

SENATE BILL No. 346

By Committee on Utilities

1-21

1 AN ACT concerning telecommunications; relating to rural telephone
2 companies; universal service support, recovery of costs; amending
3 K.S.A. 66-2001 and K.S.A. 2015 Supp. 66-1,187, 66-2005, 66-2008
4 and 66-2017 and repealing the existing sections.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2015 Supp. 66-1,187 is hereby amended to read as
8 follows: 66-1,187. As used in this act:

9 (a) "Broadband" means ~~the transmission of digital signals at rates~~ Restore language
10 equal to or greater than ~~1.5~~ 10 megabits per second download and one
11 megabit per second upload. Strike

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

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

17 (d) "Dialing parity" means that a person that is not an affiliate of a
18 local exchange carrier is able to provide telecommunications services in
19 such a manner that customers have the ability to route automatically,
20 without the use of any access code, their telecommunications to the
21 telecommunications carrier of the customer's designation from among two
22 or more telecommunications carriers, including such local exchange
23 carrier.

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

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

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

31 (h) "Local exchange carrier" means any telecommunications public
32 utility or its successor, not to include an electing carrier, providing
33 switched telecommunications service within any local exchange service
34 area, as approved by the commission on or before January 1, 1996.
35 However, with respect to the Hill City exchange area, in which multiple
36 carriers were certified by the commission prior to January 1, 1996, the

1 commission's determination, subject to any court appeals, of which
2 authorized carrier shall serve as the carrier of last resort will determine
3 which carrier shall be deemed the local exchange carrier for that exchange.

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

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

10 (k) "Operating area" means:

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

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

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

20 (m) "Telecommunications carrier" means a corporation, company,
21 individual, association of persons, their trustees, lessees or receivers that
22 provides a telecommunications service, including, but not limited to,
23 interexchange carriers and competitive access providers, but not including
24 local exchange carriers certified before January 1, 1996.

25 (n) "Telecommunications public utility" means any public utility, as
26 defined in K.S.A. 66-104, and amendments thereto, which owns, controls,
27 operates or manages any equipment, plant or generating machinery, or any
28 part thereof, for the transmission of telephone messages, as defined in
29 K.S.A. 66-104, and amendments thereto, or the provision of
30 telecommunications services in or throughout any part of Kansas.

31 (o) "Telecommunications service" means the provision of a service
32 for the transmission of telephone messages, or two-way video or data
33 messages.

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

39 (q) "Enhanced universal service" means telecommunications services,
40 in addition to those included in universal service, which shall include:
41 Signaling system seven capability, with CLASS service capability; basic
42 and primary rate ISDN capability, or the technological equivalent; full-
43 fiber interconnectivity, or the technological equivalent, between central

1 offices; and broadband capable facilities to: All schools accredited
2 pursuant to K.S.A. 72-1101 et seq., and amendments thereto; hospitals as
3 defined in K.S.A. 65-425, and amendments thereto; public libraries; and
4 state and local government facilities which request broadband services.

5 Sec. 2. K.S.A. 66-2001 is hereby amended to read as follows: 66-
6 2001. It is hereby declared to be the public policy of the state to:

7 (a) Ensure that every Kansan will have access to a first class
8 telecommunications infrastructure that provides excellent services at an
9 affordable price;

10 (b) ensure that consumers throughout the state realize the benefits of
11 competition through increased services and improved telecommunications
12 facilities and infrastructure at reduced rates;

13 (c) promote consumer access to a full range of telecommunications
14 services, including advanced telecommunications services that are
15 comparable in urban and rural areas throughout the state;

16 (d) advance the development of a statewide telecommunications
17 infrastructure that is capable of supporting applications, such as public
18 safety, telemedicine, services for persons with special needs, distance
19 learning, public library services, access to internet providers and others;
20 and

21 (e) protect consumers of telecommunications services from
22 fraudulent business practices and practices that are inconsistent with the
23 public interest, convenience and necessity; and

24 *[(f) promote local investment and the development and expansion of
25 economic opportunities, through the statewide availability and ongoing
26 enhancement of reliable and affordable broadband data and
27 communications services.]*

