



Energy & Utilities Subcommittee

**Tuesday, March 22, 2011
212 Knott Building
8:30 AM – 11:30 AM**

ACTION PACKET

**Dean Cannon
Speaker**

**Clay Ford
Chair**

COMMITTEE MEETING REPORT

Energy & Utilities Subcommittee

3/22/2011 8:30:00AM

Location: Webster Hall (212 Knott)

Summary:

Energy & Utilities Subcommittee

Tuesday March 22, 2011 08:30 am

HB 887 Favorable With Committee Substitute Yeas: 13 Nays: 0
Amendment Strike-All Adopted Without Objection

HB 1231 Favorable With Committee Substitute Yeas: 13 Nays: 0
Amendment 1 Adopted Without Objection
Line 323
Amendment 2 Adopted Without Objection
Lines 379-384
Amendment 3 Adopted Without Objection
Lines 418-420
Amendment 4 Adopted Without Objection
Lines 785-818
Amendment 5 Adopted Without Objection
Line 917-918
Amendment 6 Adopted Without Objection
Lines 1113-1114

Committee meeting was reported out: Tuesday, March 22, 2011 2:45:47PM

COMMITTEE MEETING REPORT

Energy & Utilities Subcommittee

3/22/2011 8:30:00AM

Location: Webster Hall (212 Knott)

Attendance:

| | <i>Present</i> | <i>Absent</i> | <i>Excused</i> |
|------------------------------|----------------|---------------|----------------|
| Clay Ford (Chair) | X | | |
| Ben Albritton | X | | |
| Charles Chestnut IV | X | | |
| Jeff Clemens | X | | |
| Janet Cruz | X | | |
| Daniel Davis | X | | |
| Shawn Harrison | X | | |
| Clay Ingram | X | | |
| George Moraitis, Jr. | X | | |
| Peter Nehr | X | | |
| Kathleen Passidomo | X | | |
| Elizabeth Porter | X | | |
| Michelle Rehwinkel Vasilinda | | | X |
| W. Gregory Steube | X | | |
| Alan Williams | X | | |
| Totals: | 14 | 0 | 1 |

Committee meeting was reported out: Tuesday, March 22, 2011 2:45:47PM

COMMITTEE MEETING REPORT

Energy & Utilities Subcommittee

3/22/2011 8:30:00AM

Location: Webster Hall (212 Knott)

HB 887 : Taxation of Communications Services

Favorable With Committee Substitute

| | Yea | Nay | No Vote | Absentee Yea | Absentee Nay |
|------------------------------|-----|----------------------|---------|-----------------|-----------------|
| Ben Albritton | X | | | | |
| Charles Chestnut IV | X | | | | |
| Jeff Clemens | X | | | | |
| Janet Cruz | X | | | | |
| Daniel Davis | X | | | | |
| Shawn Harrison | X | | | | |
| Clay Ingram | X | | | | |
| George Moraitis, Jr. | X | | | | |
| Peter Nehr | X | | | | |
| Kathleen Passidomo | X | | | | |
| Elizabeth Porter | | | | X | |
| Michelle Rehwinkel Vasilinda | | | X | | |
| W. Gregory Steube | X | | | | |
| Alan Williams | X | | | | |
| Clay Ford (Chair) | X | | | | |
| Total Yeas: 13 | | Total Nays: 0 | | | |

HB 887 Amendments

Amendment Strike-All

Adopted Without Objection

Appearances:

Bruce Yancy - Proponent
AT&T
145 15th Street
Atlanta Georgia 30309
Phone: 404-499-3181

Charles Dudley (Lobbyist) - Proponent
FL Cable Telecommunications Association
108 S. Monroe Street, Suite 200
Tallahassee Florida 32301
Phone: 850-681-0024

Frank Meiners (Lobbyist) - Waive In Support
AT&T
Post Office Box 1633
Tallahassee Florida 32302
Phone: 850-591-0177

Committee meeting was reported out: Tuesday, March 22, 2011 2:45:47PM

COMMITTEE MEETING REPORT

Energy & Utilities Subcommittee

3/22/2011 8:30:00AM

Location: Webster Hall (212 Knott)

