

SENATE BILL No. 402

By Committee on Utilities

1-20

9 AN ACT concerning telecommunications; relating to commercial mobile
10 radio services providers; amending K.S.A. 2009 Supp. 66-2005 and
11 repealing the existing section.
12

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

14 Section 1. K.S.A. 2009 Supp. 66-2005 is hereby amended to read as
15 follows: 66-2005. (a) Each local exchange carrier shall file a network in-
16 frastructure plan with the commission on or after January 1, 1997, and
17 prior to January 1, 1998. Each plan, as a part of universal service protec-
18 tion, shall include schedules, which shall be approved by the commission,
19 for deployment of universal service capabilities by July 1, 1998, and the
20 deployment of enhanced universal service capabilities by July 1, 2003, as
21 defined pursuant to subsections (p) and (q) of K.S.A. 66-1,187, and
22 amendments thereto, respectively. With respect to enhanced universal
23 service, such schedules shall provide for deployment of ISDN, or its tech-
24 nological equivalent, or broadband facilities, only upon a firm customer
25 order for such service, or for deployment of other enhanced universal
26 services by a local exchange carrier. After receipt of such an order and
27 upon completion of a deployment plan designed to meet the firm order
28 or otherwise provide for the deployment of enhanced universal service,
29 a local exchange carrier shall notify the commission. The commission shall
30 approve the plan unless the commission determines that the proposed
31 deployment plan is unnecessary, inappropriate, or not cost effective, or
32 would create an unreasonable or excessive demand on the KUSF. The
33 commission shall take action within 90 days. If the commission fails to
34 take action within 90 days, the deployment plan shall be deemed ap-
35 proved. This approval process shall continue until July 1, 2000. Each plan
36 shall demonstrate the capability of the local exchange carrier to comply
37 on an ongoing basis with quality of service standards to be adopted by
38 the commission no later than January 1, 1997.

39 (b) In order to protect universal service, facilitate the transition to
40 competitive markets and stimulate the construction of an advanced tel-
41 ecommunications infrastructure, each local exchange carrier shall file a
42 regulatory reform plan at the same time as it files the network infrastruc-
43 ture plan required in subsection (a). As part of its regulatory reform plan,

1 a local exchange carrier may elect traditional rate of return regulation or
2 price cap regulation. Carriers that elect price cap regulation shall be ex-
3 empt from rate base, rate of return and earnings regulation and shall not
4 be subject to the provisions of K.S.A. 66-136 and 66-127, and amend-
5 ments thereto except as otherwise provided in such sections. However,
6 the commission may resume such regulation upon finding, after a hearing,
7 that a carrier that is subject to price cap regulation has: violated minimum
8 quality of service standards pursuant to subsection (l) of K.S.A. 66-2002,
9 and amendments thereto; been given reasonable notice and an oppor-
10 tunity to correct the violation; and failed to do so. Regulatory reform plans
11 also shall include:

12 (1) A commitment to provide existing and newly ordered point-to-
13 point broadband services to: Any hospital as defined in K.S.A. 65-425,
14 and amendments thereto; any school accredited pursuant to K.S.A. 72-
15 1101 et seq., and amendments thereto; any public library; or other state
16 and local government facilities at discounted prices close to, but not be-
17 low, long-run incremental cost; and

18 (2) a commitment to provide basic rate ISDN service, or the tech-
19 nological equivalent, at prices which are uniform throughout the carrier's
20 service area. Local exchange carriers shall not be required to allow retail
21 customers purchasing the foregoing discounted services to resell those
22 services to other categories of customers. Telecommunications carriers
23 may purchase basic rate ISDN services, or the technological equivalent,
24 for resale in accordance with K.S.A. 66-2003, and amendments thereto.
25 The commission may reduce prices charged for services outlined in pro-
26 visions (1) and (2) of this subsection, if the commitments of the local
27 exchange carrier set forth in those provisions are not being kept.

28 (c) Subject to the commission's approval, all local exchange carriers
29 shall reduce intrastate access charges to interstate levels as provided
30 herein. Rates for intrastate switched access, and the imputed access por-
31 tion of toll, shall be reduced over a three-year period with the objective
32 of equalizing interstate and intrastate rates in a revenue neutral, specific
33 and predictable manner. The commission is authorized to rebalance local
34 residential and business service rates to offset the intrastate access and
35 toll charge reductions. Any remaining portion of the reduction in access
36 and toll charges not recovered through local residential and business ser-
37 vice rates shall be paid out from the KUSF pursuant to K.S.A. 66-2008,
38 and amendments thereto. Each rural telephone company shall adjust its
39 intrastate switched access rates on March 1 of each odd-numbered year
40 to match its interstate switched access rates, subject to the following:

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

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

8 (3) no rural company shall be required at any time to reduce its in-
9 trastate switched access rates below the level of its interstate switched
10 access rates.

