

Before the Senate Standing Committee on Utilities
February 16, 2017

Neutral Testimony
On Senate Bill 119

Submitted by Christine Aarnes, Chief of Telecommunications, Utilities Division
On Behalf of
The Staff of the Kansas Corporation Commission

Chair Olson, Vice Chair Petersen, Ranking Minority Member Hawk, and members of the Committee, thank you for the opportunity to appear before your Committee today on behalf of the Staff of the Kansas Corporation Commission (Commission). My name is Christine Aarnes and I am the Chief of Telecommunications.

In summary, the proposed bill:

- Adds language to Kansas law to explicitly allow a wireless telecommunications provider to participate in the Kansas Lifeline Service Program (KLSP);
- Adds language to Kansas law allowing a wireless telecommunications provider to participate in the KLSP regardless of whether it provides service over its own facilities;
- Revises existing Kansas law to broaden the eligibility requirements to become an eligible telecommunications carrier and receive Kansas Universal Service Fund (KUSF) support;
- Updates the name of the Kansas Department of Children and Families; and
- Would likely increase the KUSF by a minimum of \$3.7 million annually; thereby increasing the KUSF assessment rate, effective March 1, 2017, from 7.25% to 7.87%.¹

Commission Staff notes that there are pending Dockets on this issue before the Commission. I appreciate the opportunity to share our analysis of the proposed changes and potential impacts.

KLSP

Kansas law required the Commission to establish the KLSP by January 1, 1997, to promote the provision of universal service by local exchange carriers to persons with low income. The KLSP is to be targeted to maintain affordable rates for residential local exchange service.²

¹ This calculation assumes revenues and other variables remain stable. The assessment rate increase would be greater if revenues continue to decline.

² K.S.A. 66-2006(a)

The KLSP provides eligible telecommunications carriers a monthly credit for each qualifying customer. The KLSP credit is currently \$7.77 and is in addition to the \$9.25 federal Lifeline credit. The credit is to be passed through to the low-income consumer. Traditionally, this has been accomplished through a credit on the consumer's monthly phone bill, thereby reducing the monthly bill. Many wireless Lifeline-only carriers offer "free" service to low-income consumers and do not send a monthly bill to their consumers; therefore, the KLSP credit is passed through to the consumer through added value.

Eligible low-income consumers may receive a discount on either a wireline or a wireless service, but may not receive a discount on both services at the same time and are limited to no more than one Lifeline service per household.

The KLSP is currently \$1.9 million and is funded through the KUSF. The KUSF is collected from providers and is typically passed through as an assessment on consumers' local phone bills.

The Commission has allowed carriers, including wireless carriers, which meet the requirements of Section 214(e) the Federal Telecommunications Act to be designated as eligible telecommunications carriers to participate in the KLSP. Section 214(e) requires an eligible telecommunications carrier to provide universal service either over its own facilities or a combination of its own facilities and another carrier's facilities. Therefore, in accordance with Kansas statutes, the Commission requires the carrier to own at least some of the facilities used to provide service to Kansas customers.

For the federal Lifeline program, the FCC determined in 2011 that it would refrain from applying the facilities requirement to all telecommunications carriers seeking limited eligible telecommunications carrier designation to participate in the federal Lifeline program, subject to carriers meeting certain public safety and compliance obligations. The FCC required each carrier wanting to provide federal Lifeline without owning its own facilities to seek approval by the FCC for a compliance plan outlining specific information regarding the carrier's service offerings and the measures the carrier will take to implement its federal Lifeline obligations. This is applicable only to the federal Lifeline program as the state of Kansas has sole authority over its state Lifeline program.

The proposed bill would allow wireless carriers without facilities (resellers) to participate in the KLSP. Eleven wireless providers currently participate in the federal Lifeline program in Kansas, but are not eligible to participate in the Kansas Lifeline program because the providers do not own facilities. Those 11 providers received \$4.4 million in federal Lifeline support in 2016 for Kansas. If those 11 providers would have received KLSP funding for their Kansas customers in 2016, they would have received \$3.7 million from the KUSF.

Currently, 43 wireless non-facilities based providers that do not provide state or federal Lifeline service in Kansas have either approved or pending Lifeline service compliance plans on file with the FCC. If the FCC approves the carriers' compliance plans, these 43 providers would be permitted to apply in Kansas to participate in the KLSP, pursuant to SB 119. If this occurs, this could also increase the size of the KUSF.

ETC Designation

It appears the bill is designed to make it easier for carriers to qualify for KUSF support. The current statute (K.S.A. 66-2008(b)) allows carriers “that are deemed eligible both under subsection (e)(1) of the federal act and by the commission” to receive KUSF support while the revised language allows carriers that are “deemed eligible pursuant to 47 U.S.C. § 214(e) and K.S.A. 66-2001 et. seq. and amendments thereto, and by the commission” to receive KUSF support.

Thank you for your consideration of these comments and the opportunity to appear before your committee.