HB 1231 : Telecommunications

Favorable With Committee Substitute

| | Yea | Nay | No Vote | Absentee Yea | Absentee Nay |
|------------------------------|-----|----------------------|---------|-----------------|-----------------|
| Ben Albritton | X | | | | |
| Charles Chestnut IV | X | | | | |
| Jeff Clemens | X | | | | |
| Janet Cruz | X | | | | |
| Daniel Davis | X | | | | |
| Shawn Harrison | X | | | | |
| Clay Ingram | X | | | | |
| George Moraitis, Jr. | X | | | | |
| Peter Nehr | X | | | | |
| Kathleen Passidomo | X | | | | |
| Elizabeth Porter | | | | X | |
| Michelle Rehwinkel Vasilinda | | | X | | |
| W. Gregory Steube | X | | | | |
| Alan Williams | X | | | | |
| Clay Ford (Chair) | X | | | | |
| Total Yeas: 13 | | Total Nays: 0 | | | |

HB 1231 Amendments

Amendment 1 - Line 323

Adopted Without Objection

Amendment 2 - Lines 379-384

Adopted Without Objection

Amendment 3 - Lines 418-420

Adopted Without Objection

Amendment 4 - Lines 785-818

Adopted Without Objection

Amendment 5 - Line 917-918

Adopted Without Objection

Amendment 6 - Lines 1113-1114

Adopted Without Objection

Committee meeting was reported out: Tuesday, March 22, 2011 2:45:47PM

COMMITTEE MEETING REPORT

Energy & Utilities Subcommittee

3/22/2011 8:30:00AM

Location: Webster Hall (212 Knott)

Appearances:

Gail Marie Perry - Opponent

FL Cable Telecommunications Association
Post Office Box 1766
Tallahassee Florida 33061
Phone: 954-850-4055

Michelle Robinson (Lobbyist) - Proponent

Verizon
7701 E. Telecom Parkway
Tampa Florida 33637
Phone: 813-978-2228

Herb Sheheane (Lobbyist) - Waive In Support

Windstream Commucations
1455 Cane Creek Road
Qunicy Florida 32351
Phone: 850-566-1100

Jack McRay (Lobbyist) - Opponent

AARP
200 W. College Street, Suite 304
Tallahassee Florida 32301
Phone: 850-577-5187

Marshall Criser - Proponent

AT&T
150 W. Flagler Street, Suite 1901
Miami Florida 33130
Phone: 305-347-5300

Frank Meiners (Lobbyist) - Waive In Support

Associated Industries of Florida
Post Office Box 1633
Tallahassee Florida 32302
Phone: 850-591-0177

Matthew Kandrach - Waive In Support

60 Plus Association
515 King Street, Suite 315
Alexandria Virginia 22314
Phone: 703-807-2070

Doug Mannheimer (Lobbyist) - Information Only

Sprint
215 S. Monroe Street, Suite 400
Tallahassee Florida 32301
Phone: 850-681-6810

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COMMITTEE MEETING REPORT

Energy & Utilities Subcommittee

3/22/2011 8:30:00AM

Location: Webster Hall (212 Knott)

Charles Dudley (Lobbyist) - Proponent
FL Cable Telecommunications Association
108 S. Monroe Street, Suite 200
Tallahassee Florida 32301
Phone: 850-681-0024

Tom Giovanetti - Information Only
Institute for Policy Innovation
1660 S Stemmons
Dallas Texas 75067
Phone: 972-874-5139

Jon Moyle (Lobbyist) - Information Only
Competitive Carriers of the South, Inc
118 N. Gadsen Street
Tallahassee Florida 32301
Phone: 850-681-3828

Melissa Braswell - Opponent
IBEW Local 824
15786 Fishhawk Falls Drive
Lithia Florida 33547
Phone: 813-260-0521

Robert Redmond - Opponent
IBEW Local 824
1811 Ironwood Court, West
Oldsmar Florida 34677
Phone: 813-767-4010

Leticia M. Adams (Lobbyist) - Proponent
Florida Chamber of Commerce
136 S Bronough Street
Tallahassee Florida 32301
Phone: 850-544-6866

Dale Landry - Proponent
Florida State Conference NAACP
2334 Capital Circle N.E.
Tallahassee Florida 32308
Phone: 850-514-4393

Ava Parker - Proponent
Linking Solutions Inc
101 Union Street, East
Jacksonville Florida 32202
Phone: 904-633-9877

Roosevelt Watkins (Lobbyist) - Proponent
Ministerial Alliance Against the Digital Divide (MAADD)
9231 South Cottage Grove Avenue
Chicago Illinois 60619
Phone: 773-569-8282

Committee meeting was reported out: Tuesday, March 22, 2011 2:45:47PM

MEMORANDUM

TO: David Simmons

Senator, District 22, Florida Senate

ATTN: Dan Peterson

FROM: Jack McRay

Advocacy Manager, AARP-FL

RE: SB 1524

DATE: Mar. 10, 2011

Charles Milsted, AARP-FL, has forwarded to you the Feb. 1, 2011 report from the Kansas Corporation Commission and the Jan. 19, 2011 report from the Missouri Public Service Commission. Those reports state that consumer basic land line rates in unregulated telecommunications markets have increased significantly beyond increases in the CPI. I urge you to examine both reports. The Kansas report is particularly well documented and, at the least, calls into question the assumption that deregulation leads to more competition and lower rates for the basic land-line market.