11 (d) Beginning March 1, 1997, each rural telephone company shall
12 have the authority to increase annually its monthly basic local residential
13 and business service rates by an amount not to exceed \$1 in each 12-
14 month period until such monthly rates reach an amount equal to the
15 statewide rural telephone company average rates for such services. The
16 statewide rural telephone company average rates shall be the arithmetic
17 mean of the lowest flat rate as of March 1, 1996, for local residential
18 service and for local business service offered by each rural telephone
19 company within the state. In the case of a rural telephone company which
20 increases its local residential service rate or its local business service rate,
21 or both, to reach the statewide rural telephone company average rate for
22 such services, the amount paid to the company from the KUSF shall be
23 reduced by an amount equal to the additional revenue received by such
24 company through such rate increase. In the case of a rural telephone
25 company which elects to maintain a local residential service rate or a local
26 business service rate, or both, below the statewide rural telephone com-
27 pany average, the amount paid to the company from the KUSF shall be
28 reduced by an amount equal to the difference between the revenue the
29 company could receive if it elected to increase such rate to the average
30 rate and the revenue received by the company.

31 (e) For purposes of determining sufficient KUSF support, an afford-
32 able rate for local exchange service provided by a rural telephone com-
33 pany subject to traditional rate of return regulation shall be determined
34 as follows:

35 (1) For residential service, an affordable rate shall be the arithmetic
36 mean of residential local service rates charged in this state in all exchanges
37 served by rural telephone companies and in all exchanges in rate groups
38 1 through 3 as of February 20, 2002, of all other local exchange carriers,
39 weighted by the number of residential access lines to which each such
40 rate applies, and thereafter rounded to the nearest quarter-dollar, subject
41 to the following provisions:

42 (A) If a rural telephone company's present residential rate, including
43 any separate charge for tone dialing, is at or above such weighted mean,

- 1 such rate shall be deemed affordable prior to March 1, 2007.
- 2 (B) If a rural telephone company's present residential rate, including
3 any separate charge for tone dialing, is below such average: (i) Such rate
4 shall be deemed affordable prior to March 1, 2003; (ii) as of March 1,
5 2003, and prior to March 1, 2004, a rate \$2 higher than the company's
6 present residential monthly rate, but not exceeding such weighted mean,
7 shall be deemed affordable; (iii) as of March 1, 2004, and prior to March
8 1, 2005, a rate \$4 higher than the company's present residential monthly
9 rate, but not exceeding such weighted mean, shall be deemed affordable;
10 and (iv) as of March 1, 2005, and prior to March 1, 2006, a rate \$6 higher
11 than the company's present residential monthly rate, but not exceeding
12 such weighted mean, shall be deemed affordable.
- 13 (C) As of March 1, 2007, and each two years thereafter, an affordable
14 residential service rate shall be the weighted arithmetic mean of local
15 service rates determined as of October 1 of the preceding year in the
16 manner hereinbefore specified, except that any increase in such mean
17 exceeding \$2 may be satisfied by increases in a rural telephone company's
18 residential monthly service rate not exceeding \$2 per year, effective
19 March 1 of the year when such mean is determined, with the remainder
20 applied at the rate of \$2 per year, but not to exceed the affordable rate.
- 21 (2) For single line business service at any time, an affordable rate
22 shall be the existing rate or an amount \$3 greater than the affordable rate
23 for residential service as determined under provision (1) of this subsec-
24 tion, whichever is higher, except that any increase in the business service
25 affordable rate exceeding \$2 may be satisfied by increases in a rural tel-
26 ephone company's business monthly service rate not exceeding \$2 per
27 year, effective March 1 of the year when such rate is determined, with
28 the remainder applied at the rate of \$2 per year, but not to exceed the
29 affordable rate.
- 30 (3) Any flat fee or charge imposed per line on all residential service
31 or single line business service, or both, other than a fee or charge for
32 contribution to the KUSF or imposed by other governmental authority,
33 shall be added to the basic service rate for purposes of determining an
34 affordable rate pursuant to this subsection.
- 35 (4) Not later than March 1, 2003, tone dialing shall be made available
36 to all local service customers of each rural telephone company at no
37 charge additional to any increase in the local service rate to become ef-
38 fective on that date. The amount of revenue received as of March 1, 2002,
39 by a rural telephone company from the provision of tone dialing service
40 shall be excluded from reductions in the company's KUSF support oth-
41 erwise resulting pursuant to this subsection.
- 42 (5) A rural telephone company which raises one or more local service
43 rates on application made after February 20, 2002, and pursuant to sub-

