rulings on identity and limitation of the number of witnesses; objections to proffers of evidence; determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form, and the extent to which telephone or other electronic means will be used as a substitute for proceedings in person; order of presentation of evidence and cross-examination; discovery orders and protective orders; and such other matters as will promote the orderly and prompt conduct of the hearing. The Commission designates Martha J. Coffman, Advisory Counsel, 1500 SW Arrowhead Road, Topeka, KS 66604-4027, telephone 785-271-3105, email address m.coffinan@kcc.ks.gov, to act as Prehearing Officer in this proceeding.¹² The Commission, as it deems necessary, may designate other staff members to serve in this capacity.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The Commission hereby opens this investigation for the reasons discussed in this Order.

(B) Any carrier or entity that desires to participate as an active party in this proceeding shall file an Entry of Appearance by September 30, 2011, stating whether the party will agree to electronic service and providing an email address, as discussed in this Order.

(C) This Order will be served on all carriers or entities that contribute to the KUSF (i.e., ETCs, CLECs, IXCs, VOIPs and wireless). K.S.A. 66-1502.

(D) Parties have fifteen days from the date of service of this Order in which to petition the Commission for reconsideration of any matter decided herein. K.S.A. 66-118b; K.S.A. 2010 Supp. 77-529(a)(1).

(E) The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order or orders as it may deem necessary.

¹² K.S.A. 77-516; K.S.A. 2010 Supp. 77-551(c).

BY THE COMMISSION IT IS SO ORDERED.

Sievers, Chmn; Loyd, Com.; Wright, Com.

Dated: SEP 13 2011



ORDER MAILED SEP 13 2011

Patrice Petersen-Klein
Executive Director

mjc

ATTACHMENT 2
January 9, 2011 Industry Conference
1:00 p.m., Monday, January 9, 2012

Proposed Issues:

I. Issues for Briefing

A. Definition of universal service/enhanced universal service K.S.A. 66-2002(k).

1. To what extent is the KCC's general statutory authority to modify the KUSF limited by other constitutional or statutory authority?
2. Does the KCC have authority to adopt additional regulations to preserve and advance universal service? Does the Commission have the authority to review and redefine universal service and enhanced universal services?
3. In what specifics does the FCC's order explicitly mandate modification of any provision of state universal service funds, and do the provisions of the KUSF require modification in response to such mandate(s) (RLECs)
4. Should, and can, broadband be included as a universal service or enhanced universal service? Does the Commission have the statutory authority to do so?
 - a. Is Broadband an interstate service? If yes, is the KUSF an appropriate recovery mechanism?
 - b. Would this require every customer to have access to broadband, or would access only be required upon a firm customer order?
 - c. How would the definition and statutes need to be modified if broadband is included?
 - d. Other considerations: the KCC definition of basic services includes operator services and directory assistance as well as other functionalities not specified in the FCC requirements. Should the KCC modify/simplify its definition of basic (voice) service? Would other possible changes in the Commission's rules (e.g., modification of COLR requirements, or inclusion of broadband networks, with differing service capabilities) warrant changes in the definition of basic services?
 - e. Should the definition of universal service include mobile broadband services? Should Kansas have a separate wireline and a separate mobility fund?
5. Does the FCC requirement for ETCs to utilize FUSF for broadband deployment only necessitate any changes to the KUSF (e.g., to provide support to carriers providing basic voice, but not broadband services, to high cost areas, and who may not be eligible for FUSF under the new rules)?

