

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 12:00 P.M. on March 23, 2011, in Room 785 of the Docking State Office Building.

All members were present.

Committee staff present:

Matt Sterling, Office of the Revisor of Statutes
Cindy Lash, Kansas Legislative Research Department
Corey Carnahan, Kansas Legislative Research Department
Renae Hansen, Committee Assistant

Conferees appearing before the Committee:

Chris Wilson, Kansas Department of Agriculture
Kimberly Gencur-Svaty, Wind Coalition

Others attending:

Thirty one including the attached list.

Mark Schreiber, Westar, spoke to the committee about the visit to Wolf Creek power plant noting optional dates.

Hearing on:

SB227-Requiring anemometer towers to be marked or flagged so as to be identifiable in clear air during daylight hours.

Matt Sterling offered the committee an explanation (Attachment 1) of **SB227**.

Proponents:

Chris Wilson, Deputy Secretary, Kansas Department of Agriculture, (Attachment 2) presented testimony in support of **SB227**. She noted that the bill models language that was used in South Dakota concerning the same issue.

Written Proponents:

Terry Jordan, Jordan Air Inc., (Attachment 3), presented written testimony in support of **SB227**.

Neutral:

Kimberly Gencur-Svaty, (Attachment 4), offered testimony explaining the issue contained in **SB227**. She noted that the wind industry appreciates and strongly supports the two-year retrofit provision included in **SB227** as it allows companies to incorporate the retrofit into their regularly-scheduled tower maintenance program.

Questions were asked and comments made by Representatives: Tom Sloan, Forrest Knox, and Carl Holmes.

Hearing on **SB227** was closed.

Action on:

SB227-Requiring anemometer towers to be marked or flagged so as to be identifiable in clear air during daylight hours.

Representative Annie Kuether moved to amend **SB227** (Attachment 5) by including **HB 2141** in the bill. Seconded by Representative Don Hineman.

CONTINUATION SHEET

The minutes of the House Energy and Utilities Committee at 12:22 P.M. on March 23, 2011, in Room 785 of the Docking State Office Building.

Questions were asked and comments made by Representatives: Annie Kuether, Forrest Knox, and Carl Holmes.

Motion to amend passed.

Representative Tom Sloan moved to recommend SB 227 favorable for passage as amended. Seconded by Representative Reynaldo Mesa. Motion carried.

Action on **SB 227** was closed.

Representative Annie Kuether will carry the bill on the house floor.

Continued Action on:

SubSB72-Telecommunications.

Representative Annie Kuether presented the committee with an article, (Attachment 6) entitled, "Local T-Mobile could lose staff" pertaining to AT&T's proposed \$39 billion acquisition.

Representative Forrest Knox moved to amend (Attachment 7) SubSB72 with the proposed amendment. Seconded by Representative Don Hineman.

Questions were asked and comments made by Representatives: Mike Slattery, Forrest Knox, Don Hineman, Carl Holmes, and Stan Frownfelter.

Matt Sterling helped to answer committee questions.

Motion to amend failed 4-14.

Continued comments by Representative Mike Slattery.

Representative Forrest Knox, moved to amend (Attachment 8) SubSB72 noting this would give the price cap regulation to those consumers who do not have a choice. Seconded by Representative Tom Sloan.

Questions were asked and comments made by Representatives: Tom Sloan, Forrest Knox, Mike Burgess, and Mike Slattery.

Matt Sterling helped committee answer questions.

The motion to amend was withdrawn.

Representative Forrest Knox moved to amend SubSB72 with new language per the revisors office.

Discussion ensued between Representatives: Tom Sloan, and Forrest Knox.

The motion was withdrawn.

Representative Tom Sloan moved to amend SubSB72 (Attachment 9) with language that would identify the download and upload speeds for identifying "broadband". Seconded by Representative Annie Kuether.

Questions were asked and comments made by Representatives: Mike Burgess, Vern Swanson, Nile Dillmore, Forrest Knox, and Tom Sloan.

Motion to amend failed.

CONTINUATION SHEET

The minutes of the House Energy and Utilities Committee at 12:22 P.M. on March 23, 2011, in Room 785 of the Docking State Office Building.

