

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2201

By Committee on Utilities and Telecommunications

2-1

1 AN ACT concerning telecommunications; relating to the state corporation
2 commission, regulation; concerning the Kansas universal service fund,
3 eligibility and disbursements; establishing the telecommunications
4 study committee; amending K.S.A. 66-1,188, **66-1,191, 66-1,195**, 66-
5 2002, 66-2003 and 66-2007 and K.S.A. 2012 Supp. 66-1,187, 66-2005,
6 66-2006, 66-2008 and 66-2009 and repealing the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) There is hereby established the
10 telecommunications study committee. The committee shall study
11 telecommunications issues and ensure that the public policy of Kansas, as
12 expressed in K.S.A. 66-2001, and amendments thereto, is maintained, with
13 priority being given to advancing statewide telecommunications
14 infrastructure.

15 (b) The study committee shall be composed of 13 voting members, as
16 follows: (1) The chairperson, vice-chairperson and ranking minority
17 member of the senate committee on utilities;

18 (2) the chairperson, vice-chairperson and ranking minority member of
19 the house committee on utilities and telecommunications;

20 (3) two members appointed by the president of the senate;

21 (4) one member appointed by the minority leader of the senate;

22 (5) three members appointed by the speaker of the house of
23 representatives; and

24 (6) one member appointed by the minority leader of the house of
25 representatives.

26 (c) Members shall be appointed to the study committee on or before
27 August 1, 2013 for a term ending on June 30, 2016. The chairperson of the
28 senate committee on utilities and the chairperson of the house committee
29 on utilities and telecommunications shall serve as co-chairpersons of the
30 committee. The co-chairpersons shall determine the procedures for calling
31 a meeting to order and conducting committee business. The first meeting
32 of the study committee shall be called by the co-chairpersons of the
33 committee following the conclusion of the 2013 regular session of the
34 Kansas legislature. The committee shall have the authority to meet at any
35 time and at any place within the state on the call of the co-chairpersons.

36 (d) The provisions of the acts contained in article 12 of chapter 46 of

1 the Kansas Statutes Annotated, and amendments thereto, applicable to
2 special committees shall apply to the telecommunications study committee
3 to the extent that the same do not conflict with the specific provisions of
4 this act applicable to the study committee.

5 (e) A quorum of the telecommunications study committee shall be
6 seven members. All actions of the committee shall be taken by a majority
7 of all of the members of the committee.

8 (f) Any vacancy in the membership of the committee shall be filled
9 by appointment in the same manner prescribed by this section for the
10 original appointment.

11 (g) The telecommunications study committee shall provide an annual
12 report to the senate committee on utilities and the house committee on
13 utilities and telecommunications. The committee shall make
14 recommendations and may introduce such legislation as it deems
15 necessary in performing the committee's duties. The committee shall issue
16 a final report and policy recommendations for telecommunications to the
17 senate committee on utilities, the senate committee on ways and means,
18 the house committee on utilities and telecommunications and the house
19 committee on appropriations prior to January 31, 2016.

20 (h) Members of the telecommunications study committee shall
21 receive compensation, travel expenses and subsistence expenses as
22 provided in K.S.A. 75-3212, and amendments thereto, when attending
23 meetings of the committee.

24 (i) The staff of the office of the revisor of statutes, the legislative
25 research department and the division of legislative administrative services
26 shall provide such assistance as may be requested by the study committee.

27 (j) The provisions of this section shall expire on June 30, 2016.

28 Sec. 2. K.S.A. 2012 Supp. 66-1,187 is hereby amended to read as
29 follows: 66-1,187. As used in this act:

30 (a) "Broadband" means the transmission of digital signals at rates
31 equal to or greater than 1.5 megabits per second.

32 (b) "CLASS services" means custom local area signaling services,
33 which include automatic callback, automatic recall, calling number
34 identification, selective call rejection, selective call acceptance, selective
35 call forwarding, distinctive ringing and customer originated trace.

36 (c) "Commission" means the state corporation commission.

37 (d) "Dialing parity" means that a person that is not an affiliate of a
38 local exchange carrier is able to provide telecommunications services in
39 such a manner that customers have the ability to route automatically,
40 without the use of any access code, their telecommunications to the
41 telecommunications carrier of the customer's designation from among two
42 or more telecommunications carriers, including such local exchange
43 carrier.

1 (e) "Federal act" means the federal telecommunications act of 1996,
2 P.L. 104-104 (amending the communications act of 1934, 47 U.S.C. § 151
3 et seq.)

4 (f) "ISDN" means integrated services digital network which is a
5 network and associated technology that provides simultaneous voice and
6 data communications over a single communications channel.

7 (g) "LATA" has the meaning ascribed to it in the federal act.

8 (h) "Local exchange carrier" means any telecommunications public
9 utility or its successor, *not to include an electing carrier*, providing
10 switched telecommunications service within any local exchange service
11 area, as approved by the commission on or before January 1, 1996.
12 However, with respect to the Hill City exchange area, in which multiple
13 carriers were certified by the commission prior to January 1, 1996, the
14 commission's determination, subject to any court appeals, of which
15 authorized carrier shall serve as the carrier of last resort will determine
16 which carrier shall be deemed the local exchange carrier for that exchange.

17 (i) "Number portability" has the meaning ascribed to it in the federal
18 act.

19 (j) "1+ intraLATA dialing parity" means the ability of a local
20 exchange service customer to specify the telecommunications or local
21 exchange carrier that will carry the intraLATA long distance messages
22 when that customer dials either "1" or "0" plus a 10-digit number.

23 (k) "Operating area" means:

24 (1) In the case of a rural telephone company, operating area or service
25 area means such company's study area or areas as approved by the federal
26 communications commission;

27 (2) in the case of a local exchange carrier, other than a rural telephone
28 company, operating area or service area means such carrier's local
29 exchange service area or areas as approved by the commission.

30 (l) "Rural telephone company" has the meaning ascribed to it in the
31 federal act, excluding any local exchange carrier which together with all of
32 its affiliates has 20,000 or more access lines in the state.

33 (m) "Telecommunications carrier" means a corporation, company,
34 individual, association of persons, their trustees, lessees or receivers that
35 provides a telecommunications service, including, but not limited to,
36 interexchange carriers and competitive access providers, but not including
37 local exchange carriers certified before January 1, 1996, ~~except for~~
38 ~~electing carriers.~~

39 (n) "Telecommunications public utility" means any public utility, as
40 defined in K.S.A. 66-104, and amendments thereto, which owns, controls,
41 operates or manages any equipment, plant or generating machinery, or any
42 part thereof, for the transmission of telephone messages, as defined in
43 K.S.A. 66-104, and amendments thereto, or the provision of

1 telecommunications services in or throughout any part of Kansas.

2 (o) "Telecommunications service" means the provision of a service
3 for the transmission of telephone messages, or two-way video or data
4 messages.

5 (p) "Universal service" means telecommunications services and
6 facilities which include: single party, two-way voice grade calling; stored
7 program controlled switching with vertical service capability; E-911
8 capability; tone dialing; access to operator services; access to directory
9 assistance; and equal access to long distance services.

10 (q) "Enhanced universal service" means telecommunications services,
11 in addition to those included in universal service, which shall include:
12 Signaling system seven capability, with CLASS service capability; basic
13 and primary rate ISDN capability, or the technological equivalent; full-
14 fiber interconnectivity, or the technological equivalent, between central
15 offices; and broadband capable facilities to: All schools accredited
16 pursuant to K.S.A. 72-1101 et seq., and amendments thereto; hospitals as
17 defined in K.S.A. 65-425, and amendments thereto; public libraries; and
18 state and local government facilities which request broadband services.

19 Sec. 3. K.S.A. 66-1,188 is hereby amended to read as follows: 66-
20 1,188. The commission is given full power, authority and jurisdiction to
21 supervise and control the ~~telecommunications public utilities~~ *local*
22 *exchange carriers*, as defined in K.S.A. 66-1,187, *and amendments*
23 *thereto*, doing business in Kansas, and is empowered to do all things
24 necessary and convenient for the exercise of such power, authority and
25 jurisdiction. *Notwithstanding the provisions of any other section, the*
26 *commission shall have no jurisdiction to supervise or control*
27 *telecommunications carriers or electing carriers except as provided for in*
28 *subsections (y) and (z) of K.S.A. 66-2005, and amendments thereto.*

29 **Sec. 4. K.S.A. 66-1,191 is hereby amended to read as follows: 66-**
30 **1,191. The commission, upon its own initiative, may investigate all**
31 **rates, joint rates, tolls, charges and exactions, classifications or**
32 **schedules of rates or joint rates and rules and regulations of**
33 **telecommunications public utilities over which the commission has**
34 **control. If after full hearing and investigation the commission finds**
35 **that such rates, joint rates, tolls, charges or exactions, classifications**
36 **or schedules of rates or joint rates or rules and regulations are unjust,**
37 **unreasonable, unjustly discriminatory or unduly preferential, the**
38 **commission shall have the power to fix and order substituted therefor**
39 **such rates, tolls, charges, exactions, classifications or schedules of**
40 **rates or joint rates and such rules and regulations as are just and**
41 **reasonable.**

42 **If upon any investigation it is found that any regulation,**
43 **measurement, practice, act or service complained of is unjust,**

1 unreasonable, unreasonably inefficient or insufficient, unduly
2 preferential, unjustly discriminatory, or otherwise in violation of this
3 act or of the orders of the commission, or if it is found that any service
4 is inadequate or that any reasonable service cannot be obtained, the
5 commission may substitute therefor such other regulations,
6 measurements, practices, service or acts, and make such order
7 respecting any such changes in such regulations, measurements,
8 practices, service or acts as are just and reasonable. When, in the
9 judgment of the commission, public necessity and convenience
10 require, the commission may establish just and reasonable
11 concentration or other special rates, charges or privileges, but all such
12 rates, charges and privileges shall be open to all users of a like kind of
13 service under similar circumstances and conditions. Hearings shall be
14 conducted in accordance with the provisions of the Kansas
15 administrative procedure act, unless, in the case of a general
16 investigation, for good cause, the commission orders otherwise.

