

SUBSTITUTE FOR SENATE BILL No. 72

By Committee on Utilities

2-25

1 AN ACT concerning telecommunications; amending K.S.A. 50-6,103 *[and*
2 **66-1,187]** and K.S.A. 2010 Supp. 66-2005 and repealing the existing
3 sections.
4

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

6 Section 1. K.S.A. 50-6,103 is hereby amended to read as follows: 50-
7 6,103. (a) As used in this section:

8 (1) "Express authorization" means an express, affirmative act by a
9 consumer clearly agreeing to a change in the consumer's telecommunications
10 carrier or local exchange carrier to another carrier.

11 (2) "Supplemental telecommunication services" means any property or
12 services for which any charge or assessment appears on a billing statement
13 directed to a consumer by a local exchange carrier or telecommunications
14 carrier, including but not limited to personal 800 number services, calling card
15 plans, internet advertisement and website services, voice mail services, paging
16 services, psychic services, psychic memberships, dating services or
17 memberships, travel club memberships, internet access services and service
18 maintenance plans. "Supplemental telecommunication services" does not
19 include direct dial services to which a per use charge applies.

20 (3) "Telecommunications services" has the meaning provided by K.S.A.
21 66-1,187, and amendments thereto.

22 (b) No local exchange carrier or telecommunications carrier shall submit
23 or cause to be submitted to a local exchange carrier an order to change a
24 consumer's telecommunications carrier or local exchange carrier to another
25 carrier without having obtained the express authorization of the consumer
26 authorized to make the change. The local exchange carrier or
27 telecommunications carrier requesting the change shall have the burden of
28 proving the express authorization by a preponderance of the evidence. It shall
29 not be a violation of this subsection for a local exchange carrier to assign a
30 consumer to a telecommunications carrier for purposes of intralata services
31 pursuant to order of the state corporation commission.

32 (c) No supplier shall:

33 (1) Engage in any activity, conduct or representation that has the capacity
34 to mislead, deceive or confuse the consumer, while soliciting or verifying a
35 change in a consumer's telecommunications carrier or local exchange carrier to
36 another carrier;

1 (2) employ a box or container used to collect entries for sweepstakes,
2 contests or drawings to gather letters of agency or other documents that
3 constitute authorizations by consumers to change the consumers'
4 telecommunications carrier or local exchange carrier to another carrier or to
5 change or add to the consumers' accounts any supplemental
6 telecommunications services;

7 (3) use any methods not approved by statute, regulations of the federal
8 communications commission or federal trade commission (as in effect on the
9 effective date of this act) or state corporation commission rules and regulations
10 to change a consumer's telecommunications carrier or local exchange carrier to
11 another carrier; or

12 (4) employ a check, draft or other negotiable instrument that constitutes
13 authorization to change or add to the consumer's accounts any supplemental
14 telecommunications services.

15 (d) Any supplier that violates subsection (b) or (c) shall be subject to a
16 civil penalty of not less than \$5,000 nor more than \$20,000 for each such
17 violation instead of the penalty provided for in subsection (a) of K.S.A. 50-
18 636, and amendments thereto.

19 (e) Any violation of this section is a deceptive and unconscionable act or
20 practice under the provisions of the Kansas consumer protection act and shall
21 be subject to any and all of the enforcement provisions of the Kansas
22 consumer protection act. Nothing in this section shall preclude the state
23 corporation commission from exerting its authority as it pertains to intrastate
24 services nor the attorney general from pursuing violations of any other
25 provisions of the Kansas consumer protection act by a supplier.

