

ATTACHMENT #3
RURAL Telecom Amendment

Session of 2016

SENATE BILL No. 346

By Committee on Utilities

1-21

AN ACT concerning telecommunications; relating to rural telephone companies; universal service support, recovery of costs; amending K.S.A. 66-2004 and K.S.A. 2015 Supp. 66-1,187, 66-2005, 66-2008 and 66-2017 and repealing the existing sections.

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

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

(a) "Broadband" means the transmission of digital signals at rates equal to or greater than 15 10 megabits per second download and one megabit per second upload.

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

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

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

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

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

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

(h) "Local exchange carrier" means any telecommunications public utility or its successor, not to include an electing carrier, providing switched telecommunications service within any local exchange service area, as approved by the commission on or before January 1, 1996. However, with respect to the Hill City exchange area, in which multiple 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+ intra-ATA 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 intra-ATA 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.

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 (b) and (c) 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.

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

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

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

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

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

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

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

1 (A) Carry out the commission's obligations established in 47 U.S.C.
2 §§ 251 and 252;

3 (B) implement rules delegated to the state by the federal
4 communications commission or federal law; or

5 (C) regulate intrastate switched access rates, terms and conditions,
6 including the implementation of federal law concerning intercarrier
7 compensation.

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

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

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

16 (C) administer the Kansas lifeline service program pursuant to K.S.A.
17 66-2006, and amendments thereto;

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

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

24 (F) request information from telecommunications carriers and
25 electing carriers pursuant to K.A.R. 82-1-234a(b) and subject to the
26 provisions of K.A.R. 82-1-221a and K.S.A. 66-1220a, and amendments
27 thereto, but the commission shall not use this authority to regulate
28 telecommunications carriers or electing carriers beyond the jurisdiction
29 provided the commission in this subsection; and

30 (G) administer consumer complaints against telecommunications
31 carriers and electing carriers to investigate fraud, undue discrimination and
32 other practices harmful to consumers, but the commission shall not use
33 this authority to regulate telecommunications carriers or electing carriers
34 beyond the jurisdiction provided the commission in this subsection.

35 Sec. 4. K.S.A. 2015 Supp. 66-2008 is hereby amended to read as
36 follows: 66-2008. On or before January 1, 1997, the commission shall
37 establish the Kansas universal service fund, hereinafter referred to as the
38 KUSF.

39 (a) The commission shall require every telecommunications carrier,
40 telecommunications public utility and wireless telecommunications service
41 provider that provides intrastate telecommunications services and, to the
42 extent not prohibited by federal law, every provider of interconnected VoIP
43 service, as defined by 47 C.F.R. § 9.3 (October 1, 2005), to contribute to

Sec. 4. Insert K.S.A. 66-2007: See Attachment

And by renumbering the remaining sections accordingly

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-GIMT-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,

the reasonable
opportunity for

2015 Kansas Statutes Attachment to Rural Amendment

Proposed Amendment
2/16/2016
Prepared by M Sterling
Revisor of Statutes Office

66-2007. Local exchange rates; commission investigation of increases. (a) All local exchange carriers, not including electing carriers, providing long distance service in Kansas shall reduce their statewide averaged basic long distance rates to reflect the net reductions in access charges; however, such carriers shall be allowed to increase long distance rates to reflect the KUSF funding requirements set forth in K.S.A. 66-2008, and amendments thereto.

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

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

~~History:~~ L. 1996, ch. 268, § 8; L. 2013, ch. 110, § 10; July 1.

(d) The commission shall approve each application, within 45 days of such application, by a rural telephone company to increase the company's local service rates in an amount necessary for such company to maintain eligibility for full federal universal service support. If the commission does not order approval of such application within 45 days, the application shall be deemed approved.

