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Short Summaries of Telecommunications Bills, 1996 - 2013

1996

Policy Framework for Telecommunications

Senate Sub. for Sub. for H.B. 2728 articulates the policy framework for telecommunications in Kansas. The bill includes the following provisions:

- **Public Policy Objectives.** The bill articulates public policy objectives of: ensuring that every Kansan has access to a first class telecommunications infrastructure that provides excellent services at an affordable price and that will support applications, such as public safety, telemedicine, services for persons with special needs, distance learning, public library services, access to Internet providers, and others; ensuring that Kansans realize the benefits of competition; promoting consumer access to a full range of telecommunications services; and protecting consumers of telecommunications services from fraudulent business practices.

- **Responsibilities of the Kansas Corporation Commission.** The bill assigns several responsibilities to the Kansas Corporation Commission (KCC). Many of those responsibilities are addressed in greater detail below. Other responsibilities, which are not addressed below, include direction to the KCC to: establish funding mechanisms for telecommunications equipment for Kansans with speech, hearing, and visual impediments and other special needs; review the 1996 Federal Telecommunications Act (hereafter referred to as the federal act) and adopt additional standards and guidelines as necessary for enforcing slamming restrictions; periodically review or modify, if necessary, the definitions of "universal service" and "enhanced universal service", and initiate and complete a proceeding on or before January 1, 1997 to establish minimum quality of service standards, to be applied to local exchange carriers (providers of switched telecommunications service within a local exchange area in Kansas) and telecommunications carriers (inter-exchange or long distance carriers and competitive access providers) on an equitable basis.

- **Obligations of Local Exchange Carriers -- Resale, Unbundling, Interconnection, Number Portability, and Dialing Parity.** The bill requires a local exchange carrier to offer to allow reasonable resale of its retail telecommunications services and to sell unbundled local loop, switch, and trunk facilities (the requisite components of a switched telecommunications network) to telecommunications carriers, and specifies the terms and conditions under which resale may occur.

- **Rural Entry.** The bill provides for exemptions to rural telephone companies (independent telephone companies in Kansas, excluding Southwestern Bell and United) with respect to the duty to negotiate interconnection, unbundled access, resale, notice of change, and collocation.

- **Network Infrastructure Plan.** The bill requires each local exchange carrier (Southwestern Bell, United, and each independent telephone company) to file a network infrastructure plan in 1997 including schedules for deployment of universal service capabilities, enhanced universal

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service capabilities, and a demonstrated capability to comply on an ongoing basis with quality of service standards to be adopted by the KCC.

- **Regulatory Reform Plan.** The bill requires each local exchange carrier to file a regulatory reform plan at the same time as it files a network infrastructure plan. In its regulatory reform plan, a local exchange carrier may elect traditional rate of return regulation or price cap regulation.

- **Rate Rebalancing -- Local Exchange Carriers.** The bill authorizes local exchange carriers (Southwestern Bell and United) to reduce intrastate switched access charges to interstate levels over a three-year period and authorizes the KCC to increase local residential and business service rates to offset reductions in intrastate access and toll charges. Any reductions in access and toll which are not recovered through increased local rates will be recovered from the Kansas Universal Service Fund (KUSF).

- **Rate Rebalancing -- Rural Telephone Companies.** The bill requires rural telephone companies to reduce intrastate switched access rates to interstate levels on March 1, 1997, and every two years thereafter. Any reductions in such rates will be recovered from the KUSF.

- **Price Caps.** The bill specifies the structure and features of price cap plans, requiring the KCC to establish price caps at the prices existing when the regulatory plan is filed (taking into account rate rebalancing), and authorizing the KCC to determine the price cap adjustment formula and review it every five years.

- **Exemptions From Rate of Return/Earnings Regulation.** The bill prohibits the performance of audits, earnings reviews, or rate cases with reference to the initial prices of services subject to price caps. Moreover, carriers subject to price cap regulation will be exempt from rate base, rate of return and earnings regulation of any kind, unless a carrier, after due process, has failed to correct a quality of service standard violation and the KCC elects to resume such regulation. The KCC will still retain authority to perform cost studies in response to complaints and request information necessary to execute any of the obligations assigned to it in the bill.