1 section (b) of K.S.A. 66-2007, and amendments thereto, shall have the
2 level of its affordable rate increased by an amount equal to the amount
3 of the increase in such rate.

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

11 (7) A uniform rate for residential and single line business local service
12 adopted by a rural telephone company shall be deemed an affordable rate
13 for purposes of this subsection if application of such uniform rate gen-
14 erates revenue equal to that which would be generated by application of
15 residential and business rates which are otherwise deemed affordable
16 rates for such company under this subsection.

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

22 (f) For regulatory reform plans in which price cap regulation has been
23 elected, price cap plans shall have three baskets: Residential and single-
24 line business, including touch-tone; switched access services; and miscel-
25 laneous services. The commission shall establish price caps at the prices
26 existing when the regulatory plan is filed subject to rate rebalancing as
27 provided in subsection (c) for residential services, including touch-tone
28 services, and for single-line business services, including touch-tone serv-
29 ices, within the residential and single-line business service basket. The
30 commission shall establish a formula for adjustments to the price caps.
31 The commission also shall establish price caps at the prices existing when
32 the regulatory plan is filed for the miscellaneous services basket. The
33 commission shall approve any adjustments to the price caps for the mis-
34 cellaneous service basket, as provided in subsection (g).

35 (g) On or before January 1, 1997, the commission shall issue a final
36 order in a proceeding to determine the price cap adjustment formula that
37 shall apply to the price caps for the local residential and single-line busi-
38 ness and the miscellaneous services baskets and for sub-categories, if any,
39 within those baskets. In determining this formula, the commission shall
40 balance the public policy goals of encouraging efficiency and promoting
41 investment in a quality, advanced telecommunications network in the
42 state. The commission also shall establish any informational filing require-
43 ments necessary for the review of any price cap tariff filings, including

1 price increases or decreases within the caps, to verify such caps would
2 not be exceeded by any proposed price change. The adjustment formula
3 shall apply to the price caps for the local residential and single-line busi-
4 ness basket after December 31, 1999, and to the miscellaneous services
5 basket after December 31, 1997. The price cap formula, but not actual
6 prices, shall be reviewed every five years.

7 (h) The price caps for the residential and single-line business service
8 basket shall be capped at their initial level until January 1, 2000, except
9 for any increases authorized as a part of the revenue neutral rate rebal-
10 ancing under subsection (c). The price caps for this basket and for the
11 categories in this basket, if any, shall be adjusted annually after December
12 31, 1999, based on the formula determined by the commission under
13 subsection (g).

14 (i) The price cap for the switched access service basket shall be set
15 based upon the local exchange carrier's intrastate access tariffs as of Jan-
16 uary 1, 1997, except for any revenue neutral rate rebalancing authorized
17 in accordance with subsection (c). Thereafter, the cap for this basket shall
18 not change except in connection with any subsequent revenue neutral
19 rebalancing authorized by the commission under subsection (c).

20 (j) The price caps for the miscellaneous services basket shall be ad-
21 justed annually after December 31, 1997, based on the adjustment for-
22 mula determined by the commission under subsection (g).

23 (k) A price cap is a maximum price for all services taken as a whole
24 in a given basket. Prices for individual services may be changed within
25 the service categories, if any, established by the commission within a
26 basket. An entire service category, if any, within the residential and single-
27 line business basket or miscellaneous services basket may be priced below
28 the cap for such category. Unless otherwise approved by the commission,
29 no service shall be priced below the price floor which will be long-run
30 incremental cost and imputed access charges. Access charges equal to
31 those paid by telecommunications carriers to local exchange carriers shall
32 be imputed as part of the price floor for toll services offered by local
33 exchange carriers on a toll service basis.

34 (l) A local exchange carrier may offer promotions within an exchange
35 or group of exchanges. All promotions shall be approved by the commis-
36 sion and may not be unjust, unreasonably discriminatory or unduly
37 preferential.

