

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Pat Apple at 1:30 p.m. on February 22, 2011, in Room 548-S of the Capitol.

All members were present except: Sen. Jay Emler, excused

Committee staff present:

Matt Sterling, Office of the Revisor of Statutes  
Mary Torrence, Revisor of Statutes  
Cindy Lash, Kansas Legislative Research Department  
Heather O'Hara, Kansas Legislative Research Department  
Ann McMorris, Committee Assistant

Conferees appearing before the Committee:

Others attending: See attached list.

Approval of Minutes

Moved by Senator Pyle, seconded by Senator Petersen, to approve the minutes of the Senate Utilities Committee meetings held on February 10, February 14 and February 15, 2011. Motion approved.

Chair opened for discussion and possible action on:

**SB 72 – Telecommunications and Price Deregulation**

An amendment offered by AT&T releasing COLR specifications and maintaining price regulation between rural and urban exchanges was discussed. (Attachment 1)

Moved by Senator Taddiken, seconded by Senator Kultala, to amend SB 72 with the language supplied by AT&T. Motion carried.

An amendment proposed by Cox Communications enabling consumers to more easily change telecommunications carriers and maintaining interconnection rights with an electing carrier was discussed.

Moved by Senator Masterson, seconded by Senator Petersen, to amend SB 72 by inserting the language for Section 1 as provided by Cox Communications. Motion carried.

An amendment proposed by Sprint deleting language in (A) and (B) on pages 13 and 14 of **SB 72** and inserting appropriate language for clarification was discussed. (Attachment 3)

Moved by Taddiken, seconded by Kultala, to amend SB 72 as per the Sprint amendment and insert the language "as related to COLR obligations". Motion carried.

A proposed amendment concerning electing carrier service was offered by the committee. (Attachment 4)

Moved by Senator Kultala, seconded by Senator Love, to amend SB 72 with proposed language for electing carrier service. Motion carried.

Moved by Senator Masterson, seconded by Senator Love to pass out SB 72 as a substitute bill and giving Revisor Sterling authority to make changes as needed for drafting purposes. Motion carried.

The meeting was adjourned at 2:45 p.m.

Respectfully submitted,  
Ann McMorris, Committee Assistant  
Attachments - 4

**SENATE UTILITIES  
COMMITTEE GUEST LIST  
FEBRUARY 22, 2011**

NAME	REPRESENTING
Tom Cochran	Sprint
Patrick Fencik	Sprint
Mike Reecht	Sprint
Les Depoevscumix	AT&T
Steve Rarick	Quab
Shirley Allen	KRITE
Wade Haggard	Cap Advantage
Mike Manning	"
Neil Minin	"
JANET BUCHANAN	KCC
CHRISTINE AARNES	KCC
MARK CARLINGER	SITA
Dina Fisk	VERIZON
Bruce Noy	AT&T
Steve Hahn	AT&T
Wm Scott	AT&T
George Stebbins	at&t
John Bokenburg	at&t

Coleen Jensen	Cox
Terry Diebolt	AT&T
Ginny Zuchel	AT&T
Tom Stanton	Northern Natural Gas
Tom Day	KCC
Wesley Krueger	US Cellular
Whitney Jamon	Pixius

**SENATE UTILITIES  
COMMITTEE GUEST LIST  
FEBRUARY 22, 2011**

[illegible]



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

(x) (1) Any local exchange carrier with a majority of the carrier's local exchange access lines in the state price deregulated pursuant to subsection (q) may elect to no longer be regulated as a local exchange carrier and, notwithstanding any other provisions, upon such election shall instead be regulated as a telecommunications carrier, except as provided in this subsection. A local exchange carrier making such election shall be referred to as an "electing carrier."

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

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

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

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

(D) shall remain eligible to receive KUSF funding.

(3) Until July 1, 2014, An electing carrier's rates for single residential local exchange access lines in its rural exchanges shall be no higher than such rates for single residential local exchange access lines in its urban exchanges.

