

MINUTES

SPECIAL COMMITTEE ON RURAL BROADBAND

November 14, 2012
Room 152-S—Statehouse

Members Present

Representative Sharon Schwartz, Chairperson
Senator Jay Emler, Vice-chairperson (afternoon only)
Senator Pat Apple
Senator Marci Francisco
Senator Ralph Ostmeyer
Senator Mike Peterson
Representative Mike Burgess
Representative Terry Calloway
Representative Ramon Gonzalez, Jr
Representative Mitch Holmes
Representative Forrest Knox
Representative Annie Kuether
Representative Jerry Williams

Staff Present

Cindy Lash, Legislative Research Department
Corey Carnahan, Legislative Research Department
Tamera Lawrence, Office of Revisor of Statutes
Matt Sterling, Office of Revisor of Statutes
Shirley Jepson, Committee Assistant

Conferees

Christine Aarnes, Chief of Telecommunications, Kansas Corporation Commission
Michael J. Foster, Chairman, Twin Valley Telephone, Inc., Miltonvale, Kansas
John Idoux, Kansas Governmental Affairs, CenturyLink, Overland Park, Kansas
Mike Scott, Legislative Director, AT&T Kansas
Dina Fisk, Verizon Wireless
Patty Clark, State Director of Rural Development, United States Department of Agriculture (USDA)
Joanne Budler, State Librarian
Stanley Adams, Broadband Planning Manager, Department of Commerce
Ken Nelson, GIS Section Manager, Kansas Geological Survey
Shawn Saving, Broadband Data Manager, Kansas Geological Survey

Other Attendees

See attached list.

Morning Session

The meeting was called to order at 9:40 a.m. by Chairperson Schwartz. Chairperson Schwartz stated that the charge given to the Committee is to examine how changes made by the Federal Communication Commission to the federal Universal Service Fund and changes to the Kansas Universal Service Fund will affect rural broadband, the accessibility of rural broadband services, as well as the progress and accuracy of mapping rural broadband service.

Chairperson Schwartz noted that the expansion of broadband access is important in addressing the challenges facing the State as well as future growth of business and industry within the State, especially in the rural areas.

Overview of Changes to the Universal Service Fund Affecting Rural Broadband

Christine Aarnes, Chief of Telecommunications, Kansas Corporation Commission, presented testimony on changes made by the federal government affecting rural broadband ([Attachment 1](#)). Ms. Aarnes noted that both the Kansas Telecommunications Act of 1996 and the Federal Telecommunications Act of 1996 contained provisions to develop universal service funds to maintain and enhance universal service. In early 2009, Congress directed the Federal Communications Commission (FCC) to develop a National Broadband Plan (NBP) to ensure ubiquitous access to broadband services. The NBP was released on March 16, 2010. On November 18, 2011, the FCC released an order reforming the Universal Service Fund (USF) and Intercarrier Compensation (ICC).

The primary issues addressed by the FCC include:

- Creation of the Connect America Fund (CAF) to support broadband;
- Conversion of the “legacy” high-cost component of the USF to the CAF;
- Creation of a Mobility Fund to support 3G (or better) wireless coverage;
- Reform of Intercarrier Compensation;
- Expansion of the Lifeline program to allow subsidies to be provided for broadband; and
- Broadening of the USF contribution base to ensure sustainability.

With regard to reform of the federal Universal Service Fund, the FCC expressed its support for broadband-capable networks as an express universal service principle and set the following performance goals:

- Preserve and advance availability of voice service;
- Ensure universal availability of modern networks capable of providing voice and broadband service to homes, businesses and community anchor institutions;
- Ensure universal availability of modern networks capable of providing advanced mobile and broadband service;
- Ensure that rates for broadband services and rates for voice services are reasonably comparable in all regions of the nation; and
- Minimize the universal service contribution.

Ms. Aarnes stated the initial budget for reform of the federal USF was set at \$4.5 billion over the next six years with an automatic review trigger if the budget is threatened to be exceeded. The budget will be reviewed at the end of the six-year period. Ms. Aarnes further noted that no Connect America Fund (CAF) Phase I support will be invested in Kansas.