26 (f) All local exchange carriers *and electing carriers* shall offer consumers
27 the option of notifying the local exchange carrier in writing that they do not
28 desire any change of telecommunications carrier regardless of any orders to
29 the contrary submitted by any third party. The consumer shall be permitted to
30 cancel such notification or to change its telecommunications carrier by
31 notifying the consumer's local exchange carrier *or electing carrier*
32 accordingly. *For the purposes of this section, a letter of agency, as described*
33 *in 47 CFR 64.1130, as in effect on the effective date of this act, that is signed*
34 *by the consumer shall satisfy the notification requirement for purposes of*
35 *making changes to the consumer's telecommunications carrier. All local*
36 *exchange carriers and electing carriers shall annually notify the consumers of*
37 *the carrier's telecommunications services of the availability of this option.*

38 (g) Any person alleging a violation of this section may bring a private
39 action to seek relief pursuant to K.S.A. 50-634, 50-636 and this section, and
40 amendments thereto, and such person may be defined as a consumer pursuant
41 to K.S.A. 50-624, and amendments thereto, for the purposes of such private
42 action.

43 (h) The attorney general and the state corporation commission shall enter

1 into a memorandum of understanding providing for the cooperation and
2 sharing of information necessary to enforce this section against suppliers and
3 to assist consumers under federal and state law.

4 (i) This section shall be part of and supplemental to the Kansas consumer
5 protection act.

6 *[Sec. 2. K.S.A. 66-1,187 is hereby amended to read as follows: 66-1,187.*
7 *As used in this act:*

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

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

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

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

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

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

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

29 (h) *"Local exchange carrier" means any telecommunications public*
30 *utility or its successor providing switched telecommunications service within*
31 *any local exchange service area, as approved by the commission on or*
32 *before January 1, 1996. However, with respect to the Hill City exchange*
33 *area, in which multiple carriers were certified by the commission prior to*
34 *January 1, 1996, the commission's determination, subject to any court*
35 *appeals, of which authorized carrier shall serve as the carrier of last resort*
36 *will determine which carrier shall be deemed the local exchange carrier for*
37 *that exchange.*

38 (i) *"Number portability" has the meaning ascribed to it in the federal*
39 *act.*

40 (j) *"I+ intraLATA dialing parity" means the ability of a local exchange*
41 *service customer to specify the telecommunications or local exchange*
42 *carrier that will carry the intraLATA long distance messages when that*
43 *customer dials either "1" or "0" plus a 10-digit number.*

1 (k) *"Operating area" means:*

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

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

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

11 (m) *"Telecommunications carrier" means a corporation, company,*
12 *individual, association of persons, their trustees, lessees or receivers that*
13 *provides a telecommunications service, including, but not limited to,*
14 *interexchange carriers and competitive access providers, but not including*
15 *local exchange carriers certified before January 1, 1996, except for electing*
16 *carriers.*

17 (n) *"Telecommunications public utility" means any public utility, as*
18 *defined in K.S.A. 66-104, and amendments thereto, which owns, controls,*
19 *operates or manages any equipment, plant or generating machinery, or any*
20 *part thereof, for the transmission of telephone messages, as defined in*
21 *K.S.A. 66-104, and amendments thereto, or the provision of*
22 *telecommunications services in or throughout any part of Kansas.*

23 (o) *"Telecommunications service" means the provision of a service for*
24 *the transmission of telephone messages, or two-way video or data messages.*

25 (p) *"Universal service" means telecommunications services and*
26 *facilities which include: single party, two-way voice grade calling; stored*
27 *program controlled switching with vertical service capability; E911*
28 *capability; tone dialing; access to operator services; access to directory*
29 *assistance; and equal access to long distance services.*

30 (q) *"Enhanced universal service" means telecommunications services,*
31 *in addition to those included in universal service, which shall include:*
32 *Signaling system seven capability, with CLASS service capability; basic and*
33 *primary rate ISDN capability, or the technological equivalent; full-fiber*
34 *interconnectivity, or the technological equivalent, between central offices;*
35 *and broadband capable facilities to: All schools accredited pursuant to*
36 *K.S.A. 72-1101 et seq., and amendments thereto; hospitals as defined in*
37 *K.S.A. 65-425, and amendments thereto; public libraries; and state and local*
38 *government facilities which request broadband services.]*

39 Sec. 2. [3.] K.S.A. 2010 Supp. 66-2005 is hereby amended to read as
40 follows: 66-2005. (a) Each local exchange carrier shall file a network
41 infrastructure plan with the commission on or after January 1, 1997, and prior
42 to January 1, 1998. Each plan, as a part of universal service protection, shall
43 include schedules, which shall be approved by the commission, for