Questions which I have (at the moment) for FL's telecommunication companies are:

1. From the perspective of basic land-line consumers, what has changed in the last three years that would warrant, and what in this bill would warrant, agreement by those consumers, that "deregulation": (1) is in their best interests; (2) will not raise their phone rates for that service and (3) will provide consumers protections equal to or greater than those they have had under the regulated market? Provide data to support the statements.

2. What has been the rate each telecommunication company has charged for basic land-line service for each of the last three years? What has been the price differential (if any) between the basic land-line rate and the lowest non-basic rate charged by each telecommunication company during each of those three years? If there have been price differentials, would your telecommunication company agree in a deregulated market to continue to offer basic land-line service and to maintain the historic percentage difference between the basic land-line rate and the lowest non-basic rate?

3. If SB 1524 were to pass, it appears that telecommunication companies could raise basic land-line service rates at will and to levels of their choosing. What would prevent basic land-line services from becoming so expensive that consumers, especially Lifeline-eligible consumers, could no longer afford the service? When was the last time each telecommunication company lowered its basic land-line service rate? What has been each telecommunication company's land-line service rate during the last three years?

4. In the regulated market, at the first opportunity, telecommunication companies must advise new/potential customers of the companies' lowest cost service. In a deregulated market, how could consumers know telecommunication companies have advised them of the lowest cost service available to them?

5. In the regulated market, consumers have the opportunity to make complaints to and seek the assistance of the PSC--e.g., concerning billings, collection disputes, service quality, failure of service and untimely installation and repairs. In the unregulated telecommunication environment, other than making complaints to their providers of telecommunication basic land-line services (customer service of the telecommunication company may be an issue), from whom could consumers turn to seek appropriate intervention and timely/affordable assistance with complaints? In the unregulated market, what consumer protection agency would be able to discern patterns of practices or behavior which are to the detriment of consumers, and to whom could the general public (especially financially vulnerable and, often other-wise impaired segments of the population) turn for timely/affordable /effective assistance?

6. For each of the last three years, what has been the return on equity of each company providing or offering basic land-line telecommunication service in FL? Please provide documentation.

Please contact me if you have questions, need additional information or wish to further discuss. I look forward to engaging you and the telecommunication companies on these matters.

1500 SW Arrowhead Road
Topeka, KS 66604-4027



phone: 785-271-3100
fax: 785-271-3354
<http://kcc.ks.gov/>

Thomas E. Wright, Chairman
Ward Loyd, Commissioner

Corporation Commission

Sam Brownback, Governor

To: Governor Sam Brownback
2011 Legislature
Chairman Apple and members of the Senate Utilities Committee
Chairman Holmes and members of the House Energy and Utilities Committee

Date: February 1, 2011

RE: Report Required by K.S.A 2009 Supp. 66-2005 as amended by SB 350 and HB 2637

The attached report is provided pursuant to the requirements of K.S.A 2009 Supp. 66-2005 as amended by SB 350 and HB 2637 which were enacted by the 2006 and 2008 Legislatures, respectively.

The attached report provides the required data and analyses, including the following information regarding telecommunications services in Kansas:

- The telecommunication exchanges that have been price deregulated;
- The statewide, weighted average price of "nonwireless" basic local service, residential and business, as of both July 1, 2006 and July 1, 2008;
- The current inflation-adjusted statewide average price;
- The weighted, average price in the price deregulated exchanges;
- The price for basic local residential and/or business service in deregulated exchanges, as of the dates such exchanges were deregulated;
- Changes in service offerings available in the price deregulated exchanges; and,
- The change in the number of competitors in the price deregulated exchanges.

The Legislature has acknowledged the limitations of the price comparison measure it mandated, and required the Commission to provide any additional information it deems useful in determining the impact of price deregulation on consumers and the competitive environment. Accordingly, the Commission finds it appropriate to include in its report additional information it examined in its evaluations of the status of competition prior to the most recent amendments to the telecommunication law, as noted. In particular, this includes both market share and current Herfindahl-Hirschman Index (HHI) analyses of the price deregulated exchanges.