Representative Mike Burgess moved to recommend **SubSB72** favorable for passage as amended. Seconded by Representative Phil Hermanson.

Discussion ensued between Representatives: Forrest Knox, Annie Kuether, Don Hineman, Joe Seiwert, Mike Burgess.

The motion to move **SubSB72** out passed 13-5.

Representative Mike Burgess will carry the bill on the house floor.

There are no further meetings scheduled.

The meeting was adjourned at 1:31 P.M.

HOUSE ENERGY AND UTILITIES COMMITTEE

GUEST LIST

DATE: March 23, 2011

NAME	REPRESENTING
Mark Schreiber	Westar
Scott Jones	KCPL
JUDITH BARK	CAPITOL ADVANTAGE
Kimberly Sraty	The Wind Coalition
Dina Fisk	VERIZON
Tom DAY	KCC
Don Spruz	Curb
Les Deperscomat	
Patrick Fucik	Sprint
Mike Reecht	Sprint
Mike Huttles	Kc. Rural Independent TeleCos.
Mike Scott	ATT
Tom Bruno	Horizon Wind Energy
TED HENRY	DS.
Angly Allen	KRITC
Tyr Cocher	Sprint
Bruce Nuy	ATT
Steve Hahn	AT & T
Terry Diebold	AT & T
Nelson Kraeger	USC
Don DeHaven	Western Union Firm

HOUSE ENERGY AND UTILITIES COMMITTEE
GUEST LIST

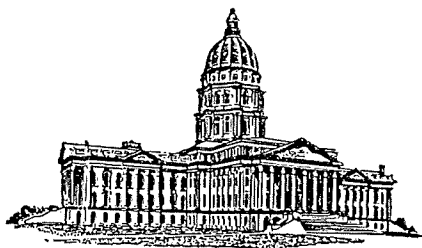
DATE: March 23, 2011

[illegible]

MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR

GORDON L. SELF, ATTORNEY
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

MEMORANDUM

To: Chairman Holmes and members of the House Energy and Utilities Committee
From: Matt Sterling, Assistant Revisor of Statutes
Date: March 23, 2011
Subject: Senate Bill 227

SB 227 would require that any anemometer tower that is 50 feet above the ground or higher and located outside any municipality, be marked or made recognizable in clean air during daylight hours. There would be a grace period of two years for any tower built prior to July 1, 2011 to be brought into compliance.

"Anemometer" means an instrument for measuring and recording the speed of wind; and "anemometer tower" means a structure, including all guy wires and accessory facilities, on which an anemometer is mounted.

The marking of the anemometer tower would be as follows:

- (1) The top $\frac{1}{3}$ of the anemometer tower shall be painted in equal, alternating bands of aviation orange and white, beginning with orange at the top of the tower and ending with orange at the bottom of the marked portion of the tower;
- (2) two marker balls shall be attached to and evenly spaced on each of the outside guy wires; and
- (3) one or more seven-foot safety sleeves shall be placed at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point.

Any owner that failed to properly mark an anemometer tower would be guilty of a class C nonperson misdemeanor.

HOUSE ENERGY AND UTILITIES

DATE: 3/23/2011

ATTACHMENT 1



**House Energy and Utilities Committee
Testimony Regarding S.B. 227
Chris Wilson, Deputy Secretary
March 23, 2011**

Chairman Holmes and Members of the Committee, thank you for the opportunity to provide support for S.B. 227. This is important legislation to protect the safety of pilots of low-flying aircraft. Agriculture pilots are licensed by the Kansas Department of Agriculture. Secretary Dale Rodman has placed a top priority on protecting the safety of KDA employees and our customers – those we license. So we appreciate the Committee's attention to S.B. 227.

On March 11, the National Transportation Safety Board issued a Safety Alert, which is attached to this statement, to warn pilots of low-flying aircraft about the dangers associated with unmarked towers built to record weather observations.