17 **Sec. 5. K.S.A. 66-1,195 is hereby amended to read as follows: 66-**
18 **1,195. The commission shall have general supervision of all**
19 **telecommunications public utilities** ~~doing business in this state over~~
20 *which the commission has control* **and shall inquire into any neglect or**
21 **violations of the laws of this state by any such telecommunications**
22 **public utility or by the officers, agents or employees thereof. From**
23 **time to time, the commission shall carefully examine and inspect the**
24 **condition of each such telecommunications public utility, its**
25 **equipment, the manner of its conduct and its management with**
26 **reference to the public safety and convenience. Nothing in this section**
27 **shall be construed as relieving any telecommunications public utility**
28 **from its responsibility or liability for damage to person or property.**

29 ~~Sec. 4.~~ **6. K.S.A. 66-2002 is hereby amended to read as follows: 66-**
30 **2002. The commission shall:**

31 (a) Adopt a definition of "universal service" and "enhanced universal
32 service," pursuant to subsections (p) and (q) of K.S.A. 66-1,187, *and*
33 *amendments thereto*;

34 (b) authorize any requesting telecommunications carrier to provide
35 local exchange or exchange access service pursuant to subsection (a) of
36 K.S.A. 66-2003, *and amendments thereto*;

37 (c) on or before July 1, 1996, the commission shall initiate a
38 proceeding to adopt guidelines to ensure that all telecommunications
39 carriers and local exchange carriers preserve and enhance universal
40 service, protect the public safety and welfare, ensure the continued quality
41 of telecommunications services and safeguard the rights of consumers;

42 (d) review, approve and ensure compliance with network
43 infrastructure plans submitted by local exchange carriers pursuant to

1 K.S.A. 66-2005, *and amendments thereto*;

2 (e) review, approve and ensure compliance with regulatory plans
3 submitted by local exchange carriers pursuant to K.S.A. 66-2005, *and*
4 *amendments thereto*;

5 (f) on or before January 1, 1997, establish, pursuant to K.S.A. 66-
6 2006, *and amendments thereto*, the Kansas lifeline service program,
7 hereinafter referred to as the KLSP;

8 (g) initiate and complete a proceeding by January 1, 1997, to
9 establish a competitively neutral mechanism or mechanisms to fund: dual
10 party relay services for Kansans who are speech or hearing impaired;
11 telecommunications equipment for persons with visual impediments; and
12 telecommunications equipment for persons with other special needs. This
13 funding mechanism or mechanisms shall be implemented by March 1,
14 1997;

15 (h) on or before January 1, 1997, establish the Kansas universal
16 service fund pursuant to K.S.A. 66-2008, *and amendments thereto*,
17 hereinafter referred to as the KUSF, and make various determinations
18 relating to the implementation of such fund;

19 (i) authorize all local exchange carriers to provide internet access as
20 outlined in K.S.A. 66-2011, *and amendments thereto*, and report on the
21 status of the implementation provisions to specified legislative
22 committees;

23 (j) review the federal act and adopt additional standards and
24 guidelines as necessary for enforcing slamming restrictions;

25 (k) commencing on June 1, 1997 and periodically thereafter, review
26 and, to the extent necessary, modify the definition of universal service and
27 enhanced universal service, and KUSF, taking into account advances in
28 telecommunications and information technology and services;

29 (l) on or before January 1, 1997, initiate and complete a proceeding to
30 establish minimum quality of service standards which will be equally
31 applicable to all local exchange carriers ~~and telecommunications carriers~~
32 in the state; any local exchange carrier ~~or telecommunications carrier~~
33 violating such standards, for each occurrence, shall forfeit and pay a
34 penalty of not less than \$100, nor more than \$5,000; violations of such
35 standards shall be enforced in accordance with provisions of K.S.A. 66-
36 138 and 66-177, and amendments thereto; and

37 (m) on January 1, 2000, prepare and submit a report to the legislature.
38 The report shall include an analysis of the manner in which the regulatory
39 framework has served to: Protect consumers; safeguard universal service;
40 ensure that consumers have reaped the benefits of competition; maximize
41 the use of market forces; and promote development of the
42 telecommunications infrastructure throughout the state. The commission
43 also shall recommend if and how the KUSF should be modified.

1 Sec.-5: 7. K.S.A. 66-2003 is hereby amended to read as follows: 66-
2 2003. (a) On or before September 1, 1996, the commission shall begin to
3 authorize applications for certificates of public convenience and necessity
4 to provide local exchange or exchange access service.

5 (b) A local exchange carrier *and an electing carrier* shall be required
6 to offer to allow reasonable resale of its retail telecommunications services
7 and to sell unbundled local loop, switch and trunk facilities to
8 telecommunications carriers, as required by the federal act and pursuant to
9 negotiated agreements or a statement of terms and conditions generally
10 available to telecommunications carriers.

11 (c) To encourage telecommunications carriers to build or install
12 telecommunications facilities, including, but not limited to, local loop and
13 switching facilities in the state, and except as otherwise negotiated by a
14 local exchange carrier *or electing carrier* and a telecommunications
15 carrier, the prices for such unbundled facilities shall be determined by the
16 commission, on a nondiscriminatory basis, to permit the recovery of costs
17 and a reasonable profit. The commission shall determine wholesale rates
18 on the basis of retail rates charged subscribers for the telecommunications
19 service requested, excluding the portion thereof attributable to any
20 marketing, billing, collection and other costs, that will be avoided by the
21 local exchange carrier. The commission shall approve resale restrictions
22 proposed by any local exchange carrier *or electing carrier* which prohibit
23 resellers from purchasing retail telecommunications services offered by
24 that local exchange carrier *or electing carrier* to one category of customers
25 and reselling those retail services to a different category of customers.
26 Upon a finding that such practice would be anticompetitive, anticonsumer
27 or detrimental to the quality of the network infrastructure, the commission
28 may prohibit the resale of retail services at a rate lower than the wholesale
29 rate. The commission shall approve any other reasonable limitation on
30 resale to the extent permitted by the federal act.

31 (d) As provided in the federal act, in order for telecommunications
32 carriers to provide local exchange service and exchange access service,
33 local exchange carriers *and electing carriers* shall provide the means to
34 interconnect their respective customers, including, but not limited to, toll
35 access, access to operator services, access to directory listings and
36 assistance, and access to E-911 service.

37 (e) Customers shall be accorded number portability and local dialing
38 parity in conformance with national standards to the extent economically
39 and technically feasible. Terms and prices for interconnection, unbundled
40 facilities and resale of existing retail telecommunications services shall be
41 negotiated in good faith between the parties. During the period from the
42 135th through the 160th day after the date on which an incumbent local
43 exchange carrier *or electing carrier* receives a request for negotiation

1 under this section, the carrier or any other party to the negotiation may
2 petition the commission to arbitrate any open issues. Arbitration shall
3 occur in conformance with the provisions of section 252 of the federal act.

4 (f) The commission shall require, consistent with the terms of the
5 federal act, that 1+ intraLATA dialing parity be provided by all local
6 exchange carriers, *electing carriers* and telecommunications carriers
7 coincidentally with the provision of in-region interLATA toll services in
8 the state by local exchange carriers *or electing carriers* with more than
9 150,000 access lines or their affiliates.

10 ~~Sec. 6.~~ **8.** K.S.A. 2012 Supp. 66-2005 is hereby amended to read as
11 follows: 66-2005. (a) Each local exchange carrier shall file a network
12 infrastructure plan with the commission on or after January 1, 1997, and
13 prior to January 1, 1998. Each plan, as a part of universal service
14 protection, shall include schedules, which shall be approved by the
15 commission, for deployment of universal service capabilities by July 1,
16 1998, and the deployment of enhanced universal service capabilities by
17 July 1, 2003, as defined pursuant to subsections (p) and (q) of K.S.A. 66-
18 1,187, and amendments thereto, respectively. With respect to enhanced
19 universal service, such schedules shall provide for deployment of ISDN, or
20 its technological equivalent, or broadband facilities, only upon a firm
21 customer order for such service, or for deployment of other enhanced
22 universal services by a local exchange carrier. After receipt of such an
23 order and upon completion of a deployment plan designed to meet the firm
24 order or otherwise provide for the deployment of enhanced universal
25 service, a local exchange carrier shall notify the commission. The
26 commission shall approve the plan unless the commission determines that
27 the proposed deployment plan is unnecessary, inappropriate, or not cost
28 effective, or would create an unreasonable or excessive demand on the
29 KUSF. The commission shall take action within 90 days. If the
30 commission fails to take action within 90 days, the deployment plan shall
31 be deemed approved. This approval process shall continue until July 1,
32 2000. Each plan shall demonstrate the capability of the local exchange
33 carrier to comply on an ongoing basis with quality of service standards to
34 be adopted by the commission no later than January 1, 1997.

