

MINUTES

TELECOMMUNICATIONS STUDY COMMITTEE

December 16, 2014
Room 582-N—Statehouse

Members Present

Representative Joe Seiwert, Co-chairperson
Senator Mike Petersen, Co-chairperson
Senator Marci Francisco
Senator Forrest Knox
Senator Jeff Longbine
Senator Julia Lynn
Senator Robert Olson
Senator Greg Smith
Representative Will Carpenter
Representative John Doll
Representative Randy Garber
Representative Ramon Gonzalez
Representative Annie Kuether
Representative Scott Schwab
Representative Jack Thimesch
Representative Brandon Whipple

Members Absent

Senator Tom Hawk
Senator Ty Masterson
Representative Rob Bruchman
Representative Ronald Ryckman, Sr.

Staff Present

Erica Haas, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Natalie Nelson, Kansas Legislative Research Department
Tamara Lawrence, Office of Revisor of Statutes
Matt Sterling, Office of Revisor of Statutes
Linda Herrick, Committee Assistant

Conferees

Warren Fischer, QSI Consulting
James Webber, QSI Consulting

Olesya Denney, QSI Consulting (by phone)
Scott Lundquist, QSI Consulting (by phone)

Others Attending

See attached list.

Morning Session

Co-chairperson Seiwert called the meeting to order at 10:00 a.m. He recognized Cindy Lash, Kansas Legislative Research Department, to provide background on the Committee's charge and the agenda ([Attachment 1](#)).

Ms. Lash briefly reviewed KSA 2014 Supp. 66-2018 ([Attachment 2](#)), which established the Committee. During the 2013 Interim, the Committee approved the scope for the audit of the Kansas Universal Service Fund (KUSF). The audit was administered by the Kansas Department of Revenue, as required by statute, and the final report will be presented today.

Ms. Lash distributed a copy of the *Report of the Telecommunications Study Committee to the 2014 Kansas Legislature* dated July 2014, ([Attachment 3](#)) and noted the Committee would review the State's telecommunications public policy written in 1996 during this meeting and consider if Kansas should have a broadband fund. Ms. Lash noted the Committee sunsets on June 30, 2015.

The Efficiency and Effectiveness of the Kansas Universal Service Fund — Audit Presentation

Warren Fischer, CPA, Project Manager; and James Webber, Co-Project Manager and Senior Auditor of QSI Consulting (QSI), were present to address the Committee regarding the audit of the KUSF. Olesya Denney, Ph.D., and Scott Lundquist, also of QSI, were connected by teleconference.

Mr. Fischer presented the findings of the KUSF audit report ([Attachment 4](#)). The executive summary contains over 40 findings and recommendations. The report narrative is 175 pages in length with 54 charts and 35 tables. It was delivered in advance to all members of the Committee.

With regard to operations of Incumbent Local Exchange Carriers (ILECs) and their need for KUSF support, Mr. Fischer reported the number of ILEC voice lines decreased by 64.0 percent from 1997 through 2013 (an average annual decline of 6.0 percent), while their broadband line count increased by 22.0 percent per year since 2003. The broadband count may be low because only stand-alone figures are reported to the Kansas Corporation Commission (KCC) for this report – it does not include bundled services containing Voice over Internet Protocol (VoIP).

The audit concluded Kansas statutes provide incentives to control existing cost, particularly with the legislation enacted in 2013. The 2013 bill authorizes KUSF support for only one price cap carrier, Century Link; it eliminated KUSF funding for Southwestern Bell; and capped at the aggregate level the funding available to rural exchange carriers. The statute is

silent regarding whether KUSF support is available to facilities typically not regulated by the KCC, *i.e.*, broadband, cable, VoIP, or other services that may not be considered telecommunication services.

The audit found the KCC utilized standard processes in its KUSF audits of Rural Local Exchange Carriers (RLECs). The audits were completed in a reasonable time frame and the audit processes were consistent across companies, but the audits should occur more often, particularly for the larger KUSF recipients.

In reviewing the KUSF support for recipient companies, auditors noted the statute itself is the key factor in determining support levels from KUSF. However, they also noted federal 'separations' regulations break down expenses by intrastate and interstate and between regulated and unregulated services. A key finding was that the KCC generally follows federal cost allocation processes that allocate most loop costs to voice lines. That process is outdated, and the audit recommended the KCC be directed to consider a cost allocation mechanism to trace costs separately to voice versus data services. Allocation could be based on 50.0 percent voice and 50.0 percent broadband (data); on the average revenue per line from each type of service; or on relative bandwidth usage.

KUSF recipients varied greatly in the amount of support per line they received. In 2013, the amounts ranged from less than \$3 per subscriber line to more than \$1,500 per subscriber line. The average was \$260 per subscriber line for the time period reviewed by the audit. Southwestern Bell and Century Link customers contributed most to the KUSF. Companies that do not receive KUSF also were contributors.

In reviewing capital expenditures for KUSF recipients, the audit noted the companies buy very large pieces of equipment. From 1997 through 2013, the average annual capital expenditure was \$260 million. In 2011 and 2012 alone, with a better economy, the average was \$556 million. The trend in the telecommunications industry is to replace copper lines with fiber. Fiber, wireless, and other expenditures have trended upward over the past five to six years. Capital expenditures are driven by the fiber investment and the electronics related to fiber equipment and broadband access (data and video).