Many Meteorological Evaluation Towers (METs) fall just below the 200-foot Federal Aviation Administration threshold for obstruction markings and can be difficult to see from the air. These wind data, or anemometer towers range from 10 to 80 meters. That's a dangerous proposition for aircraft conducting low-flight operations, including aerial applicators, emergency medical helicopters, law enforcement, fire suppression and other low-altitude activities. The NTSB is urging pilots to maintain vigilance during low-altitude flights and asking them to encourage the markings of METs in their area.

Since 2003 the NTSB has investigated three fatal accidents involving in-flight collisions with METs, including, most recently, in January of this year when an agricultural pilot working on an island off the coast of San Francisco lost his life in a collision with an unmarked MET. Including January's fatality, over the past 12 years there have been nine fatal agricultural aviation accidents involving collisions with towers.

The airspace aerial applicators work in is becoming increasingly obstructed by transmission lines, communication towers, wind turbines and hard-to-see meteorological testing towers. Towers are one of the most dangerous obstacles an agricultural pilot encounters. A single fatal accident in the industry is one too many, and in the past decade there have been seven fatal accidents involving collisions with towers and an additional 14 fatalities involving collisions with power lines. Nearly 24 percent of the fatal accidents reported over the last 10 years have involved collisions with wires or towers.

Without sensible placement and proper marking of towers, farmers may be at risk of losing important aerial application services performed on their cropland. This would detrimentally

HOUSE ENERGY AND UTILITIES

DATE: 3/23/2011

ATTACHMENT 2-1

affect, in some instances, the only method farmers have available to them when the time comes to apply seeds, fertilizers and crop protection chemicals necessary to foster crop growth.

These obstacles are not just an aerial application concern. Improper wind turbine siting may negatively affect emergency medical flights, aerial firefighters, pipeline patrol planes and other low-flying operations.

S.B. 227 is based on legislation passed in South Dakota that will require the marking of these towers so that they are recognizable in clean air during daylight hours. Towers erected before July 1, 2011, are required to be marked within two years.

Thank you for your consideration of S.B. 227. I would respond to questions at the appropriate time.



NTSB

SAFETY ALERT

National Transportation Safety Board

★ Meteorological Evaluation Towers

Pilots urged to be vigilant for Meteorological Evaluation Towers

The Problem

- Meteorological Evaluation Towers (METs) are used to measure wind speed and direction during the development of wind energy conversion facilities. METs are made from galvanized tubing (or other galvanized structure) with a diameter of 6 to 8 inches and are secured with guy wires that connect at multiple heights on the MET and anchor on the ground.
- Many METs fall just below the 200-foot Federal Aviation Administration (FAA) threshold for obstruction markings. They can also be erected quickly and without notice to the local aviation community, depending upon their location.
- Because of their size and color, pilots have reported difficulty seeing METs from the air. Therefore, METs could interfere with low-flying aircraft operations, including those involving helicopter emergency medical services, law enforcement, animal damage control, fish and wildlife, agriculture, and aerial fire suppression.
- The NTSB has investigated several fatal accidents involving aircraft collisions with METs:
 - On January 10, 2011, a Rockwell International S-2R, N4977X, collided with a MET during an aerial application in Oakley, California.
 - On May 19, 2005, an Air Tractor AT-602, N9017Z, collided with a MET that was erected 15 days before the accident in Ralls, Texas.
 - On December 15, 2003, an Erickson SHA Glasair, N434SW, collided with a MET near Vansycle, Oregon.
- While Wyoming and South Dakota have implemented requirements for METs to improve the safety of low-flying aircraft, not all states have such requirements for METs. (Wyoming maintains an online database of METs and requires all METs to be registered and marked so that they are visible from a distance of 2,000 feet. South Dakota requires that METs be marked.)

- The FAA has issued a notice of proposed rulemaking (docket number FAA-2010-1326) to update Advisory Circular (AC) 70/7460-1K to recommend the marking of METs. However, the NTSB is concerned that the application of the AC is voluntary, and, without mandatory application and marking requirements for METs, many METs will still be constructed without notice to the aviation community and will fail to be marked appropriately.

What can pilots do to avoid METs?

- Maintain vigilance for METs when conducting low-altitude flights.
- If you locate a MET in your area, let other pilots know about the location of the MET. FAA Safety Team members are also exploring methods of notifying pilots of the location and height of METs and are working to educate MET owners, builders, and communities on the flight-safety issues presented by METs.
- Encourage the marking of METs in your area.