- **Conditions for Telecommunications Carriers to Provide Switched Local Service.** The bill provides that telecommunications carriers will not be subject to price regulation, except that access charge reductions must be passed through to consumers by reductions in basic intrastate toll prices, and basic toll prices must remain geographically averaged statewide. All telecommunications carriers providing switched local exchange services must receive a certificate of convenience. The criteria governing such certification are outlined in the bill.

- **Kansas Lifeline Service Program.** The bill requires the KCC to establish, on or before January 1, 1997, the Kansas Lifeline Service Program to ensure that persons with low income can afford residential local service rates.

- **Kansas Universal Service Fund.** The bill requires the KCC to establish, on or before January 1, 1997, the Kansas Universal Service Fund (KUSF), and provides that the initial amount of the KUSF will be comprised of revenues lost due to rate rebalancing activities outlined above. Every carrier that provides intrastate service must contribute to the KUSF, can collect those contributions from their customers, and is authorized to receive funding from the KUSF, provided that certain infrastructure and service delivery commitments are met.

- **Internet Access.** The bill requires that, on or after July 1, 1996 and prior to October 1, 1996, all local exchange carriers file tariffs, and rural telephone companies file concurring tariffs, to offer Internet access to an intraLATA Internet service provider of a customer's choice in those locations of the state where local (7-digit) Internet access is not available on October 1, 1996.

1997

Changes in Regulatory Authority of Kansas Corporation Commission

S.B. 333 addresses several issues concerning the regulation of the KCC. Among other things, the bill amends several statutes concerning investigations of electric, telecommunications, natural gas, and miscellaneous public utilities and common carriers by the Commission at its own initiative or upon complaint.

1998

Telecommunications Services—Universal Service and Slamming

House Sub. for S.B. 212 amends the Kansas Telecommunications Act of 1996 by: reducing the size of the KUSF; reducing KUSF assessments for contributions by wireless providers; and clarifying the KCC's authority to implement the Act as it relates to Internet access. The bill curbed the size of the KUSF by delaying requirements to deploy enhanced universal service, lowering the "speed" threshold for Internet service, and limiting for a year the amount companies could collect from customers. The bill also establishes the KUSF working committee which is to report its recommendations to the 1999 Legislature. Finally,the bill amends the Kansas Consumer Protection Act to prohibit "slamming"—the practice of a telephone company switching a consumer's long distance or local telephone company without obtaining the consumer's express authorization.

1999

Certificates of Convenience and Necessity

H.B. 2056 requires the KCC to charge and collect an application fee of $250 from companies seeking certificates of convenience and necessity to provide competitive local services or long distance telecommunications services in Kansas.

2001

Bundled Telecommunications Services—Taxation

SB 1 provides a system for taxing bundled telecommunications services. Under this system, a retailer with the ability to break down the cost of bundled telecommunications services remits tax for only those services which are taxable. If the retailer's bookkeeping system does not allow for a breakdown of the cost of taxable and nontaxable services, then the combined cost is deemed to be attributable to the taxable services and, as such, the combined total is taxed.

2002

Kansas No-Call Act and Telemarketing

Sub. for SB 296 establishes the Kansas No-call Act and redefines what constitutes an unsolicited telephone call in the State of Kansas. The bill authorizes the Attorney General to contract with the Direct Marketing Association (DMA) to maintain the no-call list of Kansas consumers. The list is to be part of the DMA's national do-not-call list and maintained by the DMA's Telephone Preference Service.

Mobile Telecommunications Sourcing Act

SB 372 conforms Kansas law to the federal Mobile Telecommunications Sourcing Act (MTSA). The MTSA will be in effect as of August 1, 2002. It provides for a uniform method of sourcing tax revenues from the sales of mobile transactions, thereby avoiding multiple taxation of a customer's purchase of wireless telecommunications services. Two key components of the law are establishment of a "place of primary use" and the creation of state databases assigning street addresses to state and local taxing jurisdistictions.

New and Separate City Franchise Procedure for Telecommunications Local Exchange Service Providers

SB 397 creates a new and separate city franchise procedure for telecommunications local exchange service providers. Major components of the new system are as follows:

- Cities may require a telecommunications provider intending to provide local exchange services in the city to enter into a contract franchise ordinance;
- A city may assess a one-time application fee to recover its costs associated with the review and approval of a contract franchise;
- The governing body of a city may require telecommunications providers to collect and remit an access line fee or, alternatively, a gross receipts fee to the city; and
- Any local exchange carrier or telecommunications carrier as defined by statute has the right to construct, maintain and operate poles, conduit, cable, switches and related items in, above, or under any public right-of-way in Kansas.