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

1 (n) On or before July 1, 1997, the commission shall establish guide-
2 lines for reducing regulation prior to price deregulation of price cap reg-
3 ulated services in the miscellaneous services basket, the switched access
4 services basket, and the residential and single-line business basket.

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

12 (p) A local exchange carrier may petition the commission to designate
13 an individual service or service category, if any, within the miscellaneous
14 services basket, the switched access services basket or the residential and
15 single-line business basket for reduced regulation. The commission shall
16 act upon a petition for reduced regulation within 21 days, subject to an
17 extension period of an additional 30 days, and upon a good cause showing
18 of the commission in the extension order, or within such shorter time as
19 the commission shall approve. The commission shall issue a final order
20 within the 21-day period or within a 51-day period if an extension has
21 been issued. Following an order granting reduced regulation of an indi-
22 vidual service or service category, the commission shall act on any request
23 for price reductions within seven days subject to a 30-day extension. The
24 commission shall act on other requests for price cap adjustments, adjust-
25 ments within price cap plans and on new service offerings within 21 days
26 subject to a 30-day extension. Such a change will be presumed lawful
27 unless it is determined the prices are below the price floor or that the
28 price cap for a category, if any, within the entire basket has been
29 exceeded.

30 (q) (1) Beginning July 1, 2006, price regulation of telecommunica-
31 tions services in the residential and single-line business service basket and
32 the miscellaneous services basket for local exchange carriers subject to
33 price cap regulation shall be as follows:

34 (A) Packages or bundles of services shall be price deregulated state-
35 wide, however the individual telecommunication service components of
36 such packages or bundles shall remain available for purchase on an in-
37 dividual basis at prices subject to price cap regulation in any exchange in
38 which the standards in subsection (q)(1)(B), (C) or (D) have not been
39 met. If standards in subsection (q)(1)(B), (C) or (D) have been met, the
40 individual telecommunication service components of such packages or
41 bundles shall remain available for purchase on an individual basis and
42 prices for packages or bundles shall not exceed the sum of the highest
43 prices of the ala carte components of the package or bundle;

- 1 (B) in any exchange in which there are 75,000 or more local exchange
2 access lines served by all providers, rates for all telecommunications serv-
3 ices shall be price deregulated;
- 4 (C) in any exchange in which there are fewer than 75,000 local
5 exchange access lines served by all providers, the commission shall price
6 deregulate all business telecommunication services upon a demonstration
7 by the requesting local telecommunications carrier that there are two or
8 more nonaffiliated telecommunications carriers or other entities, that are
9 nonaffiliated with the local exchange carrier, providing local telecom-
10 munication service to business customers, regardless of whether the en-
11 tity provides local service in conjunction with other services in that
12 exchange area. One of such nonaffiliated carriers or entities shall be re-
13 quired to be a facilities-based carrier or entity and not more than one of
14 such nonaffiliated carriers or entities shall be a provider of commercial
15 mobile radio services in that exchange. *A requesting local telecommuni-*
16 *cations carrier need only demonstrate that the commercial mobile radio*
17 *services provider provides local telecommunications service to customers*
18 *in the exchange area;*
- 19 (D) in any exchange in which there are fewer than 75,000 local
20 exchange access lines served by all providers, the commission shall price
21 deregulate all residential telecommunication services upon a demonstra-
22 tion by the requesting local telecommunications carrier that there are two
23 or more nonaffiliated telecommunications carriers or other entities, that
24 are nonaffiliated with the local exchange carrier, providing local telecom-
25 munication service to residential customers, regardless of whether the
26 entity provides local service in conjunction with other services in that
27 exchange area. One of such nonaffiliated carriers or entities shall be re-
28 quired to be a facilities-based carrier or entity and not more than one of
29 such nonaffiliated carriers or entities shall be a provider of commercial
30 mobile radio services in that exchange. *A requesting local telecommuni-*
31 *cations carrier need only demonstrate that the commercial mobile radio*
32 *services provider provides local telecommunications service to customers*
33 *in the exchange area;*
- 34 (E) rates for lifeline services shall remain subject to price cap
35 regulation;
- 36 (F) up to and continuing until July 1, 2008, rates for the initial resi-
37 dential local exchange access line and up to four business local exchange
38 access lines at one location shall remain subject to price cap regulation.
39 On and after July 1, 2008, the local exchange carrier shall be authorized
40 to adjust such rates without commission approval by not more than the
41 percentage increase in the consumer price index for all urban consumers,
42 as officially reported by the bureau of labor statistics of the United States
43 department of labor, or its successor index, in any one year period and