The FCC order contains many reforms, some of which include:

- USF Reform for Price Cap Carriers-Phase 1;
- USF Reform for Price Cap Carriers-Phase II;
- USF Reform for Rate of Return Carriers;
- Federal USF cost recovery mechanism for Rate of Return Carriers;
- New Rules for Rate of Return Carriers;
- CAF Mobility Fund – Phase I
- CAF Mobility Fund – Phase II
- Remote Areas Fund
- Comprehensive ICC Reform
- New Recovery Mechanism

The FCC opened a proceeding in 2012 to examine broadening the USF contribution base. In doing so, the FCC made the following observations:

- Federal USF funding comes from assessments on interstate and international end-user revenues from telecommunications services and interconnected VoIP services. Service providers typically pass the cost of the assessments onto their customers;
- Revenues for universal service contributions have declined over the last decade, even though overall communications revenues grew substantially. Broadband-related revenue is projected to grow steadily over time; and
- There is a trend toward offering voice and broadband “bundles”. Since “information services” are not assessed, this creates an incentive for providers to classify offerings as “information services” to reduce contributions to the fund.

Ms. Aarnes responded to questions from the Committee. Sandy Reams, KCC, also was available and responded to questions from the Committee.

Effect of Federal Funding Changes on Carriers' Ability to Support and Extend Rural Broadband

Michael J. Foster, Chairman, Twin Valley Telephone, Inc., Miltonvale, Kansas, presented testimony to address current significant issues, opportunities and difficulties affecting rural broadband availability in the state ([Attachment 2](#)). Mr. Foster noted that his company as well as other locally based rural companies have invested hundreds of millions of dollars to deploy fiber facilities that make delivery of broadband services a reality throughout half of the state; however, there continues to be unserved areas. Mr. Foster indicated that the expansion of broadband relies on the fundamental assurance of stable and sufficient long-term cost recovery. He stated that his company made a commitment to expand broadband to underserved areas of the state, followed the rules and now finds that with the new NBP, their funding will be limited.

Mr. Foster stated the FCC's ongoing efforts to reform universal service and increase broadband availability have included policy approaches that his company believes are counterproductive. The FCC's treatment of rate of return carriers has been to abandon the basic conditions that produced widespread rural broadband access. In addition, the decision by the FCC to cap overall support will have a negative effect. Mr. Foster noted that his company believes the federal mapping of underserved areas is grossly inaccurate.

Mr. Foster provided the following recommendations to the Legislature:

- Continue to urge the FCC to consider seriously the concerns of state regulators and existing broadband providers about announced components of reform that will jeopardize rather than enhance broadband availability;
- Reject any and all proposals for retroactive limits on recovery of reasonable costs and investments made in good faith to serve the public, in order to restore stability and predictability necessary for sound investment planning;
- Maintain utilization of responsible state commission cost oversight to set rate of return carriers' recovery levels rather than rely on untested alternatives likely to depart from actual need;
- Recognize and build on the lessons of rural companies' success to achieve more extensive and affordable rural broadband deployment; and
- Refrain from overreaction to unresolved federal reforms when considering appropriate state policy on availability and affordability of communications services.

Mr. Foster responded to questions from the Committee.

John Idoux, Kansas Governmental Affairs, CenturyLink, provided comments on the FCC's recent order on universal service and intercarrier compensation reforms and how it has the potential to impact the provision of broadband services in rural Kansas ([Attachment 3](#)). Mr. Idoux indicated that CenturyLink provides communication services to 77,000 rural Kansans in 119 communities and receives both federal and state universal service support to assist in providing basic voice service with approximately 92 percent of their customers receiving broadband services. As CenturyLink continues to expand its broadband network in Kansas, the investment per incremental customer grows exponentially due to the rural nature of Kansas.

CenturyLink did not accept any CAF Phase 1 moneys for Kansas, but Mr. Idoux stated if the FCC removes barriers that restricted the use of dollars in the first phase, hundreds of thousands of Americans can benefit.