Need more information?

NTSB accident database for information on MET accidents: <http://www.nts.gov/ntsb/query.asp>

FAA AC 70/7460-1K:

[http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/b993dcdcf37fcdc486257251005c4e21/\\$FILE/AC70_7460_1K.pdf](http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/b993dcdcf37fcdc486257251005c4e21/$FILE/AC70_7460_1K.pdf)

Proposed revisions to FAA AC 70/7460-1: <http://www.gpo.gov/fdsys/pkg/FR-2011-01-05/pdf/2010-33310.pdf>

National Agricultural Aviation Association: www.agaviation.org/content/lets-be-fair-about-sharing-air

South Dakota House Bill 1155: <http://legis.state.sd.us/sessions/2010/Bill.aspx?Bill=1155>

Wyoming database of METs: <http://gf.state.wy.us/METTowers/default.aspx>

SA-016 March 2011

March 23, 2011

TO: House Energy & Utilities Committee

My name is Terry Jordan with Jordan Air, Inc. I am currently the president of the KAAA. We have a membership of a little over 100 licensed aerial applicators, which represents over 90% of aerial applicators in Kansas. With the ever increasing number of MET towers in the State of Kansas, we feel this creates an increasing risk to our members. There are currently two states that have legislation to regulate towers in such a manner and over 20 states with requirements for marking of towers. We fully support the KDA statement on this bill and thank you for giving the KAAA an opportunity to support this bill.

HOUSE ENERGY AND UTILITIES

DATE: 3/23/2011

ATTACHMENT 3



The Wind Coalition

Testimony Provided to the

House Energy and Utilities Committee - March 23rd, 2011

Kimberly Svaty, Representing The Wind Coalition

Senate Bill 227

Chairman Holmes and Members of the Committee,

Thank you for the opportunity to provide testimony on SB 227. The Wind Coalition respectfully takes a neutral position on SB 227.

The Wind Coalition represents forty wind developers and manufactures which operate across the United States and specifically within the Southwest Power Pool (SPP) region. Of the nine operating wind projects in Kansas, eight belong to Wind Coalition members. There are four wind projects announced for construction in Kansas, all of which belong to Wind Coalition members. In addition, the Coalition is proud to have several manufacturers as members including Siemens, Vestas and GE who all employ a significant number of Kansans.

While compliance with the painting and marking provisions of the bill will cost a wind developer approximately \$10,000 per tower, the majority of Wind Coalition members either already comply with the provisions included in this bill or are implementing compliance policies. The Industry appreciates and strongly supports the two-year retrofit provision included in SB 227 as it allows companies to incorporate the retrofit into their regularly-scheduled tower maintenance program.

The Senate Utilities Committee made several amendments to SB 227. One amendment addressed an industry concern related to the "area surrounding the anchor point"- the mandatory 64 square feet of area that must be distinguished from the surrounding vegetation. The Coalition noted that the provision may have arbitrarily taken land out of production and increased the footprint of the anemometer tower. It was suggested that the ground-base guy wire anchor distinction measures should be based on an agreement between the wind company and the landowner. The Committee however amended the bill to remove this provision since there were several other painting and marking requirements already required.

In light of the bill, I thought it important to note that the American Wind Energy Association (AWEA) had the opportunity to submit comments in a Federal Aviation Administration docket (FAA 2010- 1326) relating to Marking Meteorological Evaluation Towers. In AWEA's comments, they noted their general support of the National Agriculture Aviation Association (NAAA) to improve the visibility of met towers in appropriate circumstances.

Thank you for the opportunity to provide neutral testimony on SB 227.