With regard to competition, the audit found 390 of the 550 telephone exchanges in Kansas receive KUSF support. The 390 exchanges that receive KUSF support have far fewer competitors providing service than areas where KUSF support is not provided.

The audit reviewed companies with the highest per-line support from KUSF. The top quartile included nine carriers, which received KUSF per line support ranging from \$370 to \$1,521 in 2013. These companies tended to be smaller than other companies and to have high general and administrative expense (no economies of scale). They also tended to have newer facilities. Population density, route miles per line, and operation and maintenance expense did not appear to be contributing factors.

From 1997 to 2013, nearly \$1 billion in KUSF support was distributed to carriers. Southwestern Bell and Century Link received approximately 51.0 percent of the total. With the passage of 2013 HB 2201, KUSF support for Southwestern Bell was eliminated and support for Century Link was capped. RLECs are net recipients of KUSF – they receive more in distributions than they contribute.

Co-chairperson Seiwert thanked the presenters.

The Committee adjourned for lunch and Co-chairperson Seiwert asked the group to reconvene at 1:30 p.m.

Afternoon Session

Committee Discussion of the State 's Public Policy on Telecommunications (KSA 66-2001)

KSA 66-2001 contains the Kansas telecommunications public policy ([Attachment 5](#)). The statute was passed in 1996 as part of the major telecommunications bill and has never been amended. Part of the charge to this Committee was to review that public policy.

The Committee discussed possible changes to the policy, including the following issues:

- Whether broadband and data are encompassed within the term “telecommunications”;
- How costs could be allocated between data and voice;
- Recognition that VoIP “voice” transmissions are actually data;
- Whether it is possible to determine the nature of transmissions passing through the networks;
- The difficulty of determining appropriate statutory terminology given the rapid changes in communications technology; and
- Whether the phrase “advance development of a statewide infrastructure” in KSA 66-2001 refers to the creation of Kan-Ed.

Members concluded these issues should be discussed further in standing committees of the Legislature before any changes are proposed.

Broadband Funds

The Committee also was charged with considering whether Kansas should have a broadband fund and, if so, what it might look like. Ms. Lash provided information on broadband funds in California, Maine, Minnesota, and New York ([Attachment 6](#)). She noted few states currently have these funds.

A broadband fund typically provides money for the development of advanced technology and focuses on support and expansion of infrastructure. The four states reviewed vary greatly in terms of funding source, amounts, definition of unserved and underserved, and target audience.

California funds four programs to provide broadband to areas without broadband access, and to expand it in underserved areas if funding is available. Unserved is defined as an area not

served by any form of wireline or wireless facilities-based broadband. Underserved is defined as an area where no wire line or wireless facilities-based provider offers service at advertised speeds of at least 6 Mbps download and 1.5 Mbps upload. Funding is provided by a surcharge on revenue collected by telecommunications carriers from end-users. An increase in the rate has expanded the surcharge to nearly 0.5 percent. Originally established at \$100 million, the fund has been increased to \$225 million. One of the four programs is designated for broadband in public housing.

Maine provides grants for the last mile of infrastructure in unserved areas (any area without broadband service). The ConnectME Authority is funded by a 0.25 percent surcharge on in-state communications services. Grants are limited to \$100,000 per project. Grants provide up to 50.0 percent of the cost for each project and are matched with funding from an internet service provider. Individual customers then pay a monthly access fee to the provider.

Minnesota's Border-to-Border Broadband Development program is designed to promote broadband expansion in unserved and underserved areas of the state. It is funded through a one-time general fund appropriation of \$20 million beginning in fiscal year 2015 and terminating no later than June 30, 2017. Grants are limited to \$5 million per project and grantees must provide matching funds equal to at least 50.0 percent of the project cost. Unserved is defined as lack of access to wireline service at speeds of 4 Mbps download and 1 Mbps upload. Underserved is defined as lack of access to wireline broadband service at the Minnesota state goals of at least 10 Mbps download and 5 Mbps upload.

The Connect New York Broadband Program provides funding for last-mile projects to expand broadband in unserved and underserved areas. The program is funded by \$25 million in state funds; matching funds equal to at least 20.0 percent of the total project cost are required. Unserved is defined as an area where broadband service is not available from a wireline or wireless facilities-based provider at advertised speeds of at least 6 Mbps download and 1.5 Mbps upload. Underserved is defined as an area where 50.0 percent or more of households have no broadband service from a wireline or wireless facilities-based provider at advertised speeds of at least 6 Mbps download and 1.5 Mbps upload.

Consideration of Recommendations

Following discussion, it was moved by Senator Petersen and seconded by Representative Garber, to accept the audit report of the KUSF. The motion carried. The Committee directed presentations by the audit firm be made to both the Senate Utilities Committee and the House Utilities and Telecommunications Committee during the 2015 Legislative Session.

The Committee reaffirmed the state public policy regarding telecommunications set out in KSA 66-2001, but suggested the Senate Utilities Committee and the House Utilities and Telecommunications Committee consider a review of subsection (d), which addresses advancing the development of a statewide telecommunications infrastructure.

Committee members agreed some definitions of telecommunications terms in existing law need to be studied, including broadband, telecommunication services, and telecommunications infrastructure, to focus on "future proofing" these definitions for rapidly changing technology.

Co-chairperson Seiwert thanked everyone for their work and adjourned the meeting at 3:10 p.m.

Prepared by Linda Herrick
Edited by Cindy Lash

Approved by the Committee on:

_____ June 30, 2015 _____
(Date)