(4) An electing carrier shall be relieved of the requirement to serve as carrier of last resort, as required by K.S.A. 66-2009, and amendments thereto, except that the carrier shall:

(A) Until July 1, 2014, in any exchange in which there are between 6,000 and 74,999 local exchange access lines served by all providers, continue to serve as carrier of last resort for the provision of telecommunications services using any technology that offers voice communications service, notwithstanding the provisions of subsections (p) and (q) of K.S.A. 66-1,187, and amendments thereto, and may include a technology that does not require the use of any public right-of-way. Such technology may be provided through any affiliate of the electing carrier through any service arrangement. The use of any such alternative

Comment [ 1]: or business

Comment [ 2]: the average of

Comment [ 3]: or business

Comment [ 4]: respectively



1 technology shall not subject the technology, service or affiliate to the  
2 jurisdiction of the commission; and  
3 (B) in any rural exchange, continue to serve as carrier of last resort  
4 for the provision of telecommunications services.  
5 (5) For the purposes of this subsection:  
6 (A) “rural exchange” means any exchange in which there are fewer than  
7 6,000 local exchange access lines served by all providers; and  
8 (B) “urban exchange” means any exchange in which there are  
9 75,000 or more local exchange access lines served by all providers.  
10 Sec. 2. K.S.A. 2010 Supp. 66-2005 is hereby repealed.  
11 Sec. 3. This act shall take effect and be in force from and after its  
12 publication in the statute book.  
13

Comment [ 5]: in the electing carrier's urban exchanges.

Comment [ 6]: Facilities based carrier” means a telecommunications carrier or entity providing local telecommunications service either wholly or partially over its own network. Facilities based carrier shall not include any radio communication services provider licensed by the federal communications commission to provide commercial mobile radio services;

Comment [ 7]: (B)

Comment [ 8]: the electing carrier and

Comment [ 9]: facilities based carriers

Comment [ 10]: (C)

Comment [ 11]: the electing carrier and

Comment [ 12]: facilities based carriers.



Session of 2011

**SENATE BILL No. 72**

By Committee on Utilities

1-28

AN ACT concerning telecommunications; relating to price deregulation; amending K.S.A. 2010 Supp. 66-2005 and repealing the existing section.

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

K.S.A. 2010 Supp. 66-2005 is hereby amended to read as follows: 66-2005. (a) Each local exchange carrier shall file a network infrastructure plan with the commission on or after January 1, 1997, and prior to January 1, 1998. Each plan, as a part of universal service protection, shall include schedules, which shall be approved by the commission, for deployment of universal service capabilities by July 1, 1998, and the deployment of enhanced universal service capabilities by July 1, 2003, as defined pursuant to subsections (p) and (q) of K.S.A. 66-1,187, and amendments thereto, respectively. With respect to enhanced universal service, such schedules shall provide for deployment of ISDN, or its technological equivalent, or broadband facilities, only upon a firm

**Comment [ 1]:** K.S.A. 50-6,103 and

**Comment [ 2]:** sections

**Comment [ 3]:** Section 1. K.S.A. 50-6,103 is hereby amended to read as follows: 50-6,103.

(a) As used in this section:

**Comment [ 4]:** (1) "Express authorization" means an express, affirmative act by a consumer clearly agreeing to a change in the consumer's telecommunications carrier or local exchange carrier to another carrier.

**Comment [ 5]:** (2) "Supplemental telecommunication services" means any property or services for which any charge or assessment appears on a billing statement directed to a consumer by a local exchange carrier or telecommunications carrier, including but not limited to personal 800 number services, calling card plans, internet advertisement and website services, voice mail services, paging services, psychic services, psychic memberships, dating services or memberships, travel club memberships, internet access services and service maintenance plans. "Supplemental telecommunication services" does not include direct dial services to which a per use charge applies.

**Comment [ 6]:** (3) "Telecommunications services" has the meaning provided by K.S.A. 66-1,187 and amendments thereto.

**Comment [ 7]:** (b) No local exchange carrier or telecommunications carrier shall submit or cause to be submitted to a local exchange carrier an order to change a consumer's telecommunications carrier or local exchange carrier to another carrier without having obtained the express authorization of the consumer authorized to make the change. The local exchange carrier or telecommunications carrier requesting the change shall have the burden of proving the express authorization by a preponderance of the evidence. It shall not be a violation of this subsection for a local exchange carrier to assign a consumer to a telecommunications carrier for purposes of intralata services pursuant to order of the state corporation commission.