1 deployment of universal service capabilities by July 1, 1998, and the
2 deployment of enhanced universal service capabilities by July 1, 2003, as
3 defined pursuant to subsections (p) and (q) of K.S.A. 66-1,187, and
4 amendments thereto, respectively. With respect to enhanced universal service,
5 such schedules shall provide for deployment of ISDN, or its technological
6 equivalent, or broadband facilities, only upon a firm customer order for such
7 service, or for deployment of other enhanced universal services by a local
8 exchange carrier. After receipt of such an order and upon completion of a
9 deployment plan designed to meet the firm order or otherwise provide for the
10 deployment of enhanced universal service, a local exchange carrier shall notify
11 the commission. The commission shall approve the plan unless the
12 commission determines that the proposed deployment plan is unnecessary,
13 inappropriate, or not cost effective, or would create an unreasonable or
14 excessive demand on the KUSF. The commission shall take action within 90
15 days. If the commission fails to take action within 90 days, the deployment
16 plan shall be deemed approved. This approval process shall continue until July
17 1, 2000. Each plan shall demonstrate the capability of the local exchange
18 carrier to comply on an ongoing basis with quality of service standards to be
19 adopted by the commission no later than January 1, 1997.

20 (b) In order to protect universal service, facilitate the transition to
21 competitive markets and stimulate the construction of an advanced
22 telecommunications infrastructure, each local exchange carrier shall file a
23 regulatory reform plan at the same time as it files the network infrastructure
24 plan required in subsection (a). As part of its regulatory reform plan, a local
25 exchange carrier may elect traditional rate of return regulation or price cap
26 regulation. Carriers that elect price cap regulation shall be exempt from rate
27 base, rate of return and earnings regulation and shall not be subject to the
28 provisions of K.S.A. 66-136 and 66-127, and amendments thereto, except as
29 otherwise provided in such sections. However, the commission may resume
30 such regulation upon finding, after a hearing, that a carrier that is subject to
31 price cap regulation has: violated minimum quality of service standards
32 pursuant to subsection (l) of K.S.A. 66-2002, and amendments thereto; been
33 given reasonable notice and an opportunity to correct the violation; and failed
34 to do so. Regulatory reform plans also shall include:

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

41 (2) a commitment to provide basic rate ISDN service, or the
42 technological equivalent, at prices which are uniform throughout the carrier's
43 service area. Local exchange carriers shall not be required to allow retail

1 customers purchasing the foregoing discounted services to resell those services
2 to other categories of customers. Telecommunications carriers may purchase
3 basic rate ISDN services, or the technological equivalent, for resale in
4 accordance with K.S.A. 66-2003, and amendments thereto. The commission
5 may reduce prices charged for services outlined in provisions (1) and (2) of
6 this subsection, if the commitments of the local exchange carrier set forth in
7 those provisions are not being kept.

8 (c) Subject to the commission's approval, all local exchange carriers shall
9 reduce intrastate access charges to interstate levels as provided herein. Rates
10 for intrastate switched access, and the imputed access portion of toll, shall be
11 reduced over a three-year period with the objective of equalizing interstate and
12 intrastate rates in a revenue neutral, specific and predictable manner. The
13 commission is authorized to rebalance local residential and business service
14 rates to offset the intrastate access and toll charge reductions. Any remaining
15 portion of the reduction in access and toll charges not recovered through local
16 residential and business service rates shall be paid out from the KUSF
17 pursuant to K.S.A. 66-2008, and amendments thereto. Each rural telephone
18 company shall adjust its intrastate switched access rates on March 1 of each
19 odd-numbered year to match its interstate switched access rates, subject to the
20 following:

21 (1) Any reduction of a rural telephone company's cost recovery due to
22 reduction of its interstate access revenue shall be recovered from the KUSF;

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

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

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

1 received by such company through such rate increase. In the case of a rural
2 telephone company which elects to maintain a local residential service rate or
3 a local business service rate, or both, below the statewide rural telephone
4 company average, the amount paid to the company from the KUSF shall be
5 reduced by an amount equal to the difference between the revenue the
6 company could receive if it elected to increase such rate to the average rate
7 and the revenue received by the company.