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6. What broadband facilities are available in Kansas? What are the Internet backbone facilities in Kansas? How can broadband data, such as that submitted to the FCC on Form 477 be provided to the Commission?
- B. Should the KCC review the statutory and/or COLR obligations and policies in light of the FCC's changes?
1. Is it appropriate to maintain COLR obligations for entities that may no longer receive universal service funding (AT&T) (FCC Order, ¶ 83, fn. 468)?
 2. Does the COLR obligation remain for voice services or basic (voice) services for ETCs providing only voice service?
 3. What obligation does the Commission have to provide KUSF support to carriers that have no COLR obligations?
 4. How would this impact FUSF support to Kansas ETCs?
 5. Should KUSF support be similarly restricted? Does the KCC have statutory authority to do so?
 6. Should the KUSF support ETCS serving areas where there are competitors be expanded to offset the loss of FUSF? Does the KCC have a statutory obligation to do so? How do we ensure that the KUSF compliments the CAF and efforts by the FCC (Cox)?
 7. Along those same lines, as the CAF envisions not providing support in areas served by an unsubsidized competitor, what steps need to be taken with the KUSF to ensure it does not frustrate the goals of the FCC (Cox)?
 8. Does current KUSF support remain or is it transitioned to a more incremental support to move to supporting broadband?
 9. Do other state mechanisms need to be adopted to support any additional requirements (AT&T) (FCC Order, ¶ 574)?
- C. Given the FCC's preemption, what responsibility, if any, does the KCC have to offset the loss of revenues? What are the Commission's obligations under the existing statute?
1. Does the Commission have any obligations if a LEC refuses CAF support, which is contingent on acceptance of broadband build-out obligations?
- D. What role does the KCC play in advising and resolving complaint/disputes arising as the FCC rolls out the CAF and ICC reform (Cox)?

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II. Issues for Comments/Testimony

A. ETC Designation Requirements

1. How do the FCC's ETC designation requirements fit with the Commission's Federal and State USF Certification process?
2. Do the KCC requirements need to be modified to allow for simultaneous reporting to both the FCC and KCC? What modifications are needed? Can these be set for the same timeframe (AT&T, US Cellular)?
3. What role should the KCC play in ensuring that support flowing to Kansas carriers from the new federal fund will be used for their intended purpose and not to undermine competition?

B. How does CAF and ICC Reform impact KUSF?

1. In light of CAF, should the KUSF also support infrastructure build-out and if so, how does Kansas ensure double-dipping/recovery does not occur (Cox)?
2. Through phase out of legacy USF support to CAF/ICC recovery mechanisms, how does KUSF need modified to accounted for reduction in legacy support but recovery through CAF/ICC?
3. Is the KCC obligated under current rules to offset FUSF reductions through increases in the KUSF? Should those rules be revised? Would statutory changes be required?
4. Should the Commission consider changes in its cost studies for ROR LECs to adopt some of the FCC changes—e.g., limits on corporate operations expenses? Short term and Long-term impacts?
 - a. Immediate impacts - how, and when, should data be submitted?
 - b. Long term impacts - How, and when, should data be submitted?
 - c. Historical data for Commission that may be helpful? (e.g. 2010, 2011, 2012 Federal Support, whether companies are net contributors/receivers)?

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5. How can we keep the KUSF sustainable? Significant expansion of the fund size and attempts to replace any federal support by the establishment of state USF programs weigh heavily on wireless consumers already paying significant taxes, fees and USF assessments.

6. Should the KUSF be phased out or eliminated, and if so, what is the impact on the industry and consumers (Sprint)?

C. Impacts on Price Cap Companies

1. Local Switching Support (LSS) is an offset in the KUSF cost model. LSS transitioned to ICC Recovery mechanism. How do we ensure LSS is accounted for going-forward?

2. Does the KUSF have any responsibility for ICC recovery?

3. If a price cap LEC is eligible for FUSF, under Phase I or II of the FCC's plans, but declines such support, should that affect KUSF support to high cost areas served by that carrier? Should, for example, the KUSF provide support to high cost areas where the LEC has refused FUSF support? Should any KUSF support be adjusted to reflect the refusal of FUSF support? How would alternative approaches affect a LEC's incentive to accept or refuse FUSF? For example, how might the availability of KUSF support alter a carrier's incentives to opt into FUSF (and its attendant obligations)?

4. What are the financial impacts of the FCC's bill & keep plan on Kansas price cap LECs (i.e., the loss of intrastate access and net reciprocal compensation revenues)?

5. How do the revenue flows (CAF and ARC) provided for by the FCC's plan compare to projected revenues under the current rate structure and rules?

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D. Impacts on Rate of Return Companies

1. High-Cost loop, Safety Net, Safety Valve – used in determination of rural LEC's intrastate revenue requirement (Staff).
 - a. Should the CAF/ARC be used in the revenue requirement determination?
 - b. Is a total company review reasonable?