35 (b) In order to protect universal service, facilitate the transition to
36 competitive markets and stimulate the construction of an advanced
37 telecommunications infrastructure, each local exchange carrier shall file a
38 regulatory reform plan at the same time as it files the network
39 infrastructure plan required in subsection (a). As part of its regulatory
40 reform plan, a local exchange carrier may elect traditional rate of return
41 regulation or price cap regulation. Carriers that elect price cap regulation
42 shall be exempt from rate base, rate of return and earnings regulation and
43 shall not be subject to the provisions of K.S.A. 66-136 and 66-127, and

1 amendments thereto, except as otherwise provided in such sections.
2 However, the commission may resume such regulation upon finding, after
3 a hearing, that a carrier that is subject to price cap regulation has: violated
4 minimum quality of service standards pursuant to subsection (1) of K.S.A.
5 66-2002, and amendments thereto; been given reasonable notice and an
6 opportunity to correct the violation; and failed to do so. Regulatory reform
7 plans also shall include:

8 (1) A commitment to provide existing and newly ordered point-to-
9 point broadband services to: Any hospital as defined in K.S.A. 65-425, and
10 amendments thereto; any school accredited pursuant to K.S.A. 72-1101 et
11 seq., and amendments thereto; any public library; or other state and local
12 government facilities at discounted prices close to, but not below, long-run
13 incremental cost; and

14 (2) a commitment to provide basic rate ISDN service, or the
15 technological equivalent, at prices which are uniform throughout the
16 carrier's service area. Local exchange carriers shall not be required to
17 allow retail customers purchasing the foregoing discounted services to
18 resell those services to other categories of customers. Telecommunications
19 carriers may purchase basic rate ISDN services, or the technological
20 equivalent, for resale in accordance with K.S.A. 66-2003, and amendments
21 thereto. The commission may reduce prices charged for services outlined
22 in provisions (1) and (2) of this subsection, if the commitments of the local
23 exchange carrier set forth in those provisions are not being kept.

24 (c) Subject to the commission's approval, all local exchange carriers
25 shall reduce intrastate access charges to interstate levels as provided
26 herein. Rates for intrastate switched access, and the imputed access portion
27 of toll, shall be reduced over a three-year period with the objective of
28 equalizing interstate and intrastate rates in a revenue neutral, specific and
29 predictable manner. The commission is authorized to rebalance local
30 residential and business service rates to offset the intrastate access and toll
31 charge reductions. Any remaining portion of the reduction in access and
32 toll charges not recovered through local residential and business service
33 rates shall be paid out from the KUSF pursuant to K.S.A. 66-2008, and
34 amendments thereto. Each rural telephone company shall adjust its
35 intrastate switched access rates on March 1 of each odd-numbered year to
36 match its interstate switched access rates, subject to the following:

37 (1) Any reduction of a rural telephone company's cost recovery due to
38 reduction of its ~~interstate~~ *intrastate* access revenue, **except such revenue**
39 **recovered from another support mechanism**, shall be recovered from
40 the KUSF;

41 (2) any portion of rural telephone company reductions in intrastate
42 switched access rates which would result in an increase in KUSF recovery
43 in a single year which exceeds .75% of intrastate retail revenues used in

1 determining sums which may be recovered from Kansas
2 telecommunications customers pursuant to subsection (a) of K.S.A. 66-
3 2008, and amendments thereto, shall be deferred until March 1 of the next
4 following odd-numbered year; and

5 (3) no rural company shall be required at any time to reduce its
6 intrastate switched access rates below the level of its interstate switched
7 access rates.

8 (d) Beginning March 1, 1997, each rural telephone company shall
9 have the authority to increase annually its monthly basic local residential
10 and business service rates by an amount not to exceed \$1 in each 12-month
11 period until such monthly rates reach an amount equal to the statewide
12 rural telephone company average rates for such services. The statewide
13 rural telephone company average rates shall be the arithmetic mean of the
14 lowest flat rate as of March 1, 1996, for local residential service and for
15 local business service offered by each rural telephone company within the
16 state. In the case of a rural telephone company which increases its local
17 residential service rate or its local business service rate, or both, to reach
18 the statewide rural telephone company average rate for such services, the
19 amount paid to the company from the KUSF shall be reduced by an
20 amount equal to the additional revenue received by such company through
21 such rate increase. In the case of a rural telephone company which elects
22 to maintain a local residential service rate or a local business service rate,
23 or both, below the statewide rural telephone company average, the amount
24 paid to the company from the KUSF shall be reduced by an amount equal
25 to the difference between the revenue the company could receive if it
26 elected to increase such rate to the average rate and the revenue received
27 by the company.

28 (e) For purposes of determining sufficient KUSF support, an
29 affordable rate for local exchange service provided by a rural telephone
30 company subject to traditional rate of return regulation shall be determined
31 as follows:

32 (1) For residential service, an affordable rate shall be the arithmetic
33 mean of residential local service rates charged in this state in all exchanges
34 served by rural telephone companies and in all exchanges in rate groups 1
35 through 3 as of February 20, 2002, of all other local exchange carriers, but
36 not including electing carriers, weighted by the number of residential
37 access lines to which each such rate applies, and thereafter rounded to the
38 nearest quarter-dollar, subject to the following provisions:

39 (A) If a rural telephone company's present residential rate, including
40 any separate charge for tone dialing, is at or above such weighted mean,
41 such rate shall be deemed affordable prior to March 1, 2007.

42 (B) If a rural telephone company's present residential rate, including
43 any separate charge for tone dialing, is below such average: (i) Such rate

1 shall be deemed affordable prior to March 1, 2003; (ii) as of March 1,
2 2003, and prior to March 1, 2004, a rate \$2 higher than the company's
3 present residential monthly rate, but not exceeding such weighted mean,
4 shall be deemed affordable; (iii) as of March 1, 2004, and prior to March
5 1, 2005, a rate \$4 higher than the company's present residential monthly
6 rate, but not exceeding such weighted mean, shall be deemed affordable;
7 and (iv) as of March 1, 2005, and prior to March 1, 2006, a rate \$6 higher
8 than the company's present residential monthly rate, but not exceeding
9 such weighted mean, shall be deemed affordable.

10 (C) As of March 1, 2007, and each two years thereafter, an affordable
11 residential service rate shall be the weighted arithmetic mean of local
12 service rates determined as of October 1 of the preceding year in the
13 manner hereinbefore specified, except that any increase in such mean
14 exceeding \$2 may be satisfied by increases in a rural telephone company's
15 residential monthly service rate not exceeding \$2 per year, effective March
16 1 of the year when such mean is determined, with the remainder applied at
17 the rate of \$2 per year, but not to exceed the affordable rate.

18 (2) For single line business service at any time, an affordable rate
19 shall be the existing rate or an amount \$3 greater than the affordable rate
20 for residential service as determined under provision (1) of this subsection,
21 whichever is higher, except that any increase in the business service
22 affordable rate exceeding \$2 may be satisfied by increases in a rural
23 telephone company's business monthly service rate not exceeding \$2 per
24 year, effective March 1 of the year when such rate is determined, with the
25 remainder applied at the rate of \$2 per year, but not to exceed the
26 affordable rate.

27 (3) Any flat fee or charge imposed per line on all residential service
28 or single line business service, or both, other than a fee or charge for
29 contribution to the KUSF or imposed by other governmental authority,
30 shall be added to the basic service rate for purposes of determining an
31 affordable rate pursuant to this subsection.

32 (4) Not later than March 1, 2003, tone dialing shall be made available
33 to all local service customers of each rural telephone company at no charge
34 additional to any increase in the local service rate to become effective on
35 that date. The amount of revenue received as of March 1, 2002, by a rural
36 telephone company from the provision of tone dialing service shall be
37 excluded from reductions in the company's KUSF support otherwise
38 resulting pursuant to this subsection.

39 (5) A rural telephone company which raises one or more local service
40 rates on application made after February 20, 2002, and pursuant to
41 subsection (b) of K.S.A. 66-2007, and amendments thereto, shall have the
42 level of its affordable rate increased by an amount equal to the amount of
43 the increase in such rate.

1 (6) Upon motion by a rural telephone company, the commission may
2 determine a higher affordable local residential or business rate for such
3 company if such higher rate allows the company to provide additional or
4 improved service to customers, but any increase in a rural telephone
5 company's local rate attributable to the provision of increased calling
6 scope shall not be included in any subsequent recalculation of affordable
7 rates as otherwise provided in this subsection.

8 (7) A uniform rate for residential and single line business local
9 service adopted by a rural telephone company shall be deemed an
10 affordable rate for purposes of this subsection if application of such
11 uniform rate generates revenue equal to that which would be generated by
12 application of residential and business rates which are otherwise deemed
13 affordable rates for such company under this subsection.

14 (8) The provisions of this subsection relating to the implementation of
15 an affordable rate shall not apply to rural telephone companies which do
16 not receive KUSF support. When recalculating affordable rates as
17 provided in this subsection, the rates used shall include the actual rates
18 charged by rural companies that do not receive KUSF support.