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

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

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

21 (B) If a rural telephone company's present residential rate, including any
22 separate charge for tone dialing, is below such average: (i) Such rate shall be
23 deemed affordable prior to March 1, 2003; (ii) as of March 1, 2003, and prior
24 to March 1, 2004, a rate \$2 higher than the company's present residential
25 monthly rate, but not exceeding such weighted mean, shall be deemed
26 affordable; (iii) as of March 1, 2004, and prior to March 1, 2005, a rate \$4
27 higher than the company's present residential monthly rate, but not exceeding
28 such weighted mean, shall be deemed affordable; and (iv) as of March 1, 2005,
29 and prior to March 1, 2006, a rate \$6 higher than the company's present
30 residential monthly rate, but not exceeding such weighted mean, shall be
31 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 service
34 rates determined as of October 1 of the preceding year in the manner
35 hereinbefore specified, except that any increase in such mean exceeding \$2
36 may be satisfied by increases in a rural telephone company's residential
37 monthly service rate not exceeding \$2 per year, effective March 1 of the year
38 when such mean is determined, with the remainder applied at the rate of \$2 per
39 year, but not to exceed the affordable rate.

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

1 exceeding \$2 may be satisfied by increases in a rural telephone company's
2 business monthly service rate not exceeding \$2 per year, effective March 1 of
3 the year when such rate is determined, with the remainder applied at the rate of
4 \$2 per year, but not to exceed the affordable rate.

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

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

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

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

29 (7) A uniform rate for residential and single line business local service
30 adopted by a rural telephone company shall be deemed an affordable rate for
31 purposes of this subsection if application of such uniform rate generates
32 revenue equal to that which would be generated by application of residential
33 and business rates which are otherwise deemed affordable rates for such
34 company under this subsection.

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

40 (f) For regulatory reform plans in which price cap regulation has been
41 elected, price cap plans shall have three baskets: Residential and single-line
42 business, including touch-tone; switched access services; and miscellaneous
43 services. The commission shall establish price caps at the prices existing when

1 the regulatory plan is filed subject to rate rebalancing as provided in
2 subsection (c) for residential services, including touch-tone services, and for
3 single-line business services, including touch-tone services, within the
4 residential and single-line business service basket. The commission shall
5 establish a formula for adjustments to the price caps. The commission also
6 shall establish price caps at the prices existing when the regulatory plan is filed
7 for the miscellaneous services basket. The commission shall approve any
8 adjustments to the price caps for the miscellaneous service basket, as provided
9 in subsection (g).

10 (g) On or before January 1, 1997, the commission shall issue a final order
11 in a proceeding to determine the price cap adjustment formula that shall apply
12 to the price caps for the local residential and single-line business and the
13 miscellaneous services baskets and for sub-categories, if any, within those
14 baskets. In determining this formula, the commission shall balance the public
15 policy goals of encouraging efficiency and promoting investment in a quality,
16 advanced telecommunications network in the state. The commission also shall
17 establish any informational filing requirements necessary for the review of any
18 price cap tariff filings, including price increases or decreases within the caps,
19 to verify such caps would not be exceeded by any proposed price change. The
20 adjustment formula shall apply to the price caps for the local residential and
21 single-line business basket after December 31, 1999, and to the miscellaneous
22 services basket after December 31, 1997. The price cap formula, but not actual
23 prices, shall be reviewed every five years.

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

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

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

39 (k) A price cap is a maximum price for all services taken as a whole in a
40 given basket. Prices for individual services may be changed within the service
41 categories, if any, established by the commission within a basket. An entire
42 service category, if any, within the residential and single-line business basket
43 or miscellaneous services basket may be priced below the cap for such

1 category. Unless otherwise approved by the commission, no service shall be
2 priced below the price floor which will be long-run incremental cost and
3 imputed access charges. Access charges equal to those paid by
4 telecommunications carriers to local exchange carriers shall be imputed as part
5 of the price floor for toll services offered by local exchange carriers on a toll
6 service basis.