These indicators reviewed and reported cast doubt on the effectiveness of competition. Thus, the Commission makes the following recommendations to the Legislature:

- Change the CPI index utilized in the statute;
- The Legislature should consider requiring a carrier to resume price cap regulation if the weighted average rate for the price deregulated exchange exceeds the

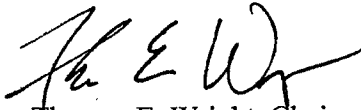
inflation-adjusted statewide, weighted average rate for a specified period, such as two, three, or four consecutive years, in the absence of evidence that the carrier has rates in price deregulated exchanges that have increased by an amount equal to or less than the change in the CPI for telecommunications services; and,

- The Legislature should consider including a "Safe Harbor" provision in price deregulated exchanges for those customers subscribing to stand-alone voice service ("basic local service").

The Commission offers the foregoing recommendations to the Legislature, in the absence of solid evidence of effective, sustainable competition, in an effort to preserve and promote the public policy goals embedded in the Telecommunication Act of 1996 -- a ubiquitous first-class telecommunications system, improved infrastructure, excellent service quality, affordable prices, and consumer protection for all Kansans.

If you have questions regarding this report please contact Christine Aarnes, Chief of Telecommunications, at 785-271-3132 or c.aarnes@kcc.ks.gov.

Respectfully Submitted,



Thomas E. Wright, Chairman



Ward Loyd, Commissioner

**2011 REPORT
TO THE KANSAS LEGISLATURE
ON PRICE DEREGULATION**

PROVIDED
PURSUANT TO
K.S.A. 2009 Supp. 66-2005

Report on Price Deregulation

Provided Pursuant to K.S.A. 2009 Supp. 66-2005 as Amended by SB 350 and HB 2637

I. Introduction

In 1996, both Congress and the Kansas Legislature enacted sweeping changes in the laws governing telecommunications services in the form of the Federal Telecommunications Act of 1996 and the Kansas Telecommunications Act of 1996. The Kansas Telecommunications Act of 1996 sets forth specific, overarching public policy goals upon which the Act was constructed, and which the Legislature intended to be accomplished. Those goals are to:

- (a) ensure that every Kansan will have access to a first class telecommunications infrastructure that provides excellent service at an affordable price;
- (b) ensure that consumers throughout the state realize the benefit of competition through increased services and improved telecommunications facilities and infrastructure at reduced rates;
- (c) promote consumer access to a full range of telecommunications services, including advanced telecommunications services that are comparable in urban and rural areas throughout the state;
- (d) advance the development of a statewide telecommunications infrastructure that is capable of supporting applications, such as public safety, telemedicine, services for persons with special needs, distance learning, public library services, access to internet providers, and others; and
- (e) protect consumers of telecommunications services from fraudulent business practices that are inconsistent with the public interest, convenience and necessity. K.S.A. 66-2001.

Deciding whether these goals have been met, and thus, deciding that it is appropriate to grant price deregulation, is a matter of public policy. The original provisions of the Kansas

Telecommunications Act of 1996 granted the authority to determine whether telecommunication services or exchanges were to be deregulated to the Kansas Corporation Commission (KCC or Commission). Over the years, there have been amendments to the statute intended to modify the manner by which to determine whether there is sufficient competition to warrant price deregulation. As a part of those amendments, the Commission has been required to keep track of certain data for determining whether adequate competition exists to warrant price deregulation and provide certain protections against unreasonable pricing if competition is not sufficient to discipline price, and report to the Legislature such data, with findings and recommendations where appropriate.

Additionally, and in compliance with the statutory scheme, this report provides an analysis of the effect of price deregulation on consumers and the status of competition in the price deregulated exchanges.

Specifically, K.S.A 2009 Supp. 66-2005, at subsection q, requires that the Commission:

(6) . . . on July 1, 2006, and on each date that any service is deregulated, shall record the rates of each service which has been price deregulated in each exchange.

(7) Prior to January 1, 2007, the commission shall determine the weighted, statewide average rate of nonwireless basic local telecommunications service as of July 1, 2006. Prior to January 1, 2007, and annually thereafter, the commission shall determine the weighted, average rate of nonwireless basic local telecommunications services in exchanges that have been price deregulated pursuant to subsection (q)(1)(B), (C), or (D). The commission shall report its findings on or before February 1, 2007, and annually thereafter to the governor, the legislature, and each member of the standing committees of the house of representatives and the senate which are assigned telecommunications issues. The commission shall also provide in such annual report any additional information it deems useful in determining the impact of price deregulation on consumers and the competitive environment, including, but not limited to, the rates recorded under paragraph (6) of this subsection, the current rates for service in price deregulated

exchanges, changes in service offerings available in price deregulated exchanges and the change in the number of competitors in price deregulated exchanges. If the commission finds that the weighted, average rate of nonwireless basic local telecommunications service, in the exchanges that have been price deregulated pursuant to subsection (q)(1)(B), (C), or (D) in any one year period is greater than the weighted, statewide average rate of nonwireless basic local telecommunications service as of July 1, 2008, multiplied by one plus the consumer price index for goods and services for the study periods, or the commission believes that changes in state law are warranted due to the status of competition, the commission shall recommend to the governor, the legislature and each member of the standing committees of the house of representatives and the senate which are assigned telecommunications issues such changes in state law as the commission deems appropriate and the commission shall also send a report of such findings to each member of the legislature.