Strike

28 Sec. 3. K.S.A. 2015 Supp. 66-2005 is hereby amended to read as
29 follows: 66-2005. (a) Each local exchange carrier shall file a network
30 infrastructure plan with the commission on or after January 1, 1997, and
31 prior to January 1, 1998. Each plan, as a part of universal service
32 protection, shall include schedules, which shall be approved by the
33 commission, for deployment of universal service capabilities by July 1,
34 1998, and the deployment of enhanced universal service capabilities by
35 July 1, 2003, as defined pursuant to ~~subsections (p) and (q)~~ of K.S.A. 66-
36 1,187 *(p) and (q)*, and amendments thereto, respectively. With respect to
37 enhanced universal service, such schedules shall provide for deployment
38 of ISDN, or its technological equivalent, or broadband facilities, only upon
39 a firm customer order for such service, or for deployment of other
40 enhanced universal services by a local exchange carrier. After receipt of
41 such an order and upon completion of a deployment plan designed to meet
42 the firm order or otherwise provide for the deployment of enhanced
43 universal service, a local exchange carrier shall notify the commission.

1 herein. Rates for intrastate switched access, and the imputed access portion
2 of toll, shall be reduced over a three-year period with the objective of
3 equalizing interstate and intrastate rates in a revenue neutral, specific and
4 predictable manner. The commission is authorized to rebalance local
5 residential and business service rates to offset the intrastate access and toll
6 charge reductions. Any remaining portion of the reduction in access and
7 toll charges not recovered through local residential and business service
8 rates shall be paid out from the KUSF pursuant to K.S.A. 66-2008, and
9 amendments thereto. Each rural telephone company shall adjust its
10 intrastate switched access rates on March 1 of each odd-numbered year to
11 match its interstate switched access rates, subject to the following:

12 (1) Any reduction of a rural telephone company's cost recovery due to
13 reduction of its intrastate access revenue, except such revenue recovered
14 from another support mechanism, shall be recovered from the KUSF;

15 (2) any portion of rural telephone company reductions in intrastate
16 switched access rates which would result in an increase in KUSF recovery
17 in a single year which exceeds .75% of intrastate retail revenues used in
18 determining sums which may be recovered from Kansas
19 telecommunications customers pursuant to ~~subsection (a)~~ of K.S.A. 66-
20 2008(a), and amendments thereto, shall be deferred until March 1 of the
21 next following odd-numbered year; and

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

25 (d) Beginning March 1, 1997, each rural telephone company shall
26 have the authority to increase annually its monthly basic local residential
27 and business service rates by an amount not to exceed \$1 in each 12-month
28 period until such monthly rates reach an amount equal to the statewide
29 rural telephone company average rates for such services. The statewide
30 rural telephone company average rates shall be the arithmetic mean of the
31 lowest flat rate as of March 1, 1996, for local residential service and for
32 local business service offered by each rural telephone company within the
33 state. In the case of a rural telephone company which increases its local
34 residential service rate or its local business service rate, or both, to reach
35 the statewide rural telephone company average rate for such services, the
36 amount paid to the company from the KUSF shall be reduced by an
37 amount equal to the additional revenue received by such company through
38 such rate increase. In the case of a rural telephone company which elects
39 to maintain a local residential service rate or a local business service rate,
40 or both, below the statewide rural telephone company average, the amount
41 paid to the company from the KUSF shall be reduced by an amount equal
42 to the difference between the revenue the company could receive if it
43 elected to increase such rate to the average rate and the revenue received

1 by the company. *The commission shall approve each application by a*
2 *rural telephone company to increase the company's local service rates in*
3 *an amount necessary for such company to maintain eligibility for full*
4 *federal universal service support. ~~Any revenue resulting from any such~~*
5 *increase shall not be used as a basis to reduce such company's KUSF*
6 *support.*

Strike

7 (c) For purposes of determining sufficient KUSF support, an
8 affordable rate for local exchange service provided by a rural telephone
9 company subject to traditional rate of return regulation shall be determined
10 as follows:

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

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

21 (B) If a rural telephone company's present residential rate, including
22 any separate charge for tone dialing, is below such average: (i) Such rate
23 shall be deemed affordable prior to March 1, 2003; (ii) as of March 1,
24 2003, and prior to March 1, 2004, a rate \$2 higher than the company's
25 present residential monthly rate, but not exceeding such weighted mean,
26 shall be deemed affordable; (iii) as of March 1, 2004, and prior to March
27 1, 2005, a rate \$4 higher than the company's present residential monthly
28 rate, but not exceeding such weighted mean, shall be deemed affordable;
29 and (iv) as of March 1, 2005, and prior to March 1, 2006, a rate \$6 higher
30 than the company's present residential monthly rate, but not exceeding
31 such weighted mean, shall be deemed affordable.

32 (C) As of March 1, 2007, and each two years thereafter, an affordable
33 residential service rate shall be the weighted arithmetic mean of local
34 service rates determined as of October 1 of the preceding year in the
35 manner hereinbefore specified, except that any increase in such mean
36 exceeding \$2 may be satisfied by increases in a rural telephone company's
37 residential monthly service rate not exceeding \$2 per year, effective March
38 1 of the year when such mean is determined, with the remainder applied at
39 the rate of \$2 per year, but not to exceed the affordable rate.

40 (2) For single line business service at any time, an affordable rate
41 shall be the existing rate or an amount \$3 greater than the affordable rate
42 for residential service as determined under ~~provision~~ *paragraph (1)* of this
43 subsection, whichever is higher, except that any increase in the business

1 or for the same census block.

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

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

21 (d) (1) Subject to paragraph (2), the commission may periodically
22 review the KUSF to determine if the costs of qualified telecommunications
23 public utilities, telecommunications carriers and wireless
24 telecommunications service providers to provide local service justify
25 modification of the KUSF. If the commission determines that any changes
26 are needed, the commission shall modify the KUSF accordingly and
27 annually report such changes to the senate standing committee on utilities
28 and the house standing committee on utilities and telecommunications.

29 (2) The commission shall undertake a review of the capped amount of
30 KUSF support available for each local exchange carrier operating under
31 price cap regulation that receives such support, not including Kansas
32 lifeline service program purposes pursuant to K.S.A. 66-2006, and
33 amendments thereto, and determine if a lesser amount is appropriate for
34 KUSF distributions after March 1, 2019. Reviews of such carriers shall be
35 based on the forward-looking costs of providing basic voice service, using
36 inputs that reflect the actual geography being served and that reflect the
37 scale and scope of the local exchange carrier providing basic local voice
38 service within each exchange.

39 (e) (1) For each local exchange carrier electing pursuant to ~~subsection~~
40 ~~(b) of K.S.A. 66-2005(b)~~, and amendments thereto, to operate under
41 traditional rate of return regulation, all KUSF support, including any
42 adjustment thereto pursuant to this section, shall be based on ~~ensure~~
43 ~~recovery of such carrier's intrastate embedded costs, revenue requirements,~~

Insert -- the reasonable opportunity for

1 investments and expenses. ~~Until at least March 1, 2017,~~ Any modification
2 of such support shall be made only as a direct result of changes in those
3 factors enumerated in this subsection. Nothing in this subsection shall
4 prohibit the commission from conducting a general investigation regarding
5 effects of federal universal service reform on KUSF support and the
6 telecommunications public policy of the state of Kansas as expressed in
7 K.S.A. 66-2001, and amendments thereto. The commission may present
8 any findings and recommendations to the telecommunications study
9 committee established in K.S.A. 2015 Supp. 66-2018, and amendments
10 thereto.

11 (2) Notwithstanding any other provision of law, no KUSF support
12 received by a local exchange carrier electing pursuant to ~~subsection (b) of~~
13 ~~K.S.A. 66-2005(b),~~ and amendments thereto, to operate under traditional
14 rate of return regulation shall be used to offset any ~~loss reduction of~~
15 federal universal service fund support for ~~recovery of such carrier, except~~
16 ~~that such limitation on KUSF support shall not preclude recovery of~~
17 ~~reductions in intrastate access revenue pursuant to subsection (c) of K.S.A.~~
18 ~~66-2005, and amendments thereto~~ carrier's interstate costs and
19 investments.