19 (f) For regulatory reform plans in which price cap regulation has been
20 elected, price cap plans shall have three baskets: Residential and single-
21 line business, including touch-tone; switched access services; and
22 miscellaneous services. The commission shall establish price caps at the
23 prices existing when the regulatory plan is filed subject to rate rebalancing
24 as provided in subsection (c) for residential services, including touch-tone
25 services, and for single-line business services, including touch-tone
26 services, within the residential and single-line business service basket. The
27 commission shall establish a formula for adjustments to the price caps. The
28 commission also shall establish price caps at the prices existing when the
29 regulatory plan is filed for the miscellaneous services basket. The
30 commission shall approve any adjustments to the price caps for the
31 miscellaneous service basket, as provided in subsection (g).

32 (g) On or before January 1, 1997, the commission shall issue a final
33 order in a proceeding to determine the price cap adjustment formula that
34 shall apply to the price caps for the local residential and single-line
35 business and the miscellaneous services baskets and for sub-categories, if
36 any, within those baskets. In determining this formula, the commission
37 shall balance the public policy goals of encouraging efficiency and
38 promoting investment in a quality, advanced telecommunications network
39 in the state. The commission also shall establish any informational filing
40 requirements necessary for the review of any price cap tariff filings,
41 including price increases or decreases within the caps, to verify such caps
42 would not be exceeded by any proposed price change. The adjustment
43 formula shall apply to the price caps for the local residential and single-

1 line business basket after December 31, 1999, and to the miscellaneous
2 services basket after December 31, 1997. The price cap formula, but not
3 actual prices, shall be reviewed every five years.

4 (h) The price caps for the residential and single-line business service
5 basket shall be capped at their initial level until January 1, 2000, except for
6 any increases authorized as a part of the revenue neutral rate rebalancing
7 under subsection (c). The price caps for this basket and for the categories
8 in this basket, if any, shall be adjusted annually after December 31, 1999,
9 based on the formula determined by the commission under subsection (g).

10 (i) The price cap for the switched access service basket shall be set
11 based upon the local exchange carrier's intrastate access tariffs as of
12 January 1, 1997, except for any revenue neutral rate rebalancing
13 authorized in accordance with subsection (c). Thereafter, the cap for this
14 basket shall not change except in connection with any subsequent revenue
15 neutral rebalancing authorized by the commission under subsection (c).

16 (j) The price caps for the miscellaneous services basket shall be
17 adjusted annually after December 31, 1997, based on the adjustment
18 formula determined by the commission under subsection (g).

19 (k) A price cap is a maximum price for all services taken as a whole
20 in a given basket. Prices for individual services may be changed within the
21 service categories, if any, established by the commission within a basket.
22 An entire service category, if any, within the residential and single-line
23 business basket or miscellaneous services basket may be priced below the
24 cap for such category. Unless otherwise approved by the commission, no
25 service shall be priced below the price floor which will be long-run
26 incremental cost and imputed access charges. Access charges equal to
27 those paid by telecommunications carriers to local exchange carriers shall
28 be imputed as part of the price floor for toll services offered by local
29 exchange carriers on a toll service basis.

30 (l) A local exchange carrier may offer promotions within an exchange
31 or group of exchanges. All promotions shall be approved by the
32 commission and may not be unjust, unreasonably discriminatory or unduly
33 preferential.

34 (m) Unless the commission authorizes price deregulation at an earlier
35 date, intrastate toll services within the miscellaneous services basket shall
36 continue to be regulated until the affected local exchange carrier begins to
37 offer 1+ intraLATA dialing parity throughout its service territory, at which
38 time intrastate toll will be price deregulated, except that prices cannot be
39 set below the price floor.

40 (n) On or before July 1, 1997, the commission shall establish
41 guidelines for reducing regulation prior to price deregulation of price cap
42 regulated services in the miscellaneous services basket, the switched
43 access services basket, and the residential and single-line business basket.

1 (o) Subsequent to the adoption of guidelines pursuant to subsection
2 (n), the commission shall initiate a petitioning procedure under which the
3 local exchange carrier may request rate range pricing. The commission
4 shall act upon a petition within 21 days, subject to a 30-day extension. The
5 prices within a rate range shall be tariffed and shall apply to all customers
6 in a nondiscriminatory manner in an exchange or group of exchanges.

7 (p) A local exchange carrier may petition the commission to designate
8 an individual service or service category, if any, within the miscellaneous
9 services basket, the switched access services basket or the residential and
10 single-line business basket for reduced regulation. The commission shall
11 act upon a petition for reduced regulation within 21 days, subject to an
12 extension period of an additional 30 days, and upon a good cause showing
13 of the commission in the extension order, or within such shorter time as
14 the commission shall approve. The commission shall issue a final order
15 within the 21-day period or within a 51-day period if an extension has
16 been issued. Following an order granting reduced regulation of an
17 individual service or service category, the commission shall act on any
18 request for price reductions within seven days subject to a 30-day
19 extension. The commission shall act on other requests for price cap
20 adjustments, adjustments within price cap plans and on new service
21 offerings within 21 days subject to a 30-day extension. Such a change will
22 be presumed lawful unless it is determined the prices are below the price
23 floor or that the price cap for a category, if any, within the entire basket has
24 been exceeded.

25 (q)(1) Beginning July 1, 2006, price regulation of
26 telecommunications services in the residential and single-line business
27 service basket and the miscellaneous services basket for local exchange
28 carriers subject to price cap regulation shall be as follows:

29 (A) Packages or bundles of services shall be price deregulated
30 statewide, however the individual telecommunication service components
31 of such packages or bundles shall remain available for purchase on an
32 individual basis at prices subject to price cap regulation in any exchange in
33 which the standards in subsection (q)(1)(B), (C) or (D) have not been met.
34 If standards in subsection (q)(1)(B), (C) or (D) have been met, the
35 individual telecommunication service components of such packages or
36 bundles shall remain available for purchase on an individual basis and
37 prices for packages or bundles shall not exceed the sum of the highest
38 prices of the a la carte components of the package or bundle;

39 (B) in any exchange in which there are 75,000 or more local
40 exchange access lines served by all providers, rates for all
41 telecommunications services shall be price deregulated;

42 (C) in any exchange in which there are fewer than 75,000 local
43 exchange access lines served by all providers, the commission shall price

1 deregulate all business telecommunication services upon a demonstration
2 by the requesting local telecommunications carrier that there are two or
3 more nonaffiliated telecommunications carriers or other entities, that are
4 nonaffiliated with the local exchange carrier, providing local
5 telecommunications service to business customers, regardless of whether
6 the entity provides local service in conjunction with other services in that
7 exchange area. One of such nonaffiliated carriers or entities shall be
8 required to be a facilities-based carrier or entity and not more than one of
9 such nonaffiliated carriers or entities shall be a provider of commercial
10 mobile radio services in that exchange;

11 (D) in any exchange in which there are fewer than 75,000 local
12 exchange access lines served by all providers, the commission shall price
13 deregulate all residential telecommunication services upon a
14 demonstration by the requesting local telecommunications carrier that
15 there are two or more nonaffiliated telecommunications carriers or other
16 entities, that are nonaffiliated with the local exchange carrier, providing
17 local telecommunications service to residential customers, regardless of
18 whether the entity provides local service in conjunction with other services
19 in that exchange area. One of such nonaffiliated carriers or entities shall be
20 required to be a facilities-based carrier or entity and not more than one of
21 such nonaffiliated carriers or entities shall be a provider of commercial
22 mobile radio services in that exchange;

23 (E) rates for lifeline services shall remain subject to price cap
24 regulation;

25 (F) up to and continuing until July 1, 2008, rates for the initial
26 residential local exchange access line and up to four business local
27 exchange access lines at one location shall remain subject to price cap
28 regulation. On and after July 1, 2008, the local exchange carrier shall be
29 authorized to adjust such rates without commission approval by not more
30 than the percentage increase in the consumer price index for all urban
31 consumers, as officially reported by the bureau of labor statistics of the
32 United States department of labor, or its successor index, in any one year
33 period and such rates shall not be adjusted below the price floor
34 established in subsection (k). Such rates shall not be affected by purchase
35 of one or more of the following: Call management services, intraLATA
36 long distance service or interLATA long distance service; and

37 (G) local exchange carriers shall offer a uniform price throughout
38 each such exchange for services subject to price deregulation, under this
39 subsection, including packages or bundles of services, except as provided
40 in subsection (1) or as otherwise approved by the commission.

41 (2) For the purposes of this subsection:

42 (A) Any entity providing voice service shall be considered as a local
43 telecommunications service provider regardless of whether such entity is

1 subject to regulation by the commission;

2 (B) a provider of local telecommunications service that requires the
3 use of a third party, unaffiliated broadband network or dial-up internet
4 network for the origination of local voice service shall not be considered a
5 local telecommunications service provider;

6 (C) telecommunications carriers offering only prepaid
7 telecommunications service shall not be considered entities providing local
8 telecommunications service.

9 (3) If the services of a local exchange carrier are classified as price
10 deregulated under this subsection, the carrier may thereafter adjust its rates
11 for such price deregulated services upward or downward as it determines
12 appropriate in its competitive environment, with tariffs for such services
13 deemed effective upon filing with the commission. Price deregulated
14 services shall be subject to the price floor in subsection (k), and shall not
15 be unreasonably discriminatory or unduly preferential within an exchange.

