

Approved: March 15, 2010  
Date

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Pat Apple at 1:30 p.m. on March 9, 2010, in Room 548-S of the Capitol.

All members were present.

Committee staff present:

Kristen Kellems, Office of the Revisor of Statutes  
Matt Sterling, Office of the Revisor of Statutes  
Raney Gilliland, Kansas Legislative Research Department  
Cindy Lash, Kansas Legislative Research Department  
Ann McMorris, Committee Assistant  
Jeannine Wallace, Sen. Apple's Office Assistant

Conferees appearing before the Committee:

Others attending:

See attached list.

Confirmation Hearing

Ward E. Loyd, Commissioner, Kansas Corporation Commission

Mr. Loyd Ward spoke to the assembly and acknowledged his wife Susie and many friends in the audience. He mentioned his current profession is the general practice of law in Garden City. He looks forward to the opportunity to serve as a commissioner of the Kansas Corporation Commission.

Mr. Ward's resume was provided to the eleven members of the Senate Utilities Committee. Several committee members made comments of endorsement or asked general questions on Mr. Ward's knowledge of KCC.

Moved by Senator Lee, seconded by Senator Emler, the confirmation of Loyd Ward as commissioner, Kansas Corporation Commission, be moved out favorably. Motion carried.

Briefing on the 2010 Price Deregulation Report

Christine Aarnes, KCC, had prepared a three-page report summarizing the requirements set forth in the 2006 legislative session in **SB 350** and the 2008 legislative session in **HB 2637**. The KCC made some suggestions and recommendations to fine tune the requirements and bring them more in line to the telecommunications market. Much discussion on the increase/decrease in rate changes and how they were computed.

(Attachment 1)

The next meeting is scheduled for March 10, 2010.

The meeting was adjourned at 2:30 p.m.

Respectfully submitted,

Ann McMorris  
Committee Assistant

Attachments - 1

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**SENATE UTILITIES  
COMMITTEE GUEST LIST  
MARCH 9, 2010**

NAME	REPRESENTING
Tom Day	KCC
Larry Bels	MIDWEST ENERGY
Christine Aarnes	KCC
Don Low	KCC
Mark Schreiber	Westar
Ward Coy	self
Sue Loyd	"
Dan By	AT&T
Scott Jones	KCPK
Shelly Allen	KR+TC
Athy Damon	HU
Joe Dick	KCBPU
Allen Jensen	COX
Mike Slo H	NTT
Connie Burns	self
Sean Milice	CAPITOL STRATEGIES
John I. Luy	Century Link
Dina Fisk	Verizon Wireless

**SENATE UTILITIES  
COMMITTEE GUEST LIST  
MARCH 9, 2010**

NAME	REPRESENTING
JUAITH GADD	CENTURY LINK
MEL MINOR	"
<del>JOHN TERRY</del>	
Mike Reed	Sprint
Mike Murray	Century Link
Wilson Kemper	PAR ELECTRIC

Briefing on the 2010 Price Deregulation Report

Before the Senate Utilities Committee

March 4, 2010

Christine Aarnes, Senior Managing Telecom Analyst  
On behalf of the Kansas Corporation Commission

Chairman Apple and members of the Senate Utilities Committee:

Thank you for the opportunity to discuss the 2010 Price Deregulation Report with you. As you are aware, the Kansas Legislature addressed price deregulation during the 2006 legislative session in Senate Bill 350 and again during the 2008 legislative session in House Bill 2637. One of the requirements imposed in those bills is for the Commission to submit a report to the Kansas Legislature by February 1 of each year. Pursuant to the requirements of K.S.A 2008 Supp. 66-2005(q)(7), the Commission submitted its most recent report on February 1, 2010.

To date, fifty-five exchanges have been price deregulated under the terms of the statute. All fifty-five exchanges are served by Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T). Three exchanges served by AT&T (Kansas City, Topeka, and Wichita) have 75,000 or more access lines and were automatically deemed price deregulated on July 1, 2006, pursuant to K.S.A. 2006 Supp. 66-2005(q)(1)(B). Forty-three exchanges have been price deregulated for both business and residential services following a demonstration by AT&T that the requirements of K.S.A. 66-2005(q)(1)(C) and (D) had been met for each of the exchanges. Additionally, two exchanges have been price deregulated for only business services following a demonstration by AT&T that the requirements of K.S.A. 66-2005(q)(1)(C) had been met, and seven exchanges have been price deregulated for only residential services following a demonstration by AT&T that the requirements of K.S.A. 66-2005(q)(1)(D) had been met.

In Tables 1 and 2 of the report, the Commission provides AT&T's rate for basic telephone service in each of the price deregulated exchanges as of the date the exchange was deemed price deregulated, compared to the associated rate as of January 1, 2010. Some of AT&T's rates for local exchange service have increased since the date each exchange was price deregulated, while other rates have not changed. The greatest rate increases have been in the Kansas City, Topeka, and Wichita exchanges, with a \$1.75 increase for business lines and a \$.85 increase for residential lines. This represents a 5.79 and 5.41 percent increase, respectively.