Based on the foregoing, the Commission provides the following required information regarding telecommunications services in Kansas:

- The Kansas telecommunication exchanges that have been price deregulated (Section II);
- The statewide, weighted average price of “nonwireless” basic local service, residential and business, as of both July 1, 2006 and July 1, 2008 (Section III);
- The current inflation-adjusted statewide average price, based on the Section III average price (Section V);
- The weighted, average price in the price deregulated exchanges (Section IV);
- The price for such service in deregulated exchanges, as of the dates such exchanges were deregulated (Section VIII);
- Changes in service offerings available in the price deregulated exchanges (Section X); and,

- The change in the number of competitors in the price deregulated exchanges (Section VI).

II. Price Deregulated Exchanges

K.S.A. 2009 Supp. 66-2005(q)(1)(B)(C) and (D) govern the price deregulation of exchanges for price cap carriers. K.S.A. 66-2005(q)(1)(B)(C) and (D) state:

(B) in any exchange in which there are 75,000 or more local exchange access lines served by all providers, rates for all telecommunications services shall be price deregulated;

(C) in any exchange in which there are fewer than 75,000 local exchange access lines served by all providers, the commission shall price deregulate all business telecommunication services upon a demonstration by the requesting local telecommunications carrier that there are two or more nonaffiliated telecommunications carriers or other entities, that are nonaffiliated with the local exchange carrier, providing local telecommunications service to business customers, regardless of whether the entity provides local service in conjunction with other services in that exchange area. One of such nonaffiliated carriers or entities shall be required to be a facilities-based carrier or entity and not more than one of such nonaffiliated carriers or entities shall be a provider of commercial mobile radio services in that exchange;

(D) in any exchange in which there are fewer than 75,000 local exchange access lines served by all providers, the commission shall price deregulate all residential telecommunication services upon a demonstration by the requesting local telecommunications carrier that there are two or more nonaffiliated telecommunications carriers or other entities, that are nonaffiliated with the local exchange carrier, providing local telecommunications service to residential customers, regardless of whether the entity provides local service in conjunction with other services in that exchange area. One of such nonaffiliated carriers or entities shall be required to be a facilities-based carrier or entity and not more than one of such nonaffiliated carriers or entities shall be a provider of commercial mobile radio services in that exchange;

There are 570 telephone exchanges within the state of Kansas and 254 of those exchanges are served by the two incumbent local exchange carriers that have elected price cap

regulation, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T)¹ and United Telephone Companies of Kansas d/b/a CenturyLink (CenturyLink).² AT&T is the incumbent local exchange carrier in 134 exchanges and CenturyLink is the incumbent in 120 exchanges.

Over the four years since the current price deregulation statute was implemented, fifty-nine exchanges have been price deregulated and all fifty-nine exchanges are served by AT&T. A map illustrating the exchanges served by the price cap carriers that have been price deregulated compared to the exchanges that have not been price deregulated is attached to this report as Appendix A.

Three AT&T exchanges (Kansas City, Topeka, and Wichita) have 75,000 or more access lines and thus were automatically deemed price deregulated on July 1, 2006, the effective date of the 2006 amendment. K.S.A. 2006 Supp. 66-2005(q)(1)(B). Forty-five 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. One exchange has 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. Ten 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.

A full list of the price deregulated exchanges, together with Commission proceeding-specific information associated with the deregulation, is attached to this report as Appendix B.

¹ AT&T is affiliated with the following telecommunications carriers that operate in Kansas: TCG Kansas City, Inc., AT&T Communications of the Southwest, Inc., AT&T Corp. d/b/a AT&T Advanced Solutions, SBC Long Distance, LLC, Bell South Long Distance, Inc. d/b/a AT&T Long Distance, SNET America, Inc. d/b/a AT&T Long Distance East, and New Cingular Wireless PCS, LLC (“AT&T Mobility”).

² 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.