HOUSE ENERGY AND UTILITIES

DATE: 3/23/2011

ATTACHMENT 4

As Amended by Senate Committee

Session of 2011

SENATE BILL No. 227

By By Committee on Ways and Means

3-8

1 AN ACT concerning ~~anemometer towers, relating to required markings,~~
2 ~~penalties~~ renewable energy; amending K.S.A. 58-2272 and repealing
3 the existing section.
4

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

6 Section 1. K.S.A. 58-2272 is hereby amended to read as follows: 58-
7 2272. (a) Every instrument that conveys any estate or interest created by
8 any lease or easement involving wind or solar resources and technologies
9 to produce and generate electricity shall include:

10 (a) (1) A description of the real property subject to the easement and a
11 description of the real property benefitting from the wind or solar lease or
12 easement;

13 (b) (2) a description of the vertical and horizontal angles, expressed in
14 degrees, and distances from the site of the wind or solar power system in
15 which an obstruction to the wind or solar system is prohibited or limited;

16 (c) (3) all terms or conditions under which the lease or easement is
17 granted or may be terminated, except that if the instrument is recorded
18 under K.S.A. 58-2221, and amendments thereto, any compensation
19 received by the owner of the real property may be excluded; and

20 (d) (4) any other provisions necessary or desirable to execute the
21 instrument.

22 (b) No person other than the surface owner of a tract of land shall
23 have the right to use such land for the production of wind or solar
24 generated energy unless granted such right by the lawful owner of the
25 surface estate by lease or easement for a definite period.

26 (c) The provisions of subsection (b) shall not apply to any lease or
27 easement filed of record prior to July 1, 2011, with the register of deeds of
28 the county in which the tract is located.

29 (d) Nothing in this section shall be construed to affect any otherwise
30 enforceable restriction on the use of any tract of land for the production of
31 wind or solar energy whether or not such restriction is in the form of an
32 easement for a definite term.

33 New Sec. 2. (a) As used in this section:

34 (1) "Anemometer" means an instrument for measuring and recording
35 the speed of wind; and.

HOUSE ENERGY AND UTILITIES

DATE: 3/23/2011

ATTACHMENT 5-1

1 (2) "anemometer tower" means a structure, including all guy wires
2 and accessory facilities, on which an anemometer is mounted ~~for the~~
3 ~~purposes of documenting whether a site has wind resources sufficient for~~
4 ~~the operation of a wind turbine generator.~~

5 (b) Any anemometer tower that is 50 feet in height above the ground
6 or higher, located outside the exterior corporate boundaries of any
7 municipality city, and whose appearance is not otherwise mandated by
8 state or federal law, shall be marked, painted, flagged or otherwise
9 constructed to be recognizable in clean air during daylight hours. Any
10 anemometer tower that was erected before July 1, 2011 shall be marked as
11 required by this section within two years after the effective date of this act.
12 Any anemometer tower that is erected on or after the July 1, 2011 shall be
13 marked as required by this section at the time it is erected. Marking
14 required under this section includes marking the anemometer tower, guy
15 wires and accessory facilities as follows:

16 (1) The top $\frac{1}{3}$ of the anemometer tower shall be painted in equal,
17 alternating bands of aviation orange and white, beginning with orange at
18 the top of the tower and ending with orange at the bottom of the marked
19 portion of the tower;

20 (2) two marker balls shall be attached to and evenly spaced on each
21 of the outside guy wires; *and*

22 ~~(3) the area surrounding each point where a guy wire is anchored to~~
23 ~~the ground shall be a contrasting appearance with any surrounding~~
24 ~~vegetation. If the adjacent land is grazed, the area surrounding the anchor~~
25 ~~point shall be fenced. The area surrounding the anchor point means an area~~
26 ~~not less than 64 square feet whose outer boundary is at least four feet from~~
27 ~~the anchor point; and~~

28 ~~(4)~~ (3) one or more seven-foot safety sleeves shall be placed at each
29 anchor point and shall extend from the anchor point along each guy wire
30 attached to the anchor point.

31 (c) Failure to properly mark an anemometer tower is failing to mark
32 an anemometer tower as required by subsection (b). An owner of an
33 anemometer tower who fails to properly mark an anemometer tower shall
34 be guilty of a class C nonperson misdemeanor.

35 ~~Sec. 3. K.S.A. 58-2272 is hereby repealed.~~

36 ~~Sec. 4.~~ 4. This act shall take effect and be in force from and after its
37 publication in the statute book.