20 (3) Notwithstanding any other provision of law, the total KUSF
21 distributions made to all local exchange carriers operating under traditional
22 rate of return regulation pursuant to ~~subsection (b) of K.S.A. 66-2005(b),~~
23 and amendments thereto, shall not exceed an annual \$30,000,000 cap. A
24 waiver of the cap shall be granted based on a demonstration by a carrier
25 that such carrier would experience significant hardship due to force
26 majeure or natural disaster as determined by the commission.

27 (f) Additional supplemental funding from the KUSF, other than as
28 provided in subsection (e), may be authorized at the discretion of the
29 commission. However, the commission may require approval of such
30 funding to be based upon a general rate case filing. With respect to any
31 request for additional supplemental funding from the KUSF and to any
32 audit of a rural telephone company's KUSF support, the commission shall
33 act expeditiously, and shall be subject to the 240-day deadline for rate case
34 applications pursuant to K.S.A. 66-117, and amendments thereto.

35 Sec. 5. K.S.A. 2015 Supp. 66-2017 is hereby amended to read as
36 follows: 66-2017. (a) Except as otherwise provided in this section, no VoIP
37 service, IP-enabled service, or any combination thereof, shall be subject to
38 the jurisdiction of, regulation by, supervision of or control by any state
39 agency or political subdivision of the state.

40 (b) VoIP services shall be subject to:

41 (1) The requirements of K.S.A. 66-2008, and amendments thereto,
42 pertaining to the Kansas universal service fund (KUSF). The provisions of
43 subsection (a) shall not affect or restrict eligibility for KUSF support; and

1 (2) the requirements of the Kansas 911 act, K.S.A. 2015 Supp. 12-
2 5362 et seq., and amendments thereto.

3 (c) No provision of this section shall be construed to modify:

4 (1) The requirements of the video competition act, K.S.A. 2015 Supp.
5 12-2021 et seq., and amendments thereto;

6 (2) the state corporation commission's authority under 47 U.S.C. §§
7 251 and 252, as in effect on the effective date of this act. For the purposes
8 of this paragraph, the term "state commission" used in 47 U.S.C. §§ 251
9 and 252 shall mean the state corporation commission established pursuant
10 to K.S.A. 74-601, and amendments thereto;

11 (3) the authority of the state of Kansas or a political subdivision
12 thereof to manage the use of public rights of way pursuant to K.S.A. 17-
13 1902, and amendments thereto; ~~or~~

14 (4) the rights and obligations of ~~subsection (y)~~ of K.S.A. 66-2005(y),
15 and amendments thereto; *or*

16 (5) *the regulation of any rural telephone company.*

17 (d) For the purposes of this section:

18 (1) "Internet protocol enabled service" or "IP-enabled service" means
19 any service, capability, functionality, or application using an internet
20 protocol (IP) that enables an end user to send or receive a voice, data or
21 video communication in an IP format.

22 (2) "Political subdivision" shall have the meaning ascribed to such
23 term in K.S.A. 28-137b, and amendments thereto.

24 (3) "State agency" shall have the meaning ascribed to such term in
25 K.S.A. 75-3701, and amendments thereto.

26 (4) "Voice over Internet Protocol" or "VoIP" is any service that:

27 (A) Uses an internet protocol (IP) to enable real-time, two-way voice
28 communication that originates from, or terminates at, the user's location in
29 an IP;

30 (B) utilizes a broadband connection from the user's location; and

31 (C) permits a user to receive a call that originates on the public
32 switched telephone network (PSTN) and to terminate a call to the PSTN.

33 Sec. 6. K.S.A. 66-2001 and K.S.A. 2015 Supp. 66-1,187, 66-2005,
34 66-2008 and 66-2017 are hereby repealed.

35 Sec. 7. This act shall take effect and be in force from and after its
36 publication in the statute book.