Table 1 demonstrates the sizes of the AT&T exchanges (no CenturyLink information is provided as no request has been made for price deregulation of any of those exchanges), based upon whether such exchanges are deregulated or non-deregulated. It is to be noted that the majority of the exchanges that have been price deregulated are the larger exchanges with more access lines, and the exchanges that have not been deemed price deregulated are the smaller exchanges with fewer access lines. In total, 44 percent of AT&T's exchanges have been price deregulated.

Table 1: Exchange Size Comparison of Deregulated and Non-Deregulated Exchanges

| Number of Access Lines | Deregulated | Non-Deregulated |
|--------------------------------|-------------|-----------------|
| Exchanges > 10,000 | 10 | 0 |
| Exchanges > 5,000 and < 10,000 | 10 | 3 |
| Exchanges > 1,000 and < 5,000 | 30 | 21 |
| Exchanges > 500 and < 1,000 | 7 | 17 |
| Exchanges < 500 Lines | 2 | 34 |

III. Weighted, Statewide Average Rate for Nonwireless Residential and Single-Line Business Service

Pursuant to K.S.A. 2006 Supp. 66-2005(q)(7), the Commission calculated the weighted, statewide average rate for nonwireless residential and single-line business service as of July 1, 2006. As will be more fully explained, this weighted, statewide average rate for “basic local telecommunications service”³ is the indicator used in the statute to determine the effectiveness of competition in price deregulated exchanges. The data used for making this determination was derived from data requested of all incumbent local exchange carriers and competitive local exchange carriers regarding rates for basic local service and the corresponding number of access lines served. As reported in prior annual telecommunication reports, the weighted, statewide average rate for nonwireless residential and single-line business service as of July 1, 2006 is:

³ “Basic local telecommunications service” is a stand-alone telephone line without any additional features.

\$15.53 for residential service, and

\$26.37 for single-line business service.

K.S.A. 2006 Supp. 66-2005(q)(7) was again amended in 2008 by the passage of an AT&T sponsored initiative, House Bill 2637. The amendment requires the Commission to calculate the weighted, statewide average rate of nonwireless basic local telecommunications service as of July 1, 2008. The Commission, again, sent data requests to all incumbent local exchange carriers and competitive local exchange carriers. From this information, the weighted, statewide average rate for nonwireless residential and single-line business service as of July 1, 2008 was calculated to be:

\$15.85 for residential service, and

\$27.74 for single-line business service.

IV. Weighted Average Rate in Price Deregulated Exchanges

The Commission is also required to determine and advise as to the weighted average rate of nonwireless basic local telecommunications services in exchanges that have been price deregulated pursuant to subsection (q)(1)(B), (C), or (D) on an annual basis. Therefore, the Commission calculated such rates for residential and single-line business service in AT&T's exchanges which have been price deregulated.⁴ Table 2 is the result of those calculations.

⁴ The Commission did not calculate the weighted average rate in the Clinton exchange for residential service because AT&T has been granted price deregulation in the Clinton exchange for only business service. Likewise, Staff did not calculate the weighted average rate in the Abilene, Chanute, Clay Center, Ellsworth, Emporia, Hoxie, Independence, Neodesha, Parsons, and Yates Center for business service because AT&T has been granted price deregulation in those exchanges for only residential service.