E. Impacts on Competitive ETCs

1. Should the KCC also eliminate KUSF support to CETCs (if it does not adopt the FCC rule of targeting USF support only to areas where there is not a competitor)?
2. Should the KCC differentiate between CMRS and landline CETCs? For example, should it maintain KUSF for CMRS ETCs, if it determines that universal availability of mobile voice and broadband services is desirable?
3. If KUSF supports CETCs, should the basis of support be changed (e.g., Identical support, ETC's costs, etc.?)

F. Arbitrage and "traffic/mileage" pumping.

1. Traffic-pumping is a significant problem that costs wireless consumers millions, and takes resources away from network investment. While the Order addresses intrastate traffic-pumping by migrating those rates to a unified national structure, there are concerns that traffic-pumping will shift to an intrastate-based scheme to the extent that intrastate rates are above costs.
2. Mileage-pumping, which is related, is also in play because the FCC's Order does not address transport costs, incentivizing arbitrage to increase mileage of transport. The KCC's oversight of intrastate rates is a critical responsibility for ensuring that traffic-pumping scams do not illegitimately increase network costs in the state.

G. Procedural Schedule –

1. Sprint - order no later than summer 2012
2. AT&T - Hearing Officer should meet with industry to discuss a docket schedule. Possible Technical Conference/Industry workshop later in the year (Aug.-Sept.) and then develop a detailed procedural schedule

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3. CTIA - KCC proceedings should be coordinated with the FCC comment cycles to avoid having to revisit issues in light of new federal developments and avoid duplicative efforts.
4. US Cellular - KCC should refrain from a comprehensive rulemaking given the many complex issues and the numerous outstanding challenges to the Connect America Fund Order. For now, U.S. Cellular urges the KCC to limit its proceeding to harmonizing the state ETC reporting requirements with the FCC's and moving them up to match the new April 1 reporting deadline adopted in the CAF.

Other Comments:

AT&T: It continues to review the FCC's Order and believes it is premature to attempt to formulate a complete, definitive list of issues for KCC consideration. As the parties to this proceeding are undoubtedly aware, the Order is currently subject to numerous petitions for reconsideration and Court challenges; in addition to the fact that the Order itself schedules several issues for Further Notice of Proposed Rulemakings (see Section XVII of the Order). In light of the breadth and complexity of the challenges to the Order; the issues and changes addressed in the Order, and the brief amount of time that has passed since the Order was released, it is difficult to fully understand the impacts of the Order and the potential impacts of the FNPRMs.

SITA: Given the enormity of the FCC's order, the still fluid state of that order with pending petitions for reconsideration and petitions for review, the rural companies believe it imprudent at this time to move forward on any immediate response at this time. The RLECs are committed to working cooperatively with the Commission and its Staff to best address the order's impact on the critical rural areas of Kansas and the Governor's Roadmap for Kansas, with its particular emphasis on keeping local businesses vibrant and expanding the state's broadband network. We reserve the right to raise additional issues throughout the course of this proceeding as those issues are clarified either by the FCC or the courts.

CTIA: CTIA is still reviewing the lengthy Order/FNPRM. Our members' views of it reflect a variety of circumstances depending on their current ICC/USF position, and how the reforms impact either their ICC obligations or USF support levels. Pursuant to the Commission's direction in its recent Order, CTIA submits the following issues list for the above referenced docket. It is our understanding that this list is intended to be preliminary and that modifications can be made in the future as these matters continue to evolve.

Sprint: The FCC's CAF Order effectively eliminates an outdated federal USF on the grounds that it unnecessarily burdens consumers with surcharges and is harmful to competition in that it distorts service prices in the telecommunications marketplace by forcing carriers and their customers to subsidize their competitors. The outdated federal USF is replaced with a targeted fund designed to promote and expand broadband deployment in unserved areas. The existing KUSF also unnecessarily burdens consumers and is harmful to competition, and the new targeted federal fund will sufficiently provide for Kansas carriers to deploy broadband in currently unserved areas, making it unnecessary to continue the KUSF for the purpose of providing funds to carriers for broadband deployment.