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

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

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

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

26 (p) A local exchange carrier may petition the commission to designate an
27 individual service or service category, if any, within the miscellaneous services
28 basket, the switched access services basket or the residential and single-line
29 business basket for reduced regulation. The commission shall act upon a
30 petition for reduced regulation within 21 days, subject to an extension period
31 of an additional 30 days, and upon a good cause showing of the commission in
32 the extension order, or within such shorter time as the commission shall
33 approve. The commission shall issue a final order within the 21-day period or
34 within a 51-day period if an extension has been issued. Following an order
35 granting reduced regulation of an individual service or service category, the
36 commission shall act on any request for price reductions within seven days
37 subject to a 30-day extension. The commission shall act on other requests for
38 price cap adjustments, adjustments within price cap plans and on new service
39 offerings within 21 days subject to a 30-day extension. Such a change will be
40 presumed lawful unless it is determined the prices are below the price floor or
41 that the price cap for a category, if any, within the entire basket has been
42 exceeded.

43 (q) (1) Beginning July 1, 2006, price regulation of telecommunications

1 services in the residential and single-line business service basket and the
2 miscellaneous services basket for local exchange carriers subject to price cap
3 regulation shall be as follows:

4 (A) Packages or bundles of services shall be price deregulated statewide,
5 however the individual telecommunication service components of such
6 packages or bundles shall remain available for purchase on an individual basis
7 at prices subject to price cap regulation in any exchange in which the standards
8 in subsection (q)(1)(B), (C) or (D) have not been met. If standards in
9 subsection (q)(1)(B), (C) or (D) have been met, the individual
10 telecommunication service components of such packages or bundles shall
11 remain available for purchase on an individual basis and prices for packages or
12 bundles shall not exceed the sum of the highest prices of the ala carte
13 components of the package or bundle;

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

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

28 (D) in any exchange in which there are fewer than 75,000 local exchange
29 access lines served by all providers, the commission shall price deregulate all
30 residential telecommunication services upon a demonstration by the requesting
31 local telecommunications carrier that there are two or more nonaffiliated
32 telecommunications carriers or other entities, that are nonaffiliated with the
33 local exchange carrier, providing local telecommunications service to
34 residential customers, regardless of whether the entity provides local service in
35 conjunction with other services in that exchange area. One of such
36 nonaffiliated carriers or entities shall be required to be a facilities-based carrier
37 or entity and not more than one of such nonaffiliated carriers or entities shall
38 be a provider of commercial mobile radio services in that exchange;

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

40 (F) up to and continuing until July 1, 2008, rates for the initial residential
41 local exchange access line and up to four business local exchange access lines
42 at one location shall remain subject to price cap regulation. On and after July
43 1, 2008, the local exchange carrier shall be authorized to adjust such rates

1 without commission approval by not more than the percentage increase in the
2 consumer price index for all urban consumers, as officially reported by the
3 bureau of labor statistics of the United States department of labor, or its
4 successor index, in any one year period and such rates shall not be adjusted
5 below the price floor established in subsection (k). Such rates shall not be
6 affected by purchase of one or more of the following: Call management
7 services, intraLATA long distance service or interLATA long distance service;
8 and

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

13 (2) For the purposes of this subsection:

14 (A) Any entity providing voice service shall be considered as a local
15 telecommunications service provider regardless of whether such entity is
16 subject to regulation by the commission;

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

21 (C) telecommunications carriers offering only prepaid
22 telecommunications service shall not be considered entities providing local
23 telecommunications service.

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

31 (4) The commission shall act upon a petition filed pursuant to subsection
32 (q)(1)(C) or (D) within 21 days, subject to an extension period of an additional
33 30 days, and upon a good cause showing of the commission in the extension
34 order, or within such shorter time as the commission shall approve. The
35 commission shall issue a final order within the 21-day period or within a 51-
36 day period if an extension order has been issued.