Table 2: Weighted, Average Rates in the Price Deregulated Exchanges

| Exchange | Weighted, Average Residential Rate | Weighted, Average Business Rate |
|---------------------|---|--|
| Kansas City | \$17.27 | \$26.12 |
| Topeka | \$16.48 | \$29.82 |
| Wichita | \$16.85 | \$29.21 |
| Abilene | \$15.88 | N/A |
| Almena | \$16.37 | \$24.63 |
| Arkansas City | \$16.45 | \$28.73 |
| Basehor | \$21.42 | \$26.89 |
| Chanute | \$16.02 | N/A |
| Cheney | \$16.55 | \$29.06 |
| Cherryvale | \$15.76 | \$27.91 |
| Clay Center | \$19.44 | N/A |
| Clinton | N/A | \$26.44 |
| Coffeyville | \$15.78 | \$28.84 |
| Colby-Gem | \$13.32 | \$22.16 |
| DeSoto | \$15.76 | \$28.34 |
| Dodge City | \$16.08 | \$28.83 |
| El Dorado | \$16.11 | \$28.27 |
| Ellsworth | \$15.73 | N/A |
| Emporia | \$15.88 | N/A |
| Erie | \$15.83 | \$27.23 |
| Eudora | \$21.24 | \$24.95 |
| Garden City | \$16.05 | \$29.03 |
| Garden Plain | \$15.86 | \$29.90 |
| Goodland | \$13.45 | \$22.54 |
| Great Bend | \$16.03 | \$27.62 |
| Halstead | \$15.75 | \$28.89 |
| Hays | \$15.71 | \$26.06 |
| Hoxie | \$15.71 | N/A |
| Humboldt | \$15.76 | \$26.60 |
| Hutchinson | \$16.15 | \$28.96 |
| Independence | \$16.26 | N/A |
| Iola | \$15.98 | \$28.97 |
| Kingman | \$16.03 | \$28.39 |
| Kinsley | \$15.75 | \$27.78 |
| Larned | \$15.97 | \$28.54 |
| Lawrence | \$15.64 | \$25.43 |
| Leavenworth-Lansing | \$15.91 | \$27.68 |
| Lindsborg | \$15.77 | \$27.19 |
| Lyons | \$16.18 | \$27.97 |
| Manhattan | \$15.85 | \$29.02 |
| McPherson | \$15.98 | \$28.32 |
| Medicine Lodge | \$17.85 | \$24.21 |
| Neodesha | \$15.93 | N/A |
| Newton | \$16.18 | \$28.74 |
| Nickerson | \$15.75 | \$27.03 |
| Norton | \$15.70 | \$25.59 |
| Oakley | \$13.53 | \$22.36 |
| Parsons | \$16.06 | N/A |
| Phillipsburg-Kirwin | \$15.72 | \$25.43 |
| Pittsburg | \$15.84 | \$28.96 |
| Plainville | \$15.70 | \$25.57 |
| Pratt | \$16.17 | \$26.85 |
| Salina | \$16.01 | \$27.96 |
| Smith Center | \$15.70 | \$25.25 |
| Stockton | \$15.70 | \$25.77 |
| Tonganoxie | \$15.73 | \$25.94 |
| Towanda | \$15.87 | \$28.05 |
| Winfield | \$17.37 | \$30.35 |
| Yates Center | \$15.92 | N/A |

V. Weighted, Statewide Average Rate and the Change in the CPI

K.S.A. 2009 Supp. 66-2005(q)(7) further requires the Commission to calculate the product of the weighted, statewide average rate as of July 1, 2008 adjusted by the change in inflation (i.e., the calculated rate multiplied by one plus the change in the consumer price index (CPI) for goods and services for the study periods.) The weighted average rate for basic local service in each price deregulated exchange is compared to the weighted, statewide average rate, adjusted for inflation, as an indicator of the effectiveness of competition. The Commission presumes the Legislature requires this comparison because it believes that if competition is effective, rates for basic local service in price deregulated exchanges will be lower than those rates in other exchanges, but in any event, should be no greater than the statewide, weighted average rate adjusted for inflation. See declaration of public policy (b), K.S.A 66-2001, page 1.

The change in the CPI for the study period of July 1, 2008 to June 30, 2009 was negative 1.4 percent⁵, and the change in the CPI for the study period of July 1, 2009 to June 30, 2010 was 1.1 percent.⁶ The Commission has made the calculation using the statewide, weighted average rate discussed above, as adjusted for inflation that has occurred since July 1, 2008. The calculations for the new rates adjusted for the change in the CPI are below:

| | |
|----------------------|---|
| Residential | $\$15.85 \times (1 + -.014 + .011) = \15.80 |
| Single-Line Business | $\$27.74 \times (1 + -.014 + .011) = \27.66 |

The Commission is directed to compare this calculation to the weighted, average rate in the price deregulated exchanges as an indicator of the effectiveness of competition. For residential service, the weighted, average rate is higher than the inflation-adjusted calculations in

⁵ The CPI data was produced by the Bureau of Labor Statistics and is available at: <http://www.bls.gov/cpi/cpid0906.pdf>

⁶ The CPI data was produced by the Bureau of Labor Statistics and is available at: <http://www.bls.gov/cpi/cpid1006.pdf>

thirty-seven of the fifty-eight price deregulated exchanges (64%). For business service, the weighted average rate is higher than the inflation-adjusted calculations in twenty-six of the forty-nine price deregulated exchanges (53%). Were competition effective in the price deregulated exchanges, one might reasonably expect the rates to be lower, as anticipated in the stated public policy goals. Thus, based on these results, one might question the effectiveness of competition at keeping rates in check. However, the Commission recognizes that this is but one indicator of the effectiveness of competition and should be considered along with other indicators.

As will be discussed further in the Recommendation section of this Report, the Commission suggests the statute be revised to utilize the telephone services index within the CPI rather than the broad CPI as the inflation factor, as we believe this index will be a closer reflection of price changes within the telecommunications industry.