16 (4) The commission shall act upon a petition filed pursuant to
17 subsection (q)(1)(C) or (D) within 21 days, subject to an extension period
18 of an additional 30 days, and upon a good cause showing of the
19 commission in the extension order, or within such shorter time as the
20 commission shall approve. The commission shall issue a final order within
21 the 21-day period or within a 51-day period if an extension order has been
22 issued.

23 (5) The commission may resume price cap regulation of a local
24 exchange carrier, deregulated under this subsection upon finding, after a
25 hearing, that such carrier has: Violated minimum quality of service
26 standards pursuant to subsection (1) of K.S.A. 66-2002, and amendments
27 thereto; been given reasonable notice and an opportunity to correct the
28 violation; and failed to do so.

29 (6) The commission on July 1, 2006, and on each date that any
30 service is deregulated, shall record the rates of each service which has
31 been price deregulated in each exchange.

32 (7) Prior to January 1, 2007, the commission shall determine the
33 weighted, statewide average rate of nonwireless basic local
34 telecommunications service as of July 1, 2006. Prior to January 1, 2007,
35 and annually thereafter, the commission shall determine the weighted,
36 average rate of nonwireless basic local telecommunications services in
37 exchanges that have been price deregulated pursuant to subsection (q)(1)
38 (B), (C) or (D). The commission shall report its findings on or before
39 February 1, 2007, and annually thereafter to the governor, the legislature
40 and each member of the standing committees of the house of
41 representatives and the senate which are assigned telecommunications
42 issues. The commission shall also provide in such annual report
43 information on the current rates for services provided by all

1 telecommunications carriers or other telecommunications service
2 providers regardless of the technology used to provide service in price
3 deregulated exchanges, service offerings provided by all
4 telecommunications carriers or other telecommunications service
5 providers regardless of the technology used and available in price
6 deregulated exchanges and the number of competitors in price deregulated
7 exchanges including, but not limited to, facilities based carriers,
8 commercial mobile radio service or broadband based service providers.

9 (8) For the purposes of this subsection:

10 (A) "Packages or bundles of services" means the offering of a local
11 telecommunications service with one or more of the following, subscribed
12 together, as one service option offered at one price, one or more call
13 management services, intraLATA long distance service, interLATA long
14 distance service, internet access, video services or wireless services.
15 Packages or bundles of services shall not include only a single residential
16 local exchange access line or up to four business local exchange access
17 lines at one location and intraLATA long distance service or interLATA
18 long distance service, or both;

19 (B) "local telecommunications service" means two-way voice service
20 capable of being originated and terminated within the exchange of the
21 local exchange telecommunications company seeking price deregulation of
22 its services, regardless of the technology used to provision the voice
23 service;

24 (C) "broadband network" means a connection that delivers services at
25 speeds exceeding two hundred kilobits per second in both directions;

26 (D) "prepaid telecommunications service" means a local service for
27 which payment is made in advance that excludes access to operator
28 assistance and long distance service;

29 (E) "facilities based carrier" means a telecommunications carrier or
30 entity providing local telecommunications service either wholly or
31 partially over its own network. Facilities based carrier shall not include
32 any radio communication services provider licensed by the federal
33 communications commission to provide commercial mobile radio services;
34 and

35 (F) "call management services" means optional telecommunications
36 services that allow a customer to manage call flow generated over the
37 customer's local exchange access line.

38 (r) (1) Upon complaint or request, the commission may investigate a
39 price deregulated service.

40 (2) The commission shall resume price cap regulation of a service
41 provided in any exchange area by placing it in the appropriate service
42 basket, as approved by the commission, upon a determination by the
43 commission that the conditions in subsection (q)(1)(C) or (D) are no

1 longer satisfied in that exchange area.

2 (3) The commission shall resume price cap regulation of business
3 services in any exchange meeting the conditions of subsection (q)(1)(B) by
4 placing it in the appropriate service basket, as approved by the
5 commission, upon a determination by the commission that the following
6 condition is not met: There are at least two nonaffiliated
7 telecommunications carriers or other entities, that are nonaffiliated with
8 the local exchange carrier, providing local telecommunications service to
9 business customers, regardless of whether the entity provides local service
10 in conjunction with other services in that exchange area. One of such
11 nonaffiliated carriers or entities shall be required to be a facilities-based
12 carrier or entity and not more than one such nonaffiliated carriers or
13 entities shall be a provider of commercial mobile radio services in that
14 exchange.

15 (4) The commission shall resume price cap regulation of residential
16 services in any exchange meeting the conditions of subsection (q)(1)(B) by
17 placing it in the appropriate service basket, as approved by the
18 commission, upon a determination by the commission that the following
19 condition is not met: There are at least two or more nonaffiliated
20 telecommunications carriers or other entities, that are nonaffiliated with
21 the local exchange carrier, providing local telecommunications service to
22 residential customers, regardless of whether the entity provides local
23 service in conjunction with other services in that exchange area. One of
24 such nonaffiliated carriers or entities shall be required to be a facilities-
25 based carrier or entity and not more than one such nonaffiliated carriers or
26 entities shall be a provider of commercial mobile radio services in that
27 exchange.

28 (s) The commission shall require that for all local exchange carriers
29 all such price deregulated basic intraLATA toll services be geographically
30 averaged statewide and not be priced below the price floor established in
31 subsection (k).

32 (t) Cost studies to determine price floors shall be performed as
33 required by the commission in response to complaints. In addition,
34 notwithstanding the exemption in subsection (b), the commission may
35 request information necessary to execute any of its obligations under the
36 act. In response to a complaint that a price deregulated service is priced
37 below the price floor set forth in subsection (k), the commission shall issue
38 an order within 60 days after the filing of the complaint unless the
39 complainant agrees to an extension.

40 (u) A local exchange carrier may petition for individual customer
41 pricing. The commission shall respond expeditiously to the petition within
42 a period of not more than 30 days subject to a 30-day extension.

43 (v) No audit, earnings review or rate case shall be performed with

1 reference to the initial prices filed as required herein.

2 ~~(w) Telecommunications carriers shall not be subject to price~~
3 ~~regulation, except that: Access charge reductions shall be passed through~~
4 ~~to consumers by reductions in basic intrastate toll prices; and basic toll~~
5 ~~prices shall remain geographically averaged statewide. As required under~~
6 ~~K.S.A. 66-131, and amendments thereto, and except as provided for in~~
7 ~~subsection (c) of K.S.A. 66-2004, and amendments thereto,~~
8 ~~telecommunications carriers that were not authorized to provide switched~~
9 ~~local exchange telecommunications services in this state as of July 1,~~
10 ~~1996, including cable television operators who have not previously offered~~
11 ~~telecommunications services, must receive a certificate of convenience~~
12 ~~based upon a demonstration of technical, managerial and financial~~
13 ~~viability and the ability to meet quality of service standards established by~~
14 ~~the commission. Any telecommunications carrier or other entity seeking~~
15 ~~such certificate shall file a statement, which shall be subject to the~~
16 ~~commission's approval, specifying with particularity the areas in which it~~
17 ~~will offer service, the manner in which it will provide the service in such~~
18 ~~areas and whether it will serve both business customers and residential~~
19 ~~customers in such areas. Any structurally separate affiliate of a local~~
20 ~~exchange carrier that provides telecommunications services shall be~~
21 ~~subject to the same regulatory obligations and oversight as a~~
22 ~~telecommunications carrier, as long as the local exchange carrier's affiliate~~
23 ~~obtains access to any services or facilities from its affiliated local~~
24 ~~exchange carrier on the same terms and conditions as the local exchange~~
25 ~~carrier makes those services and facilities available to other~~
26 ~~telecommunications carriers. The commission shall oversee~~
27 ~~telecommunications carriers to prevent fraud and other practices harmful~~
28 ~~to consumers and to ensure compliance with quality of service standards~~
29 ~~adopted for all local exchange carriers and telecommunications carriers in~~
30 ~~the state.~~

31 (x) (†) Any local exchange carrier with a majority of the carrier's
32 local exchange access lines in the state price deregulated pursuant to
33 subsection (q) may elect to no longer be regulated as a local exchange
34 carrier and, notwithstanding any other provisions, upon such election shall
35 instead be regulated as a telecommunications carrier, except as provided in
36 this subsection. A local exchange carrier making such election shall be
37 referred to as an "electing carrier." A local exchange carrier may make
38 such election by providing the commission with at least 90 days' written
39 notice of election. The notice of election shall include a verified statement
40 that a majority of the carrier's local exchange access lines are price
41 deregulated. Such notification shall include information regarding the
42 number of access lines the carrier serves in each of the carrier's exchanges.
43 Within 45 days of receipt of such a notification, the commission shall

1 review the information concerning the carrier's local exchange access lines
2 and upon failure of the commission, within 45 days of receipt of the
3 notification, to determine that a majority of such lines of the carrier are not
4 price deregulated the commission shall designate the carrier as an electing
5 carrier.