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

43 (6) The commission on July 1, 2006, and on each date that any service is

1 deregulated, shall record the rates of each service which has been price
2 deregulated in each exchange.

3 (7) Prior to January 1, 2007, the commission shall determine the
4 weighted, statewide average rate of nonwireless basic local
5 telecommunications service as of July 1, 2006. Prior to January 1, 2007, and
6 annually thereafter, the commission shall determine the weighted, average rate
7 of nonwireless basic local telecommunications services in exchanges that have
8 been price deregulated pursuant to subsection (q)(1)(B), (C) or (D). The
9 commission shall report its findings on or before February 1, 2007, and
10 annually thereafter to the governor, the legislature and each member of the
11 standing committees of the house of representatives and the senate which are
12 assigned telecommunications issues. The commission shall also provide in
13 such annual report any additional information it deems useful in determining
14 the impact of price deregulation on consumers and the competitive
15 environment, including, but not limited to, the rates recorded under paragraph
16 (6) of this subsection, the current rates for services in price deregulated
17 exchanges, changes in service offerings available in price deregulated
18 exchanges and the change in the number of competitors in price deregulated
19 exchanges. If the commission finds that the weighted, average rate of
20 nonwireless basic local telecommunications service, in exchanges that have
21 been price deregulated pursuant to subsection (q)(1)(B), (C) or (D) in any one
22 year period is greater than the weighted, statewide average rate of nonwireless
23 basic local telecommunications service as of July 1, 2008, multiplied by one
24 plus the percentage increase in the consumer price index for goods and
25 services for the study periods, or the commission believes that changes in state
26 law are warranted due to the status of competition, the commission shall
27 recommend to the governor, the legislature and each member of the standing
28 committees of the house of representatives and the senate which are assigned
29 telecommunications issues such changes in state law as the commission deems
30 appropriate and the commission shall also send a report of such findings to
31 each member of the legislature.

32 (8) For the purposes of this subsection:

33 (A) "Packages or bundles of services" means the offering of a local
34 telecommunications service with one or more of the following, subscribed
35 together, as one service option offered at one price, one or more call
36 management services, intraLATA long distance service, interLATA long
37 distance service, internet access, video services or wireless services. Packages
38 or bundles of services shall not include only a single residential local exchange
39 access line or up to four business local exchange access lines at one location
40 and intraLATA long distance service or interLATA long distance service, or
41 both;

42 (B) "local telecommunications service" means two-way voice service
43 capable of being originated and terminated within the exchange of the local

1 exchange telecommunications company seeking price deregulation of its
2 services, regardless of the technology used to provision the voice service;

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

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

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

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

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

18 (2) The commission shall resume price cap regulation of a service
19 provided in any exchange area by placing it in the appropriate service basket,
20 as approved by the commission, upon a determination by the commission that
21 the conditions in subsection (q)(1)(C) or (D) are no longer satisfied in that
22 exchange area.

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

35 (4) The commission shall resume price cap regulation of residential
36 services in any exchange meeting the conditions of subsection (q)(1)(B) by
37 placing it in the appropriate service basket, as approved by the commission,
38 upon a determination by the commission that the following condition is not
39 met: There are at least two or more nonaffiliated telecommunications carriers
40 or other entities, that are nonaffiliated with the local exchange carrier,
41 providing local telecommunications service to residential customers,
42 regardless of whether the entity provides local service in conjunction with
43 other services in that exchange area. One of such nonaffiliated carriers or

1 entities shall be required to be a facilities-based carrier or entity and not more
2 than one such nonaffiliated carriers or entities shall be a provider of
3 commercial mobile radio services in that exchange.

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

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

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

18 (v) No audit, earnings review or rate case shall be performed with
19 reference to the initial prices filed as required herein.

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

1 consumers and to ensure compliance with quality of service standards adopted
2 for all local exchange carriers and telecommunications carriers in the state.