Affordable Telecommunications and Utility Rates

Sub. for HB 2754 amends portions of the Kansas Telecommunications Act of 1996 that deal with universal service, telephone rate rebalancing, intrastate switched access rates, and the KUSF . Major components of the bill are as follows:

- Each rural telephone company is required to adjust its intrastate switched access rates to match its interstate switched access rates. Any reduction of a company's cost recovery due to lowering of access rates is required to be recovered from the KUSF;
- The bill establishes procedures for determining affordable local telephone rates for both residential service and for business service; and
- The bill amends the KUSF statute by specifying that rural telephone companies, in calculating their revenue requirements and determining their support for the KUSF, are required to base their calculations on actual embedded costs. Included with a carrier's embedded costs are also revenue requirements, investments and expenses.

2006

Telecommunications Price Deregulation

SB 350 amends 2005 Supp. KSA 66-2005 to remove the KCC's discretion to price deregulate telecommunications services in an exchange. The bill establishes thresholds for price deregulation for local exchange carriers currently subject to price cap regulation. Those thresholds are as follows:

- Packages or bundles are price deregulated statewide;
- With certain exceptions, individual components of bundles are price deregulated where there are 75,000 or more local exchange access lines served by all providers in an exchange;
- Where there are fewer than 75,000 local access lines served by all providers in an exchange, all business services are price deregulated when an applicant demonstrates to the KCC that two or more non-affiliated telecommunications carriers or other entities, (with one being facilities-based), provide service to business customers and that none of the competitors are affiliated with the incumbent local exchange carrier;
- Where there are fewer than 75,000 local access lines served by all providers, all residential services are price deregulated when an applicant demonstrates to the KCC that two or more non-affiliated telecommunications carriers or other entities (with one being facilities-based), provide service to residential customers, and that none of the competitors are affiliated with the incumbent local exchange carrier.

Rates for lifeline services, the initial residential local exchange access line and up to four business local exchange access lines at one location remain subject to price cap regulation.

The bill permits the KCC to resume price cap regulation under certain circumstances.

2008

Voice over Internet Protocol (VoIP) Contributions to the Kansas Universal Service Fund

SB49 requires interconnected voice over internet protocol (VoIP) service providers to contribute to the KUSF to the extent that such a requirement is not prohibited by federal law. The requirement is included in the statute which requires every telecommunications public utility and wireless telecommunications service provider of intrastate telecommunications services to contribute to the KUSF on an equitable and nondiscriminatory basis.

Telecommunications Mergers and Broadband Service Inventories

SB 570 removes the requirement for the KCC to approve or deny mergers or acquisitions solely between telecommunications companies that have elected price cap regulation in Kansas. Embarq and AT&T are the only price-cap regulated telecommunications companies in Kansas.

The bill also requires broadband service providers to submit a report to the KCC containing information about the geographic areas where service is available from the provider. This report is required by October 1, 2008.

The KCC is required to report to the Legislature by January 15, 2009, and every year following, on the state's broadband service, to include a report of census tracts where broadband service is available and the number of service providers in each tract.

Utility Statute Amendments

HB2637 amends existing law regarding price regulations for basic local telecommunications service and local telecommunications carrier of last resort responsibilities. It also makes amendments not related to telecommunications.

Telecommunication Price Regulation Amendments

- Local exchange carriers, after July 1, 2008, are authorized to adjust the rates for the initial telephone line and up to four business lines at a single location without approval from the Kansas Corporation Commission (KCC), if certain conditions are met.

- Regarding the lifeline service program, local telecommunication carriers that have been price deregulated are required to automatically enroll in the program those customers who are eligible for lifeline services. Other carriers may automatically enroll eligible customers.