Because of the new Intercarrier Compensation reforms ordered by the FCC, billions of dollars from the intercarrier compensation system nationally and hundreds of millions of dollars specific to Kansas will be removed. Because of these changes millions of dollars are no longer available for network investment. Mr. Idoux called on the Legislature to continue with investment incentives that will allow rural consumers to purchase reasonably comparable service at reasonably comparable prices.

Mr. Idoux noted that CenturyLink has been a full partner in state mapping initiatives; however, the National Broadband Map contains false or exaggerated coverage areas, particularly in terms of wireless broadband availability.

Mr. Idoux responded to questions from the Committee.

Mike Scott, Legislative Director, AT&T Kansas, provided testimony on the role of AT&T pertaining to expansion of broadband in Kansas ([Attachment 4](#)). Mr. Scott stated that AT&T has announced a three-year, \$14 billion nationwide capital investment plan – Project Velocity IP – to significantly expand and enhance the company's wireless and wireline Internet Protocol (IP) broadband networks. He noted that fewer and fewer people are using wireline networks and the expansion of wireless networks is necessary to keep pace with consumer demands. Mr. Scott indicated that the expansion of new wireless connections will also be faster. AT&T will continue to provide wireline connections to those customers who require the service.

Mr. Scott responded to questions from the Committee.

Past and Future Broadband Funding Support from the USDA's Rural Utilities Service

Patty Clark, State Director, United State Department of Agriculture (USDA) Rural Development, provided testimony with regard to USDA's broadband and telecommunications financing programs ([Attachment 5](#)). Ms. Clark noted that approximately \$0.93 of every \$1.00 provided by the federal government to the agency is circulated to rural communities and residents in the form of a loan, repayable to the federal government. The financing from Rural Development provides loans for infrastructure, not operations and is focused on work in rural areas. Ms. Clark stated that Rural Development has been contacted by their borrowers who indicate that the new FCC rule with regard to USF support, leaves revenues unpredictable and possibly insufficient. In addition, rulemaking with its retroactive approach penalized earlier investments and the waiver process is very costly.

Ms. Clark indicated that Rural Development has initiated two *ex-parte* filings with the FCC to elevate the concerns of their borrowers. One of the filings regards the impacts of USF reform on the USDA telecommunications programs. She responded to questions from the Committee.

Afternoon Session

The meeting reconvened at 1:30 p.m.

Additional Information

Chairperson Schwartz provided the Committee with copies of information she received while recently attending the Broadband Connection Nebraska Conference in Lincoln, NE ([Attachment 6](#)).

Christine Aarnes, KCC, provided additional resource material pertaining to her morning testimony – Map of Mobility Fund Phase 1 Eligible Areas and Glossary of Telecommunications Terms ([Attachment 7](#)).

Dina Fisk, Verizon Wireless, provided testimony specific to Verizon Wireless' recent announcement of the launch of 4G LTE service in Hutchinson and the advantages to state businesses and residents ([Attachment 8](#)).

Bill and Melinda Gates Foundation Funding for Broadband in Libraries

Joanne Budler, State Librarian, State Library of Kansas, presented testimony on grants provided by the Bill and Melinda Gates Foundation for funding public access computing in state libraries ([Attachment 9](#)). A booklet titled "Broadband Everywhere!" was also distributed to the Committee (Copy available from the State Library of Kansas). Ms. Budler stated that the State Library received funding from the Gates Foundation in 2003 and an additional grant in 2008 with work from the latter grant starting in 2010. When the 2008 grant was awarded, Kan-Ed was making a single T-1 connection available at no charge to schools, libraries and hospitals, yet many libraries were still not connected to broadband. It was determined the 2008 grant funding should be used to do the following:

- Help librarians understand the importance of broadband as a service to their community members;
- Encourage adoption of the Kan-Ed service or an alternative broadband service of same or higher speed; and
- Encourage librarians to apply for Federal e-rate funding to assist in the funding of broadband.