**Comment [ 8]:** (c) No supplier shall:

**Comment [ 9]:** (1) Engage in any activity, conduct or representation that has the capacity to mislead, deceive or confuse the consumer, while soliciting or

**Comment [ 10]:** verifying a change in a consumer's telecommunications carrier or local exchange carrier to another carrier;

**Comment [ 11]:** (2) employ a box or container used to collect entries for sweepstakes, contests or drawings ... [1]

**Comment [ 12]:** (3) use any methods not approved by statute, regulations of the federal communications ... [2]

**Comment [ 13]:** (4) employ a check, draft or other negotiable instrument that constitutes authorization to cl ... [3]

**Comment [ 14]:** (d) Any supplier that violates subsection (b) or (c) shall be subject to a civil penalty of not ... [4]

**Comment [ 15]:** (e) Any violation of this section is a deceptive and unconscionable act or practice under th ... [5]

**Comment [ 16]:** (f) All local exchange carriers shall offer consumers the option of notifying the local excha ... [6]

**Comment [ 17]:** (g) Any person alleging a violation of this section may bring a private action to seek relief ... [7]

**Comment [ 18]:** purposes of such private action.

**Comment [ 19]:** (h) The attorney general and the state corporation commission shall enter into a memorand ... [8]

**Comment [ 20]:** (i) This section shall be part of and supplemental to the Kansas consumer protection act.

**Comment [ 21]:** Sec. 2.



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

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

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

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

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

(f) All local exchange carriers shall offer consumers the option of notifying the local exchange carrier in writing that they do not desire any change of telecommunications carrier regardless of any orders to the contrary submitted by any third party. The consumer shall be permitted to cancel such notification or to change its telecommunications carrier by notifying the consumer's local exchange carrier accordingly.

For the purposes of this section, a letter of agency, as described in 47 CFR 64.1130, as in effect on the effective date of this act, that is signed by the consumer shall satisfy the notification requirement for purposes of making changes to the consumer's telecommunications carrier.  
All local exchange carriers shall annually notify the consumers of the carrier's telecommunications services of the availability of this option.

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

(h) The attorney general and the state corporation commission shall enter into a memorandum of understanding providing for the cooperation and sharing of information necessary to enforce this section against suppliers and to assist consumers under federal and state law.



1 Such technology may be provided through any affiliate of the electing  
2 carrier through any service arrangement. The use of any such alternative  
3 technology shall not subject the technology, service or affiliate to the  
4 jurisdiction of the commission; and  
5 (B) in any rural exchange, continue to serve as carrier of last resort  
6 for the provision of telecommunications services.  
7 (5) For the purposes of this subsection:  
8 (A) "Rural exchange" means any exchange in which there are fewer  
9 than 6,000 local exchange access lines served by all providers; and  
10 (B) "urban exchange" means any exchange in which there are  
11 75,000 or more local exchange access lines served by all providers.  
12  
13 Sec. 2. K.S.A. 2010 Supp. 66-2005 is hereby repealed.  
14 Sec. 3. This act shall take effect and be in force from and after its  
15 publication in the statute book.

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

**Comment [ 23]:** 3.

**Comment [ 24]:** K.S.A. 50-6,103 and

**Comment [ 25]:** are

**Comment [ 26]:** 4.



SB 72 Proposed Amendment  
Sprint  
2/22/2011

Senate Utilities Committee  
February 22, 2011  
Attachment 3-1

1 same manner as and subject to no more regulation than other  
2 telecommunications carriers operating in the state, except that the carrier  
3 shall remain subject to:

4 (A) The reasonable resale of retail telecommunications services, as  
5 well as unbundling and interconnection obligations as required by K.S.A.  
6 66-2003, and amendments thereto;

7 (B) the requirements of subsection (c) concerning intrastate access  
8 charges;

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

11 (D) shall remain eligible to receive KUSF funding.

12 (3) Until July 1, 2014, an electing carrier's rates for single  
13 residential local exchange access lines in its rural exchanges shall be no  
14 higher than such rates for single residential local exchange access lines  
15 in its urban exchanges.