Telecommunication Service Providers—Carrier of Last Resort Amendments

The bill relieves a local exchange carrier of its responsibility as carrier of last resort to occupants of real property if the owner or developer of the real property does any of the following:

- Permits an alternative service provider, during construction of the property, to install its local telecommunications services based on a condition of exclusion of the local exchange carrier; or

- Accepts incentives from an alternative service provider contingent on one or more alternative service providers providing local telecommunications service to the exclusion of the local exchange carrier; or

- Collects from occupants or residents of the real property mandatory charges for local telecommunications service provided by an alternative service provider.

2009

Kelsey Smith Act

Senate Sub. for HB 2126 enacts the Kelsey Smith Act, which requires wireless telecommunications carriers to provide information about the location of the telecommunications device of a user of the carriers' services, if requested by a law enforcement agency in order to respond to a call for emergency services or to respond in an emergency situation that involves risk of death or serious physical harm.

2010

Kelsey Smith Act – Emergency Contact Information

HB 2652 amends the Kelsey Smith Act to require all wireless telecommunications carriers registered to do business in the state and all resellers of wireless telecommunications services to submit emergency contact information to the Kansas Bureau of Investigation.

2011

Telecommunication Deregulation

Sub. for SB 72 amends existing telecommunications law to allow any price-cap regulated local exchange carrier that has deregulated a majority of its local exchange access lines to elect to be regulated as a telecommunications carrier rather than as a local exchange carrier. Under the bill, a local exchange carrier that elected to be regulated as a telecommunications carrier is referred to as an "electing carrier."

An electing carrier:

- Is subject to price cap regulation for lifeline services, but otherwise is not subject to rate regulation by the KCC;
- Is subject to no more regulation than other telecommunications carriers operating in Kansas (*e.g.,* wireless carriers and cable companies), except that it remains subject to existing requirements regarding reasonable resale of its retail service, unbundling and interconnection obligations, intrastate access charges, and the Kansas Lifeline Service Program. In addition, an electing carrier remains eligible to receive funding from the KUSF;
- Can charge no more for single residential or business lines in its rural exchanges (exchanges with less than 6,000 local exchange access lines) than the average of its rates for those lines in its urban exchanges (exchanges with 75,000 or more local exchange access lines);
- Could be relieved of its requirement to serve as carrier of last resort (COLR) in its urban exchanges by providing written notice to the KCC of the specific urban exchanges in which the carrier elects to be relieved of that obligation;
- Is required to offer single residential local exchange access lines in its exchanges; and
- Is required to allow interconnection by a telecommunications carrier to transmit and route voice traffic between the electing carrier and the telecommunications carrier, regardless of the technology used to originate and terminate the call;

(Note: At the time of the bill, AT&T and CenturyLink were the only price-cap regulated local exchange carriers in Kansas, and only AT&T met the criteria to become an electing carrier.)

The bill also modifies the statutory contents of the annual price deregulation report prepared by the KCC.

National Broadband Plan

SR 1832 and HR 6027 urge the Federal Communications Commission (FCC) to make substantive change to the National Broadband Plan to ensure that rural areas have access to the same high-quality, affordable communication services that are available in urban areas. Currently, the Plan calls for access to broadband speeds at 100 megabits per second by 2020 in urban areas, and at four megabits per second in rural areas. Specifically, the FCC is urged to modify the Plan to develop a universal service support mechanism that would provide efficient and effective incentives for broadband network deployment and operation, and that would keep broadband service affordable. The members of the Kansas congressional delegation are urged to work with the FCC to ensure that commissioners understand the dramatic alterations needed to the Plan to ensure quality broadband service is available throughout Kansas and the country.

2013

Telecommunications Deregulation and Study Committee

HB 2201 creates the Telecommunications Study Committee, further deregulates telecommunications in Kansas, makes changes to distributions from the KUSF, and allows the Board of Regents 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 sunsets on June 30, 2015.

- **Regulatory Authority of the Kansas Corporation Commission Regarding Telecommunications.** The bill removes KCC regulation of telecommunications carriers and electing carriers except in specific instances.

  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 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.

- **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.

  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 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.

- **Report on Internet Protocol.** The bill requires the 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.

Internet Related Services Exempt from Certain Regulations and Oversight

HB 2326 exempts Voice over Internet Protocol (VoIP), Internet Protocol enabled service (IP-enabled service), or both from the jurisdiction, regulation, or supervision of the state or any political subdivision. VoIP shall be subject to the requirements of the KUSF and the requirements of the Kansas 911 Act.