Telecommunications Deregulation and Study Committee; Fees for KAN-ED Services; HB 2201

HB 2201 creates the Telecommunications Study Committee, further deregulates telecommunications in Kansas, makes changes to distributions from the Kansas Universal Service Fund (KUSF), and allows the Board of Regents (Board) to charge fees for services provided by the KAN-ED program.

Telecommunications Study Committee

The bill creates the Telecommunications Study Committee to study telecommunications issues, the KUSF, the federal Universal Service Fund (FUSF), the state's public policy on telecommunications, the possibility of establishing a Kansas Broadband Fund, and other issues determined by the Legislative Coordinating Council.

The Telecommunications Study Committee is composed of 20 members, appointed on or before August 1, 2013, for a term ending June 30, 2015. The members include the chairpersons, vice-chairpersons, and ranking minority members of the Senate Committee on Utilities (Senate Committee) and House Committee on Utilities and Telecommunications (House Committee), six members from the Senate Committee, and eight members from the House Committee, with proportionate partisan representation.

The bill requires the Telecommunications Study Committee to provide an annual report to the Senate and House Committees, and to provide a report and policy recommendations for telecommunications to the Senate and House Committees, the Senate Committee on Ways and Means, and the House Committee on Appropriations, prior to December 31, 2014. Further, the bill requires the Department of Revenue to administer an audit of the KUSF, which is required to be submitted to the Telecommunications Study Committee by November 1, 2014.

The Telecommunications Study Committee sunsets on June 30, 2015.

Report on Internet Protocol

The bill requires the Kansas Corporation Commission (KCC) to report to the Senate and House Committees by January 15, 2014, regarding the status of the Federal Communications Commission's (FCC) Further Notice of Proposed Rulemaking regarding Internet Protocol to Internet Protocol (IP-to-IP) interconnection in WC Docket Nos. 10-90 *et al*.

Regulatory Authority of the Kansas Corporation Commission Regarding Telecommunications

The bill removes KCC regulation of telecommunications carriers and electing carriers except in specific instances.

Specifically, electing carriers are no longer required to do the following:

- Serve as carrier of last resort;

- Offer single residential local exchange access lines in the electing carrier's exchanges;

- Set rates for single residential or business local exchange access lines in its rural exchanges that are no higher than the average of such rates for single residential or business local exchange access lines respectively in its urban exchanges;

- Be subject to price cap regulation for lifeline services; and

- Comply with requirements concerning intrastate access charges.

In addition, electing carriers and telecommunications carriers are no longer subject to the KCC regulations concerning:

- Minimum quality of service standards; and

- Statewide long distance price regulation.

Electing carriers and telecommunications carriers also are no longer required to participate in the Kansas Lifeline Service Program (KLSP) and are allowed to withdraw participation in the KLSP with 90 days' notice to the KCC.

Telecommunications carriers are no longer regulated in the following areas:

- Pass through of access charge reductions to consumers; and

- Geographical averaging of basic toll prices statewide.

The KCC retains regulatory authority over telecommunications carriers and electing carriers in the following areas:

- Entitlement of telecommunications carriers to interconnect with a local exchange carrier or an electing carrier to transmit and route voice traffic between both the telecommunications carrier and the local exchange carrier or electing carrier regardless of the technology used to originate or terminate the voice traffic to a consumer; and

- Authorization of applications, suspension or cancellation of certificates of public convenience.

The KCC retains authority to do the following:

- Determine wholesale rates;

- Approve resale restrictions;

- Approve reasonable limitation on resale to the extent permitted by the federal act;

- Carry out obligations established in the Underground Utilities Damage Prevention Act and the Overhead Power Line Accident Prevention Act (47 U.S.C. 251 and 252);

- Implement rules delegated to the state by the FCC or federal law;

- Regulate intrastate switched access rates, terms and conditions;

- Require the reasonable resale of retail telecommunications services, as well as unbundling and interconnection obligations;

- Administer the KLSP;

- Administer contributions to the KUSF;

- Assessment of costs and expenses to fund KCC operating expenses;

- Authorization to request information for discovery purposes; and

- Administer consumer complaints against telecommunications carriers and electing carriers to investigate fraud, undue discrimination, and other practices harmful to consumers.

The bill clarifies that an electing carrier still is required to offer to allow reasonable resale of its retail telecommunications services and to sell unbundled local loop, switch and trunk facilities to telecommunications carriers as required by the Federal Telecommunications Act of 1996.

Kansas Lifeline Service Program

The bill clarifies that a local exchange carrier, electing carrier, or telecommunications carrier can enroll its eligible customers in the KLSP, but telecommunications carriers and electing carriers are able to withdraw participation in the KLSP at any time by providing the KCC with 90 days' notice. Telecommunications carriers and electing carriers participating in the KLSP are eligible to receive KUSF support for the services without additional regulations and the support will not be factored in any reductions of KUSF funding.

Kansas Universal Service Fund

The bill makes a number of changes to distributions from the KUSF. The changes are grouped below by the type of carrier that is impacted.

Local Exchange Carriers Subject to Price Cap Regulation

Beginning January 1, 2014, annual distributions from the KUSF will be capped at the lesser of 90 percent of the support the carrier received in the 12-month period ending February 28, 2013, or $11.4 million. KLSP support will not be subject to this cap.

Carriers will not be allowed to receive KUSF support for residential or business lines within an exchange that the KCC has granted price deregulation, except for areas within a census block in such exchange in which there is no wireline carrier providing local exchange access lines that does not receive KUSF support. The amount of KUSF support will be limited to the same per line, per month amount established on April 13, 2000. The amount will further be reduced by funding received through the federal Connect America Fund II.

The bill allows the KCC to periodically review the KUSF to determine if the costs of qualified telecommunications public utilities, telecommunications carriers, and wireless telecommunications service providers to provide local service justify modification of the KUSF and, if so, the KCC is required to modify the KUSF accordingly. The KCC is required to report its findings to the Senate and House Committees. In addition, the KCC is required to review the capped amount of the KUSF support based on forward-looking costs of providing basic voice service, using inputs that reflect the actual geography being served and that reflect the scale and scope of the carrier providing basic local voice service within each exchange.

Local Exchange Carriers Electing Traditional Rate of Return Regulation

The KCC is directed to make modifications to carriers' KUSF support only as a direct result of changes in embedded costs, revenue requirements, investments and expenses, until at least March 1, 2017. The total KUSF distributions made to all local exchange carriers operating under traditional rate of return regulations can not exceed an annual $30 million cap. A waiver of the cap will be granted based on a demonstration by a carrier that the carrier would experience significant hardship due to *force majeure* or natural disaster as determined by the KCC.

In addition, no KUSF support received by a local exchange carrier electing to operate under traditional rate of return regulation can be used to offset any loss of FUSF support for the carrier, except that such limitation on KUSF support shall not preclude recovery of reductions in intrastate access revenue in accordance with KSA 66-2005(c). The KCC also is required to complete audits of rural telephone companies' KUSF support within 240 days.

Competitive Eligible Telecommunications Carriers

The use of the "identical support" rule is discontinued and carriers' KUSF high cost support is capped as of March 1, 2013. The support will be reduced to zero beginning March 1, 2018.

KAN-ED

The bill authorizes the Board to fix, charge, and collect user fees for services provided by the KAN-ED program in accordance with a plan developed by the Board, as required by law.