- 1 such rates shall not be adjusted below the price floor established in sub-
2 section (k). Such rates shall not be affected by purchase of one or more
3 of the following: Call management services, intraLATA long distance
4 service or interLATA long distance service; and
- 5 (G) local exchange carriers shall offer a uniform price throughout
6 each such exchange for services subject to price deregulation, under this
7 subsection, including packages or bundles of services, except as provided
8 in subsection (1) or as otherwise approved by the commission.
- 9 (2) For the purposes of this subsection:
- 10 (A) Any entity providing voice service shall be considered as a local
11 telecommunications service provider regardless of whether such entity is
12 subject to regulation by the commission;
- 13 (B) a provider of local telecommunications service that requires the
14 use of a third party, unaffiliated broadband network or dial-up internet
15 network for the origination of local voice service shall not be considered
16 a local telecommunications service provider;
- 17 (C) telecommunications carriers offering only prepaid telecommu-
18 nications service shall not be considered entities providing local telecom-
19 munications service.
- 20 (3) If the services of a local exchange carrier are classified as price
21 deregulated under this subsection, the carrier may thereafter adjust its
22 rates for such price deregulated services upward or downward as it de-
23 termines appropriate in its competitive environment, with tariffs for such
24 services deemed effective upon filing with the commission. Price dereg-
25 ulated services shall be subject to the price floor in subsection (k), and
26 shall not be unreasonably discriminatory or unduly preferential within an
27 exchange.
- 28 (4) The commission shall act upon a petition filed pursuant to sub-
29 section (q)(1)(C) or (D) within 21 days, subject to an extension period of
30 an additional 30 days, and upon a good cause showing of the commission
31 in the extension order, or within such shorter time as the commission
32 shall approve. The commission shall issue a final order within the 21-day
33 period or within a 51-day period if an extension order has been issued.
- 34 (5) The commission may resume price cap regulation of a local
35 exchange carrier, deregulated under this subsection upon finding, after a
36 hearing, that such carrier has: Violated minimum quality of service stan-
37 dards pursuant to subsection (1) of K.S.A. 66-2002, and amendments
38 thereto; been given reasonable notice and an opportunity to correct the
39 violation; and failed to do so.
- 40 (6) The commission on July 1, 2006, and on each date that any service
41 is deregulated, shall record the rates of each service which has been price
42 deregulated in each exchange.
- 43 (7) Prior to January 1, 2007, the commission shall determine the

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

30 (8) For the purposes of this subsection:

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

40 (B) "local telecommunications service" means two-way voice service
41 capable of being originated and terminated within the exchange of the
42 local exchange telecommunications company seeking price deregulation
43 of its services, regardless of the technology used to provision the voice

1 service;

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

4 (D) “prepaid telecommunications service” means a local service for
5 which payment is made in advance that excludes access to operator as-
6 sistance and long distance service;

7 (E) “facilities based carrier” means a telecommunications carrier or
8 entity providing local telecommunications service either wholly or par-
9 tially over its own network. Facilities based carrier shall not include any
10 radio communication services provider licensed by the federal commu-
11 nications commission to provide commercial mobile radio services; and

12 (F) “call management services” means optional telecommunications
13 services that allow a customer to manage call flow generated over the
14 customer’s local exchange access line.

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

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

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

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

1 rier or entity and not more than one such nonaffiliated carriers or entities
2 shall be a provider of commercial mobile radio services in that exchange.

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

7 (t) Cost studies to determine price floors shall be performed as re-
8 quired by the commission in response to complaints. In addition, not-
9 withstanding the exemption in subsection (b), the commission may re-
10 quest information necessary to execute any of its obligations under the
11 act. In response to a complaint that a price deregulated service is priced
12 below the price floor set forth in subsection (k), the commission shall
13 issue an order within 60 days after the filing of the complaint unless the
14 complainant agrees to an extension.

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

1 oversee telecommunications carriers to prevent fraud and other practices
2 harmful to consumers and to ensure compliance with quality of service
3 standards adopted for all local exchange carriers and telecommunications
4 carriers in the state.

5 Sec. 2. K.S.A. 2009 Supp. 66-2005 is hereby repealed.

6 Sec. 3. This act shall take effect and be in force from and after its
7 publication in the statute book.