[Back to web version](#)

Tuesday, March 22, 2011

Posted on Tue, Mar. 22, 2011

Local T-Mobile could lose staff

BY JERRY SIEBENMARK
The Wichita Eagle

T-Mobile's Wichita customer care center could see a reduction in staff if AT&T's proposed \$39 billion acquisition of T-Mobile passes muster with federal regulators.

On Sunday, AT&T and Deutsche Telekom, the German parent of T-Mobile USA, said they had reached definitive agreement to sell the fourth-largest wireless carrier in the U.S. to AT&T.

In an e-mailed statement to the Eagle on Monday, an AT&T spokeswoman said there may be a reduction in staff over time at the Wichita call center, which employs 600 people.

"We have a lot of experience with mergers in the past and there have generally been some decreases in work force, though most of them have been through attrition," Kathryn McClelland of AT&T said in the e-mail. "We anticipate it would be similar in this case."

Bill Jackson, general manager of T-Mobile's Wichita call center, said he didn't have any insight on the deal beyond what had been publicly announced.

Officials from T-Mobile's headquarters in Bellevue, Wash., e-mailed a statement to The Eagle on Monday regarding questions about the impact of the deal on the call center.

"Making this combination a success will require the talent and commitment of T-Mobile USA employees," the statement said. "Until this deal is closed, we remain an independent competitor to AT&T. There is no change in service for our customers, and we remain committed to ensuring that our customers have the best experience possible using T-Mobile USA products and services."

The Wichita call center, at 2525 N. Woodlawn, is one of 24 T-Mobile [call centers](#) in the U.S.

During a [teleconference](#) Monday, a team of AT&T executives discussed why the acquisition is beneficial for the company and the public, and why they think it will gain the approval of federal regulators.

If approved, the deal would make AT&T the nation's largest carrier, with 130 million wireless subscribers.

They said the acquisition is complementary from a systems standpoint and it would prevent a shortage of wireless spectrum — basically a portion of the airwaves that carriers use to transmit and receive wireless data — both carriers would be facing on their own.

"It brings together compatible network assets... (and) allows for significant expansion of LTE (fourth generation wireless networks) beyond what either company could offer on its own," said Randall Stephenson, AT&T chairman and CEO, during the teleconference.

AT&T said that the merger would benefit AT&T and T-Mobile customers, adding that during the mergers of several wireless companies between 1999 and 2009, "prices dropped 50 percent, showing efficiencies (from mergers) have directly flowed through to consumers," said Wayne Watts, AT&T general counsel. Watts was referring to a 2010 report from the federal General Accounting Office regarding average wireless prices in the U.S.

The deal is expected to take a year to [complete](#), which includes the time it takes to receive regulatory approvals.

Reach Jerry Siebenmark at 316-268-6576 or jsiebenmark@wichitaeagle.com.

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HOUSE ENERGY AND UTILITIES

DATE: 3/23/2011

ATTACHMENT 6

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 ~~5,000~~ 75,000 local exchange access lines served by the electing carrier and
16 all 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.
32

SB 72—Am. by SCW 17

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 (z) Notwithstanding any provision of law to the contrary, all local
29 exchange access lines within an exchange which serve consumers that do not
30 have access to broadband services shall be subject to price regulation. Any
31 local exchange carrier or electing carrier operating local exchange access lines
32 to such consumers would be eligible for KUSF funding for high-cost support
33 for such lines upon application to the commission.

34 Sec.-3: [4.] K.S.A. 50-6,103 [and 66-1,187] and K.S.A. 2010 Supp. 66-
35 2005 are hereby repealed.

36 Sec.-4: [5.] This act shall take effect and be in force from and after its
37 publication in the statute book.

38

SB 72—Am. by SCW 3

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 for download and equal to*
10 *or greater than 1 megabit per second for upload.*

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

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

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

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

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

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

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

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

41 (j) *"I+ intraLATA dialing parity" means the ability of a local exchange*
42 *service customer to specify the telecommunications or local exchange*
43 *carrier that will carry the intraLATA long distance messages when that*

HOUSE ENERGY AND UTILITIES

DATE: 3/23/2011

ATTACHMENT 9