6 ~~(2) An electing carrier shall not be subject to price regulation and
7 shall be subject to nondiscriminatory regulation by the commission in the
8 same manner as and subject to no more regulation than other
9 telecommunications carriers operating in the state, except that the carrier
10 shall remain subject to:~~

11 ~~(A) The reasonable resale of retail telecommunications services, as
12 well as unbundling and interconnection obligations as required by K.S.A.
13 66-2003, and amendments thereto;~~

14 ~~(B) the requirements of subsection (c) concerning intrastate access
15 charges;~~

16 ~~(C) the requirements of the KLSP, as required by K.S.A. 66-2006,
17 and amendments thereto;~~

18 ~~(D) price cap regulation for lifeline services; and~~

19 ~~(E) shall remain eligible to receive KUSF funding.~~

20 (3) An electing carrier's rates for single residential or business local
21 exchange access lines in its rural exchanges shall be no higher than the
22 average of such rates for single residential or business local exchange
23 access lines respectively in its urban exchanges.

24 (4) An electing carrier may elect to be relieved of the requirement to
25 serve as carrier of last resort, as required by K.S.A. 66-2009, and
26 amendments thereto, by providing written notification to the commission
27 of the specific urban exchanges for which the electing carrier is electing to
28 be relieved of carrier of last resort obligations, in the electing carrier's
29 urban exchanges.

30 (5) Notwithstanding any other provision of law to the contrary, an
31 electing carrier that notifies the commission that the electing carrier
32 chooses to be relieved of carrier of last resort obligations in specific urban
33 exchanges or any local exchange carrier that does not have a carrier of last
34 resort obligation in a specific exchange shall not be eligible for KUSF
35 funding for carrier of last resort obligations, as required by K.S.A. 66-
36 2009, and amendments thereto, or high cost support in those specific
37 exchanges, but would remain eligible for KUSF support for Kansas lifeline
38 service program purposes.

39 (6) Notwithstanding the provisions of this subsection (x), an electing
40 carrier shall offer single residential local exchange access lines in the
41 electing carrier's exchanges.

42 (7) For the purposes of this subsection:

43 (A) "Facilities based carrier" means a telecommunications carrier or

1 entity providing local telecommunications service either wholly or
2 partially over its own network. Facilities based carrier shall not include
3 any radio communication services provider licensed by the federal
4 communications commission to provide commercial mobile radio services;

5 (B) "~~rural exchange~~" means any exchange in which there are fewer
6 than 6,000 local exchange access lines served by the electing carrier and
7 all facilities based carriers; and

8 (C) "~~urban exchange~~" means any exchange in which there are 75,000
9 or more local exchange access lines served by the electing carrier and all
10 facilities based carriers.

11 (y) Notwithstanding the provisions of this act, *and subject to any*
12 *applicable exemption from interconnection generally*, a
13 telecommunications carrier is entitled to interconnection with a *local*
14 *exchange carrier or* an electing carrier to transmit and route voice traffic
15 between both the telecommunications carrier and the *local exchange*
16 *carrier or* electing carrier regardless of the technology by which the voice
17 traffic is originated by and terminated to a consumer. The commission
18 shall afford such telecommunications carrier all substantive and procedural
19 rights available to such carrier regarding interconnection pursuant to 47
20 U.S.C. §§ 251 and 252 as in effect on the effective date of this act.
21 *Nothing in this subsection shall be construed to confer jurisdiction upon*
22 *the commission for services that are exempt from or otherwise not subject*
23 *to commission jurisdiction.*

24 (z) (1) *Telecommunications carriers and electing carriers shall not be*
25 *subject to regulation by the commission for the provision of*
26 *telecommunications services, except that the commission shall retain the*
27 *authority and jurisdiction to authorize applications, suspension or*
28 *cancellation of certificates of public convenience and necessity to provide*
29 *local exchange or exchange access service in the state of Kansas, but the*
30 *commission may not use this certification authority to regulate*
31 *telecommunications carriers or electing carriers beyond the jurisdiction*
32 *provided the commission in this subsection.*

33 (2) *Nothing in this section shall be construed to restrict the*
34 *commission's authority and jurisdiction to:*

35 (A) *Carry out the commission's obligations established in 47 U.S.C.*
36 *§§ 251 and 252; and*

37 (B) *implement rules delegated to the state by the federal*
38 *communications commission or federal law unless specifically prohibited*
39 *by state law; or*

40 (C) *regulate intrastate switched access rates, terms and conditions,*
41 *including the implementation of federal law concerning intercarrier*
42 *compensation.*

43 (3) *The commission shall retain the authority and jurisdiction to:*

1 (A) Carry out the commission's obligations pursuant to the
 2 underground utilities damage prevention act, K.S.A. 66-1801 et seq., and
 3 amendments thereto, and the overhead power line accident prevention act,
 4 K.S.A. 66-1709 et seq., and amendments thereto;

5 (B) require the reasonable resale of retail telecommunications
 6 services, as well as unbundling and interconnection obligations as
 7 required by K.S.A. 66-2003, and amendments thereto;

8 (C) administer the Kansas lifeline service program pursuant to
 9 K.S.A. 66-2006, and amendments thereto; ~~and~~

10 (D) administer contributions to the Kansas universal service fund
 11 pursuant to subsection (a) of K.S.A. 66-2008, and amendments thereto;

12 (E) assess costs and expenses pursuant to K.S.A. 66-1501 et seq.,
 13 and amendments thereto, but the commission shall not use this
 14 authority to regulate telecommunications carriers or electing carriers
 15 beyond the jurisdiction provided the commission in this subsection;
 16 and

17 (F) request information from telecommunications carriers and
 18 electing carriers pursuant to K.A.R. 82-1-234a(b) and subject to the
 19 provisions of K.A.R. 82-1-221a and K.S.A. 66-1220a, and amendments
 20 thereto, but the commission shall not use this authority to regulate
 21 telecommunications carriers or electing carriers beyond the
 22 jurisdiction provided the commission in this subsection.

23 Sec. 7. 9. K.S.A. 2012 Supp. 66-2006 is hereby amended to read as
 24 follows: 66-2006. (a) On or before January 1, 1997, the commission shall
 25 establish the Kansas lifeline service program, hereinafter referred to as the
 26 KLSP. The purpose of the KLSP shall be to promote the provision of
 27 universal service by local exchange carriers to persons with low income.
 28 The KLSP shall be targeted to maintain affordable rates for residential
 29 local exchange service. The commission shall approve a means test to
 30 determine the eligibility of customers for such low-income assistance.

31 ~~(b) Every local exchange carrier providing residential local~~
 32 ~~telecommunications services that have been price deregulated in this state~~
 33 ~~pursuant to subsection (q) of K.S.A. 66-2005, and amendments thereto,~~
 34 ~~shall, and any other A local exchange carrier, electing carrier or~~
 35 ~~telecommunications carrier may, automatically enroll its existing and~~
 36 ~~eligible customers in the KLSP, subject to the following:~~

37 (1) On or before January 1, 2009, the department of social and
 38 rehabilitation services, hereinafter referred to as the department, or any
 39 other successor state agency, may provide each participating carrier a list
 40 of those persons residing in the state that participate in programs which
 41 also qualify such persons to receive KLSP services. This listing shall
 42 consist of those persons who have consented to the release of their
 43 personal information to the KLSP carrier to receive KLSP services and

1 include at a minimum the name, address and telephone number of such
2 persons. Every six months thereafter, the department may provide to each
3 participating carrier an updated list of persons consenting to such KLSP
4 services. The secretary of the department may adopt rules and regulations
5 to coordinate the acquisition and provision of the information to be
6 provided pursuant to this subsection (b).

7 (2) The participating carrier shall use the list for the sole purpose of
8 identifying those of its existing customers to whom it is currently
9 providing telephone service.

10 (3) The participating carrier shall discontinue providing KLSP
11 services to an eligible customer if the eligible customer notifies the
12 participating carrier that the customer wishes to discontinue receiving
13 those services.

14 (4) Each participating carrier receiving customer information
15 pursuant to this subsection (b) shall execute a confidentiality agreement
16 with the department prior to receiving non-public customer eligibility
17 information. The agreement will specify that the customer information is
18 released by the department to the participating carrier for the sole purpose
19 of providing KLSP to eligible customers, and that the information cannot
20 be released or used by the carrier for any other purpose unless authorized
21 by the customer or otherwise required by law.

22 (c) To generate and facilitate participation in the lifeline service
23 program, provide choice for Kansas consumers, and allow collection of
24 federal lifeline program reimbursements, the KCC shall approve a wireline
25 (non-CMRS) facilities-based telephone service provider's application for
26 eligible telecommunications carrier, hereinafter referred to as the ETC,
27 designation in a nonrural service area for the purpose of receiving low-
28 income federal universal service fund support for participation in the
29 lifeline service program, for the area equal to the applicant provider's own
30 service area, provided the applicant provider meets all other ETC
31 eligibility requirements. The commission, however, may condition that
32 such designation remain consistent with the guidelines of the federal
33 program.

34 (d) *Telecommunications carriers and electing carriers may cease*
35 *participation in the KLSP at any time upon provision of 90-days prior*
36 *written notification to the commission. Telecommunications carriers and*
37 *electing carriers participating in the KLSP shall be eligible to receive*
38 *KUSF support for KLSP services, but shall not be subject to any*
39 *regulation by the commission based on such participation other than that*
40 *provided for in subsection (z) of K.S.A. 66-2005, and amendments thereto.*

41 **Sec. 8-10.** K.S.A. 66-2007 is hereby amended to read as follows: 66-
42 2007. (a) All local exchange carriers ~~and telecommunications carriers~~, *not*
43 *including electing carriers*, providing long distance service in Kansas shall

1 reduce their statewide averaged basic long distance rates to reflect the net
2 reductions in access charges; however, such carriers shall be allowed to
3 increase long distance rates to reflect the KUSF funding requirements set
4 forth in K.S.A. 66-2008, *and amendments thereto*.