The State Library created a Broadband Advisory Council with approximately 30 members from various state agencies, libraries, and the League of Municipalities. The group helped create a "Target Connectivity Table" to help libraries plan for their Internet connection needs. Ms. Budler noted with changes made to the funding of Kan-Ed during the 2011 and 2012 Legislative sessions, the focus of the grant changed, and the State Library began gathering information to help libraries with alternative broadband planning.

With many government services moved to e-government and some only available via the Internet, it has become increasingly important for state libraries to provide access to the Internet for rural citizens who may not have access in their homes. In addition, many of these services require high upload speed. Often, commercial providers have high download speed, but low upload speed. Ms. Budler noted that attendees to a conference on August 22, 2012, affirmed that it is important that local partnerships be developed and reliable funding, such as the KUSF, assist libraries in acquiring adequate broadband for their communities.

Broadband Mapping Update and Demonstration; Options for the Future

Stanley Adams, Broadband Planning Manager, Kansas Department of Commerce (KDOC), and Shawn Saving, Broadband Data Manager, Data Access & Support Center (DASC), Kansas Geological Survey, presented information on the process used in broadband mapping and data collection across the State ([Attachment 10](#)). Also available for review by the Committee were several large maps showing access to broadband within the state.

In January, 2012, DASC partnered with KDOC to support the Kansas Statewide Broadband Initiative (KSBI), which is part of the National Telecommunications and Information Administration (NTIA) Broadband Data Collection and Mapping Project. (Previously, KDOC partnered with ConnectKansas). Two cycles of data collection and outreach - April 1, 2011 and October 1, 2012 – have been completed under the new partnership. Data was collected according to NTIA data submission requirements from providers regarding wireline service areas; wireless service areas; community anchor institutions, such as schools, libraries, hospitals; and middle- and last-mile infrastructure.

Mr. Savings indicated the broadband map can be used for strategic planning and needs assessment, assessing broadband service potential, performing service gap analysis regarding the number of providers in an area and served and under-served areas, and identifying trends in the broadband industry.

Mr. Adams and Mr. Saving responded to questions from the Committee.

Committee Discussion and Recommendations

Cindy Lash, Legislative Research Department, distributed and explained House Resolution 6027 and Senate Resolution 1832 - resolutions adopted during the 2011 Legislative Session, which urged modifications to the National Broadband Plan for the benefit of rural residents of Kansas ([Attachment 11](#)).

After discussion with a number of options being presented, the Committee adopted the following conclusions and recommendation:

- The Committee agrees that broadband availability in rural Kansas is vital to the economic future of the State of Kansas, and that broadband for business, personal use, distance learning, access to e-government and telemedicine is necessary for our rural areas of the state;
- The Committee is concerned about the effect of federal funding changes on carriers' ability to support and extend rural broadband;
- The Committee makes the following recommendations:
 - The Senate Utilities Committee and the House Energy and Utilities Committee should conduct hearings during the 2013 legislative session to monitor developments in funding from the federal government;
 - The Committees should review short term and long term planning and solutions for rural broadband;
 - Consistent with the universal service principles in federal and state law, any plan should ensure that rural and urban consumers pay reasonably comparable rates for reasonably comparable services by providing adequate support in high-cost areas;
 - Interested parties and local communities should bring possible solutions and suggestions to the standing legislative committees during the 2013 Legislative Session for addressing the funding changes; and

- The Department of Commerce should report to the standing committees with a broadband mapping update.

Senator Apple moved for the adoption of the statement above. The motion was seconded by Senator Emler. Motion carried on a voice vote.

The standing House and Senate Utilities Committees should receive an update from the KCC during the 2013 Session on Docket No. 12-170 (General Investigation into the Kansas Universal Service Fund).

Senator Petersen moved the recommendation above. It was agreed to by consensus.

- All members of the Legislature should receive electronic notification when updated broadband mapping information is released.

Representative Burgess moved the recommendation above. It was agreed to by consensus.

Adjournment

The meeting was adjourned at 3:45 p.m. At this time, no additional meetings are scheduled during the 2012 Interim Session.

Prepared by Shirley Jepson
Edited by Cindy Lash

Approved by Committee on:

May 15, 2013

(Date)