AT&T made forty-five tariff filings between January 1, 2009 and December 31, 2009. Sixteen of those tariff changes included rate changes, which included fifteen filings for rate increases and one filing included both rate increases and rate reductions. It should be noted that four of the filings that increased rates were either for services that have not been price regulated or were price deregulated prior to the implementation of Senate Bill 350 and House Bill 2637. Although most of the rate changes filed in 2009 were rate increases, the majority of the rate increases were

**Senate Utilities Committee**

**March 9, 2010**

**Attachment 1-1**

implemented without regard for whether an exchange had been price deregulated. That is, most were implemented for all exchanges served by AT&T, those under price cap provisions and those that have been price deregulated, with a few minor exceptions that are explained in the report.

Pursuant to K.S.A 2008 Supp. 66-2005(q), the price for bundled services has been price deregulated statewide for carriers under price cap regulation.<sup>1</sup> Since bundles were price deregulated on July 1, 2006, AT&T has made twenty-four tariff filings and United Telephone Companies of Kansas, d/b/a collectively CenturyLink (CenturyLink)<sup>2</sup> has made thirty tariff filings regarding bundled service offerings. Within those filings, some bundles have been grandfathered (meaning they are not available to new customers), new bundles have been introduced; some bundle rates have increased and some have been reduced.

The Commission noted in its report that AT&T and CenturyLink not only offer bundles that include local telephone service and various call management services; the carriers also offer bundles that include non-regulated services, such as television programming, internet, and wireless telephone service. The report highlights some of AT&T's and CenturyLink's current bundled offerings along with offerings of some of their competitors.

Pursuant to statute, the Commission calculated the weighted average rate in the forty-five exchanges that had been price deregulated as of July 1, 2009 and reported its findings in Table 4.

As directed, the Commission compared the weighted average rate calculations for the price deregulated exchanges to the weighted, statewide average rate as of July 1, 2008 multiplied by one plus the percentage change in the CPI for goods and services for the study period. The weighted, statewide average rate for nonwireless residential and single line business service as of July 1, 2008 was \$15.85 for residential service and \$27.74 for single line business service. The percentage change in the CPI for goods and services for the July 1, 2008 to June 30, 2009 study period was -1.4 percent. For residential service, the weighted, average rate in the price deregulated exchanges is higher than the CPI-adjusted calculation in thirty-five of the forty-four exchanges. For business service, the weighted average rate in the price deregulated exchanges is higher than the CPI-adjusted calculation in thirty-five of the forty-five exchanges.

The statute directs the Commission to recommend any changes to the statute it believes necessary when the weighted average price in a price deregulated exchange is greater than the statewide, weighted average rate adjusted by the change in the CPI. Presumably, a higher weighted average rate in the price deregulated exchanges would indicate that competition was not sufficiently disciplining the price for telecommunications services. The Commission indicates in the report that it is difficult to measure the effectiveness of competition based on a

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<sup>1</sup> At this time, AT&T Kansas and CenturyLink are the only two incumbent local exchange carriers that have chosen price cap regulation.

<sup>2</sup> United Telephone Company of Kansas, United Telephone Company of Eastern Kansas, United Telephone Company of Southcentral Kansas, Sprint Missouri, Inc. d/b/a United Telephone Company of Southeastern Kansas (collectively, United Telephone Companies of Kansas d/b/a Embarq) merged with CenturyTel, Inc. on July 1, 2009. The combined company is now known as CenturyLink. In Kansas, the United Telephone Companies of Kansas retained their legal names and have adopted the new d/b/a name of CenturyLink.

single measure, but recognized that the Legislature was attempting to arrive at a measure easy to administer and still provide some indication of whether the interest of consumers was being served by price deregulation. With that in mind, the Commission made the following suggestions for changes to the statute.

As a starting point, the Commission suggested an inflation factor be used that is more closely aligned to the telecommunications market. Within the CPI is an index titled "telephone services." The telephone services index includes three components: local telephone service charges, long distance telephone services, and cellular telephone services. These services are weighted by the relative importance of each in the index. The data are for the U.S. city average of the CPI for all Urban Consumers (CPI-U), and the base period weight for each CPI item group is the average annual out-of-pocket expenditures that households had incurred for that item in 2005-06. The usage of this index would more closely reflect events that may have affected the telecommunications industry.

The Commission further recommended the Legislature consider remedial steps, since the data indicates that the effects of competition envisioned by the legislation have not occurred. The report noted there are probably many viable alternatives but one straight forward possibility is to resume price cap regulation. Thus, the Legislature could require a carrier to resume price cap regulation if the statewide, weighted average rate is lower than the weighted average rate for the price deregulated exchange for a specified period, such as one, two, three or four consecutive years of such pricing behavior, unless the carrier has rates in price deregulated exchanges that have increased by an amount equal to or less than the change in the CPI or CPI for telecommunications services.

The Commission further noted in its report that K.S.A. 66-2009(q)(1)(F) states that the rate for the initial residential access line and up to four business lines at one location can be priced flexibly and without Commission approval up to the percentage increase in the consumer price index in any one period. The price changes made by AT&T were all in compliance with this provision of the statute.

The Commission's report concludes with additional information regarding industry trends and data. The Commission reports Kansas providers continue to shift from leasing unbundled network elements from the incumbent carrier to providing telecommunications services via the carriers' own facilities. Lines served by cable companies are increasing, although landlines overall are declining. The report further discusses consumer shifts to wireless and Voice over Internet Protocol (VoIP) technologies.