16 (4) An electing carrier shall be relieved of the requirement to serve  
17 as carrier of last resort, as required by K.S.A. 66-2009, and amendments  
18 thereto, except that the carrier shall:

19 (A) Until July 1, 2014, in any exchange in which there are between  
20 6,000 and 74,999 local exchange access lines served by all providers,  
21 continue to serve as carrier of last resort for the provision of  
22 telecommunications services using any technology that offers voice  
23 communications service, notwithstanding the provisions of subsections  
24 (p) and (q) of K.S.A. 66-1,187, and amendments thereto, and may include  
25 a technology that does not require the use of any public right-of-way.  
26 Such technology may be provided through any affiliate of the electing  
27 carrier through any service arrangement. The use of any such alternative  
28 technology shall not subject the technology, service or affiliate to the  
29 jurisdiction of the commission; and

30 (B) in any rural exchange, continue to serve as carrier of last resort  
31 for the provision of telecommunications services.

32 (5) For the purposes of this subsection:

33 (A) "Rural exchange" means any exchange in which there are fewer  
34 than 6,000 local exchange access lines served by all providers; and

35 (B) "urban exchange" means any exchange in which there are  
36 75,000 or more local exchange access lines served by all providers.

37 Sec. 2. K.S.A. 2010 Supp. 66-2005 is hereby repealed.

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

Comment [ 1]: may elect to

Comment [ 2]: by providing written notification to the commission of the specific urban exchanges for which the electing carrier is electing to be relieved of carrier of last resort obligations.

Comment [ 3]: in the electing carrier's urban exchanges.

Comment [ 4]: Notwithstanding any other provision of law to the contrary, an electing carrier that notifies the commission that it chooses to be relieved of carrier of last resort obligations in specific urban exchanges shall no longer be eligible for KUSF funding in those specific exchanges.

Comment [ 5]: (6)



SB 72 Proposed Amendment  
Electing Carrier Service  
2/22/2011

Senate Utilities Committee  
February 22, 2011  
Attachment 4-1

1 same manner as and subject to no more regulation than other  
2 telecommunications carriers operating in the state, except that the carrier  
3 shall remain subject to:

4 (A) The reasonable resale of retail telecommunications services, as  
5 well as unbundling and interconnection obligations as required by K.S.A.  
6 66-2003, and amendments thereto;

7 (B) the requirements of subsection (c) concerning intrastate access  
8 charges;

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

11 (D) shall remain eligible to receive KUSF funding.

12 (3) Until July 1, 2014, an electing carrier's rates for single  
13 residential local exchange access lines in its rural exchanges shall be no  
14 higher than such rates for single residential local exchange access lines  
15 in its urban exchanges.

16 (4) An electing carrier shall be relieved of the requirement to serve  
17 as carrier of last resort, as required by K.S.A. 66-2009, and amendments  
18 thereto, except that the carrier shall:

19 (A) Until July 1, 2014, in any exchange in which there are between  
20 6,000 and 74,999 local exchange access lines served by all providers,  
21 continue to serve as carrier of last resort for the provision of  
22 telecommunications services using any technology that offers voice  
23 communications service, notwithstanding the provisions of subsections  
24 (p) and (q) of K.S.A. 66-1,187, and amendments thereto, and may include  
25 a technology that does not require the use of any public right-of-way.  
26 Such technology may be provided through any affiliate of the electing  
27 carrier through any service arrangement. The use of any such alternative  
28 technology shall not subject the technology, service or affiliate to the  
29 jurisdiction of the commission; and

30 (B) in any rural exchange, continue to serve as carrier of last resort  
31 for the provision of telecommunications services.

32 (5) For the purposes of this subsection:

33 (A) "Rural exchange" means any exchange in which there are fewer  
34 than 6,000 local exchange access lines served by all providers; and

35 (B) "urban exchange" means any exchange in which there are  
36 75,000 or more local exchange access lines served by all providers.

37 Sec. 2. K.S.A. 2010 Supp. 66-2005 is hereby repealed.

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

**Comment [ 1]:** Notwithstanding the provisions of this subsection (x), an electing carrier shall provide a single residential local exchange access line, or up to four business local exchange access lines at one location, at the rate level in effect as of the date the electing carrier made such election, adjusted by not more than any increases in the consumer price index for all urban consumers, as officially reported by the bureau of labor statistics of the United States department of labor, or its successor index, and such electing carrier shall not require a term commitment in order to receive such pricing.

**Comment [ 2]:** (6)