3 (x) (1) *Any local exchange carrier with a majority of the carrier's local*
4 *exchange access lines in the state price deregulated pursuant to subsection (q)*
5 *may elect to no longer be regulated as a local exchange carrier and, not*
6 *withstanding any other provisions, upon such election shall instead be*
7 *regulated as a telecommunications carrier, except as provided in this*
8 *subsection. A local exchange carrier making such election shall be referred to*
9 *as an "electing carrier." [A local exchange carrier may make such election*
10 *by providing the commission with at least 90 days' written notice of election.*
11 *The notice of election shall include a verified statement that a majority of*
12 *the carrier's local exchange access lines are price deregulated. Such*
13 *notification shall include information regarding the number of access lines*
14 *the carrier serves in each of the carrier's exchanges. Within 45 days of*
15 *receipt of such a notification, the commission shall review the information*
16 *concerning the carrier's local exchange access lines and upon failure of the*
17 *commission, within 45 days of receipt of the notification, to determine that a*
18 *majority of such lines of the carrier are not price deregulated the*
19 *commission shall designate the carrier as an electing carrier.]*

20 (2) *An electing carrier shall not be subject to price regulation and shall*
21 *be subject to nondiscriminatory regulation by the commission in the same*
22 *manner as and subject to no more regulation than other telecommunications*
23 *carriers operating in the state, except that the carrier shall remain subject to:*

24 (A) *The reasonable resale of retail telecommunications services, as well*
25 *as unbundling and interconnection obligations as required by K.S.A. 66-2003,*
26 *and amendments thereto;*

27 (B) *the requirements of subsection (c) concerning intrastate access*
28 *charges;*

29 (C) *the requirements of the KLSP, as required by K.S.A. 66-2006, and*
30 *amendments thereto; and*

31 (D) *shall remain eligible to receive KUSF funding.*

32 (3) *An electing carrier's rates for single residential or business local*
33 *exchange access lines in its rural exchanges shall be no higher than the*
34 *average of such rates for single residential or business local exchange access*
35 *lines respectively in its urban exchanges.*

36 (4) *An electing carrier may elect to be relieved of the requirement to*
37 *serve as carrier of last resort, as required by K.S.A. 66-2009, and amendments*
38 *thereto, by providing written notification to the commission of the specific*
39 *urban exchanges for which the electing carrier is electing to be relieved of*
40 *carrier of last resort obligations, in the electing carrier's urban exchanges.*

41 (5) *Notwithstanding any other provision of law to the contrary, an*
42 *electing carrier that notifies the commission that the electing carrier chooses*
43 *to be relieved of carrier of last resort obligations in specific urban exchanges*

1 or any local exchange carrier that does not have a carrier of last resort
2 obligation in a specific exchange shall not be eligible for KUSF funding for
3 carrier of last resort obligations, as required by K.S.A. 66-2009, and
4 amendments thereto, in those specific exchanges.

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

8 (7) For the purposes of this subsection:

9 (A) "Facilities based carrier" means a telecommunications carrier or
10 entity providing local telecommunications service either wholly or partially
11 over its own network. Facilities based carrier shall not include any radio
12 communication services provider licensed by the federal communications
13 commission to provide commercial mobile radio services;

14 (B) "rural exchange" means any exchange in which there are fewer than
15 6,000 local exchange access lines served by the electing carrier and all
16 facilities based carriers; and

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

20 (y) Notwithstanding the provisions of this act, a telecommunications
21 carrier is entitled to interconnection with an electing carrier to transmit and
22 route voice traffic between both the telecommunications carrier and the
23 electing carrier regardless of the technology by which the voice traffic is
24 originated by and terminated to a consumer. The commission shall afford such
25 telecommunications carrier all substantive and procedural rights available to
26 such carrier regarding interconnection pursuant to 47 U.S.C. §§ 251 and 252
27 as in effect on the effective date of this act.

28 ~~Sec. 3.~~ **[4.]** K.S.A. 50-6,103 ~~[and 66-1,187]~~ and K.S.A. 2010 Supp. 66-
29 2005 are hereby repealed.

30 ~~Sec. 4.~~ **[5.]** This act shall take effect and be in force from and after its
31 publication in the statute book.

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