5 (b) The commission shall approve, upon not more than 120 days'
6 notice, any basic local exchange price increases that in the aggregate in
7 any one year are \$1.50 or less per access line per month, that are proposed
8 by any rural telephone company which is subject to traditional rate of
9 return regulation and that comply with the requirements of this section.
10 Any such proposed price increases shall be presumed reasonable and not
11 subject to commission investigation and review if the rural telephone
12 company has followed the notice requirements set forth below. However,
13 the commission shall initiate an investigation if more than 15% of the
14 subscribers subject to the rate increase request such an investigation within
15 60 days of the date of distribution of the notice of the proposed change.
16 Upon filing such an application for a rate increase, any rural telephone
17 company seeking expedited approval of the proposed rate under this
18 section shall send a notice to its subscribers by regular mail, which may be
19 included with regular subscriber mailings. Such mailings shall include the
20 name, mailing address and telephone number of the commission. The
21 notice shall include a schedule of the proposed local exchange rates, the
22 effective date of the rates and a description of the procedures by which the
23 subscribers can petition the commission to determine the reasonableness of
24 the proposed rates, including a provision specifically stating that protest by
25 15% or more of subscribers subject to the proposed rate increase would
26 require the commission to initiate an investigation concerning the
27 reasonableness of the proposed rate increase.

28 (c) The commission shall have the right to investigate and determine
29 the reasonableness of an increase in local exchange rates and charges
30 under subsection (b) by any rural telephone company within one year of
31 the time local exchange rates or charges are increased. If the commission
32 determines such rate or charge increases are unreasonable, the commission
33 shall have the authority to order a rate hearing and, after such hearing,
34 shall have the authority to rescind all or any portion of the increases found
35 to be unreasonable.

36 ~~Sec. 9-~~ **11.** K.S.A. 2012 Supp. 66-2008 is hereby amended to read as
37 follows: 66-2008. On or before January 1, 1997, the commission shall
38 establish the Kansas universal service fund, hereinafter referred to as the
39 KUSF.

40 (a) The commission shall require every telecommunications carrier,
41 telecommunications public utility and wireless telecommunications service
42 provider that provides intrastate telecommunications services and, to the
43 extent not prohibited by federal law, every provider of interconnected VoIP

1 service, as defined by 47 C.F.R. § 9.3 (October 1, 2005), to contribute to
2 the KUSF on an equitable and nondiscriminatory basis. Any
3 telecommunications carrier, telecommunications public utility, wireless
4 telecommunications service provider or provider of interconnected VoIP
5 service which contributes to the KUSF may collect from customers an
6 amount equal to such carrier's, utility's or provider's contribution, but such
7 carrier, provider or utility may collect a lesser amount from its customer.

8 Any contributions in excess of distributions collected in any reporting
9 year shall be applied to reduce the estimated contribution that would
10 otherwise be necessary for the following year.

11 (b) Pursuant to the federal act, distributions from the KUSF shall be
12 made in a competitively neutral manner to qualified telecommunications
13 public utilities, telecommunications carriers and wireless
14 telecommunications providers, that are deemed eligible both under
15 subsection (e)(1) of section 214 of the federal act and by the commission.

16 (c) *Beginning January 1, 2014:*

17 (1) *Annual distributions from the KUSF for a local exchange carrier*
18 *subject to price cap regulation pursuant to K.S.A. 66-2005, and*
19 *amendments thereto, shall be capped at 90% of KUSF support the carrier*
20 *received for the 12-month period ending February 28, 2013, not including*
21 *KUSF support for Kansas lifeline service program purposes, pursuant to*
22 *K.S.A. 66-2006, and amendments thereto.*

23 (2) *Local exchange carriers subject to price cap regulation pursuant*
24 *to K.S.A. 66-2005, and amendments thereto, shall not receive KUSF*
25 *support for any residential or business lines within an exchange that the*
26 *commission has granted price deregulation pursuant to subsections ~~(q)(B)~~*
27 ***(q)(1)(B)**, (C); or (D) ~~or (E)~~ of K.S.A. 66-2005, and amendments thereto,*
28 *except for areas within any census block in such an exchange in which*
29 *there is no wireline carrier providing local exchange access lines that*
30 *does not receive KUSF support, not including KUSF support for Kansas*
31 *lifeline service program purposes pursuant to K.S.A. 66-2006, and*
32 *amendments thereto, for such access lines.*

33 (3) *Local exchange carriers subject to price cap regulation pursuant*
34 *to K.S.A. 66-2005, and amendments thereto, shall receive the same per*
35 *line, per month KUSF support as established in the April 13, 2000 notice*
36 *in commission docket numbers 99-GIMT-326-GIT and 00-GIMT-236-GIT*
37 *subject to the cap percentage in subsection (c)(1), not including KUSF*
38 *support for Kansas lifeline service program purposes pursuant to K.S.A.*
39 *66-2006, and amendments thereto, except that the amount shall be*
40 *reduced by any funding received by such carrier from the federal*
41 *communication commission's connect America fund II for the same*
42 *household, if feasible, or for the same census block.*

43 (4) *The commission shall discontinue the use of the "identical*

1 *support" rule and shall cap all competitive eligible telecommunications*
2 *carriers' KUSF high cost support as of March 1, 2013, and beginning*
3 *March 1, 2014, over a period of four years in annual equal increments,*
4 *reduce to zero, beginning March 1, 2018, the amount of KUSF high cost*
5 *support received by competitive eligible telecommunications carriers.*
6 *Nothing in this section shall be construed to affect competitive eligible*
7 *telecommunications carriers' eligibility for Kansas lifeline service*
8 *program purposes pursuant to K.S.A. 66-2006, and amendments thereto.*
9 *For the purposes of this subsection, "competitive eligible*
10 *telecommunications carrier" means a telecommunications carrier*
11 *designated by the commission as an eligible telecommunications carrier*
12 *after January 1, 1998. "Competitive eligible telecommunications carrier"*
13 *shall not mean any local exchange carrier or any electing carrier*
14 *designated by the commission as an eligible telecommunications carrier*
15 *by order dated December 5, 1997, in docket No. 98-GIMT-241-GIT, or*
16 *any such local exchange carrier's or electing carrier's successors or*
17 *assigns.*

18 (5) *An electing carrier shall no longer be eligible to receive high cost*
19 *support from the KUSF.*

20 (d) ~~The commission shall periodically review the KUSF to determine~~
21 ~~if the costs of qualified telecommunications public utilities,~~
22 ~~telecommunications carriers and wireless telecommunications service~~
23 ~~providers to provide local service justify modification of the KUSF. If the~~
24 ~~commission determines that any changes are needed, the commission shall~~
25 ~~modify the KUSF accordingly undertake a review of the capped amount of~~
26 ~~KUSF support available for each local exchange carrier operating under~~
27 ~~price cap regulation that receives such support, not including Kansas~~
28 ~~lifeline service program purposes pursuant to K.S.A. 66-2006, and~~
29 ~~amendments thereto, and determine if a lesser amount is appropriate for~~
30 ~~KUSF distributions after March 1, 2019. Reviews of such carriers shall be~~
31 ~~based on the forward-looking costs of providing basic voice service, using~~
32 ~~inputs that reflect the actual geography being served and that reflect the~~
33 ~~scale and scope of the local exchange carrier providing basic local voice~~
34 ~~service within each exchange.~~

35 ~~(d)(e) Any qualified telecommunications carrier, telecommunications~~
36 ~~public utility or wireless telecommunications service provider~~ **local**
37 **exchange carrier** may request supplemental funding from the KUSF
38 based upon a percentage increase in access lines over the 12-month period
39 prior to the request. The supplemental funding shall be incurred for the
40 purpose of providing services to and within the service area of the
41 ~~qualified telecommunications carrier, telecommunications public utility or~~
42 ~~wireless telecommunications service provider~~ **local exchange carrier.**
43 Supplemental funding from the KUSF shall be used for infrastructure

1 expenditures necessary to serve additional customers within the service
2 area of such ~~qualifying utility, provider or carrier~~. All affected parties shall
3 be allowed to review and verify a request of such ~~a qualified utility, carrier~~
4 ~~or provider~~ for supplemental funding from the KUSF, and to intervene in
5 any commission proceeding regarding such request. The commission shall
6 issue an order on the request within 120 days of filing. Additional funding
7 also may be requested for: The recovery of shortfalls due to additional
8 rebalancing of rates to continue maintenance of parity with interstate
9 access rates; shortfalls due to changes to access revenue requirements
10 resulting from changes in federal rules; additional investment required to
11 provide universal service and enhanced universal service, deployed subject
12 to subsection (a) of K.S.A. 66-2005, and amendments thereto; and for
13 infrastructure expenditures in response to facility or service requirements
14 established by any legislative, regulatory or judicial authority. Such
15 requests shall be subject to simplified filing procedures and the expedited
16 review procedures, as outlined in the stipulation attached to the order of
17 November 19, 1990 in docket no. 127,140-U (Phase IV).

18 ~~(e)~~(f) For each local exchange carrier electing pursuant to subsection
19 (b) of K.S.A. 66-2005, and amendments thereto, to operate under
20 traditional rate of return regulation, all KUSF support, including any
21 adjustment thereto pursuant to this section shall be based on such carrier's
22 embedded costs, revenue requirements, investments and expenses. ~~The~~
23 ~~commission shall continue, Until at least March 1, 2017, to determine~~
24 ~~KUSF support for local exchange carriers electing traditional rate of~~
25 ~~return regulation pursuant to subsection (b) of K.S.A. 66-2005, and~~
26 ~~amendments thereto, in the same manner and using the same policies and~~
27 ~~procedures in effect on January 1, 2013. any modification of such support~~
28 ~~shall be made only as a direct result of changes in those factors~~
29 ~~enumerated in this subsection.~~ **Nothing in this subsection shall prohibit**
30 **the commission from conducting a general investigation regarding**
31 **effects of federal universal service reform on KUSF support and the**
32 **telecommunications public policy of the state of Kansas as expressed**
33 **in K.S.A. 66-2001, and amendments thereto. The commission may**
34 **present any findings and recommendations to the telecommunications**
35 **study committee established in section 1, and amendments thereto.**

36 ~~(f)~~(g) Additional supplemental funding from the KUSF, other than as
37 provided in subsection ~~(f)~~(e), may be authorized at the discretion of the
38 commission. However, the commission may require approval of such
39 funding to be based upon a general rate case filing. With respect to any
40 request for additional supplemental funding from the KUSF *and to any*
41 *audit of a rural telephone company's KUSF support*, the commission shall
42 act expeditiously, ~~but~~ *and shall not* be subject to the ~~120-day~~ 240-day
43 deadline ~~set forth in subsection (d) for rate case applications pursuant to~~

1 *K.S.A. 66-117, and amendments thereto.*

2 ~~Sec. 10.~~ **12.** K.S.A. 2012 Supp. 66-2009 is hereby amended to read as
3 follows: 66-2009. (a) Local exchange carriers, *not including electing*
4 *carriers*, that provided switched local exchange services in the state prior
5 to January 1, 1996, or their successors, shall serve as the carrier of last
6 resort in their exchanges and shall be eligible to receive KUSF funding.
7 However, with respect to the Hill City exchange area in which multiple
8 carriers were certified prior to January 1, 1996, the commission's
9 determination, subject to court appeals, shall determine which authorized
10 carrier shall serve as carrier of last resort. The local exchange carrier
11 serving as the carrier of last resort shall remain the carrier of last resort and
12 shall be entitled to recover the costs of serving as carrier of last resort.

13 (b) Beginning March 1, 1997, the amount of KUSF funds owed to
14 each qualifying telecommunications carrier, telecommunications public
15 utility or wireless telecommunications service provider in the state, based
16 upon the revenue requirements assigned to the funds for such qualifying
17 utility, carrier or provider, shall be allocated by the fund administrator in
18 equal monthly installments.

19 (c) (1) For the purposes of this subsection:

20 (A) "Alternative service provider" means any person or entity
21 providing local telecommunications services or any person or entity
22 allowing another person or entity to use its equipment or facilities to
23 provide local telecommunications services or any person or entity securing
24 rights to select an alternative service provider for a property owner or
25 developer, and does not include a local exchange carrier providing service
26 within its commission-approved local exchange service area.

27 (B) "Alternative technology" means any technology that offers local
28 telecommunications service and functionality comparable to that provided
29 through an exiting alternative service provider's facilities, and may include
30 a technology that does not require the use of any public right-of-way.

31 (C) "Greenfield area" means an area that requires entirely new
32 construction of local loops, in addition to the deployment of any necessary
33 switching and other network equipment, to serve new real property
34 developments.

35 (D) "Local telecommunications service" means two-way voice
36 service capable of being originated and terminated within a local exchange
37 service area, regardless of the technology used to provision the voice
38 service.

39 (E) "Owner or developer" means the owner or developer of a
40 business or residential property, any condominium association or
41 homeowners' association thereof, any other person or entity having
42 ownership in, or control over, the property, or any person acting on behalf
43 of such owner or developer.

1 (F) "Real property" includes, but is not limited to, any single tenant or
2 multi-tenant business or residential property, subdivisions, condominiums,
3 apartments, office buildings or office parks.

4 (2) A local exchange carrier obligated by this section to serve as the
5 carrier of last resort is hereby relieved of that obligation, and shall not be
6 obligated to provide basic local telecommunications service to any
7 occupants of real property if the owner or developer of the real property, or
8 a person acting on behalf of the owner or developer of real property,
9 engages in any of the following acts:

10 (A) Permits an alternative service provider to install its facilities or
11 equipment used to provide local telecommunications service based on a
12 condition of exclusion of the local exchange carrier, during the
13 construction phase of the real property;

14 (B) accepts or agrees to accept incentives or rewards from an
15 alternative service provider that are contingent upon the provision of any
16 or all local telecommunications services by one or more alternative service
17 providers to the exclusion of the local exchange carrier; or

18 (C) collects from the occupants or residents of the real property
19 mandatory charges for the provision of any local telecommunications
20 service provided by an alternative service provider to the occupants or
21 residents in any manner, including, but not limited to, collection through
22 rent, fees or dues.

23 (3) The local exchange carrier relieved of its carrier of last resort
24 obligation to provide basic local telecommunications service to the
25 occupants of the real property, pursuant to subsection (c), shall notify the
26 commission of that fact within 120 days after receiving knowledge of the
27 existence of such fact.

28 (4) A local exchange carrier that is not automatically relieved of its
29 carrier of last resort obligation pursuant to paragraph (2) of subsection (c)
30 may seek a waiver of its carrier of last resort obligation from the
31 commission for good cause shown based on the facts and circumstances of
32 the provision of local telecommunications service or internet access
33 service to a particular real property. Upon petition for such relief, notice
34 shall be given by the local exchange carrier at the same time to the
35 relevant owner or developer. The commission shall make a determination
36 concerning the petition on or before 90 days after such petition is filed.

37 (5) If all conditions described in paragraph (2) or (4) of subsection (c)
38 cease to exist at the property, and the owner or developer requests in
39 writing that the local exchange carrier make local telecommunications
40 service available to occupants of the real property and confirms in writing
41 that all conditions described in paragraph (2) or (4) of subsection (c) have
42 ceased to exist at the property, the carrier of last resort obligation under
43 this section shall again apply to the local exchange carrier at the real

1 property. The local exchange carrier shall provide notice to the
2 commission that it is assuming the carrier-of-last-resort obligation. The
3 local exchange carrier may require that the owner or developer pay to the
4 local exchange carrier in advance a reasonable fee to recover costs that
5 exceed the costs that would have been incurred to construct or acquire
6 facilities to serve customers at the real property initially. The commission
7 may verify that the fee enables the local exchange carrier to recover its
8 costs that exceed the costs that would have been incurred to construct or
9 acquire facilities to serve customers at the real property initially, including,
10 but not limited to, amounts necessary to install or retrofit any facilities or
11 equipment, to cut or trench sidewalks and streets and to restore roads,
12 sidewalks, block walls or landscapes to original conditions. The local
13 exchange carrier shall have a reasonable period of time following the
14 request from the owner or developer to make arrangements for local
15 telecommunications service availability. If a local exchange carrier is
16 relieved of its carrier of last resort obligation under paragraph (2) or (4) of
17 subsection (c), the owner or developer shall notify all occupants and any
18 subsequent owner of the specific real property of the following: (1) That
19 the incumbent local exchange carrier does not have facilities installed to
20 serve the specific real property, and that such carrier has been relieved of
21 its carrier of last resort obligations; and (2) the name of the person that will
22 be providing local telecommunications service to the real property, and the
23 type of technology that will be used to provide such service. An incumbent
24 local exchange carrier may meet the carrier's obligations under this section
25 using any available alternative technology. If any conditions described in
26 paragraph (2) or (4) of subsection (c) again exist at the real property, the
27 relief in paragraph (2) or (4) of subsection (c) shall again apply.

28 (6) When real property is located in a greenfield area, a carrier of last
29 resort shall not automatically be excused from its obligations under
30 paragraph (2) of subsection (c) unless the alternative service provider
31 possesses or shall possess at the time of commencement of service the
32 capability to provide local telecommunications service or the functional
33 equivalent of such service through any form of technology.

34 (7) If an owner or developer of real property permits an alternative
35 service provider to install its facilities or equipment used to provide local
36 telecommunications service to such property based on a condition of
37 exclusion of the local exchange carrier, the owner or developer must
38 provide written notice to the purchaser of any such real property that there
39 is an exclusion of that local exchange carrier, and that the alternative
40 service provider is the exclusive provider of service to such property.

41 ~~Sec. 13.~~ K.S.A. 66-1,188, **66-1,191**, **66-1,195**, 66-2002, 66-2003
42 and 66-2007 and K.S.A. 2012 Supp. 66-1,187, 66-2005, 66-2006, 66-2008
43 and 66-2009 are hereby repealed.

- 1 Sec. ~~12~~. **14.** This act shall take effect and be in force from and after
- 2 its publication in the statute book.