VI. Other Factors For Evaluating Effectiveness of Competition

While it is difficult to measure the effectiveness of competition based on a single measure, such as the evaluation of price changes over a relatively short period of time, the Commission recognizes that the Legislature was attempting to arrive at a measure easy to administer and still provide some indication of whether the interest of consumers is being served by price deregulation.

The Legislature seemed to acknowledge the limitations of the price comparison measure it mandated, as the statute requires the Commission to also provide any additional information it deems useful in determining the impact of price deregulation on consumers and the competitive environment. K.S.A 2009 Supp. 66-2005(q)(7). Accordingly, the Commission finds it

appropriate to include in this report additional information it examined during its evaluations of the status of competition when it had the discretion and authority to review such requests.

A. Brief History of Price Deregulation Applications Reviewed by the Commission

Following the passage of the Kansas Telecommunications Act of 1996, and as previously noted, the Commission was given the discretion to determine whether to deregulate services of price-cap carriers. Between 1996 and 2006 (when Senate Bill 350 was passed which changed the price deregulation statutory provision), the Commission considered several requests by AT&T⁷ for price deregulation of certain services.

The statute provided that a carrier electing price-cap regulation could petition the Commission for price deregulation of services pursuant to K.S.A. 66-2005(q). The language originally included in K.S.A. 66-2005(q) under the 1996 Act stated:

The commission may price deregulate within an exchange, or at its discretion on a state wide basis, any individual service or service category upon a finding by the commission that there is a telecommunications carrier or alternative provider providing a comparable product or service, considering both function and price, in that exchange area.

Following two applications in which the Commission approved price deregulation and two applications in which the Commission denied price deregulation for particular services, AT&T requested the Commission establish guidelines for what it would consider for substantiating that price deregulation is appropriate. The Commission opened a generic proceeding in 2002, Docket No. 02-GIMT-555-GIT, to develop such criteria. In a September 30,

⁷ The Commission reminds the reader that for the majority of the time covered by the Kansas Telecommunications Act of 1996, Southwestern Bell Telephone Company and AT&T were separate and distinct entities, and competitors. Southwestern Bell purchased AT&T in November 2005 and changed its name to AT&T, Inc. In preparing this report we have elected to refer to the companies as AT&T regardless of the date referenced for which of the previously separate companies may have been involved.

2003 Order in that proceeding, the Commission determined that an application for price deregulation must include the following:

- a detailed description of the product or service for which price deregulation is proposed, including a discussion of its function, price and location in current tariffs. The description shall discuss technological parameters applicable to determining whether a comparable product or service is being offered, including (1) describing how the product or service is provisioned, (2) identifying types of customers that use the product or service, (3) explaining how customers use the product or service, and (4) setting out the steps a customer must take to use the product or service;
- an exchange-by-exchange description of the areas in which price deregulation is sought;
- identification and description of each telecommunications carrier or entity the applicant claims is providing a comparable product or service, including pricing information and geographic areas in which the comparable product or service is provided;
- price floor information, including resale and unbundled network element rates the applicant charges for the product or service;
- a description of the applicant's compliance with notice provisions;
- analysis of competition in the relevant markets;
- a description of the nature of competition including whether the market is growing or declining, the strength of competitors, method of provisioning by competitors, substitutability, and the number of competitors; and,
- a discussion of entry and exit conditions in the relevant markets.

The Commission further determined that an application seeking price deregulation of basic local service, such as primary line business or residential service requires a special analysis. In those cases, the Commission found that a market share analysis that includes the Herfindahl-Hirschman Index (HHI) may be necessary and desirable. Requiring use of market share or market structure analyses for price deregulation of basic local service was determined to be justified due to the long-standing importance of universal service and the prohibition against undue price discrimination. Without basic local service, the consumer cannot have or use other telecommunications services. Economies of scope enable telecommunications providers to provide multiple services over the facilities used to establish the local network. Without basic local service in the first instance, a customer cannot make long distance calls, benefit from add-

on services such as Call Waiting, Call Forwarding, or Three-Way Calling, or utilize any of the remaining myriad of network-based telecommunications services, especially access to broadband/Internet.

The Commission further determined that in those instances where price deregulation was granted, AT&T was still obligated to price its services in a manner that was not “unjust or unreasonably discriminatory or unduly preferential.” K.S.A. 66-1,189. Concern had been raised by some parties that because cable carriers, the primary source of facilities-based competition, do not cover the entire exchange for which price deregulation was requested, AT&T could engage in pricing differentiation within an exchange. Therefore the Commission determined that, for purposes of price deregulation, it would consider prices to be unreasonably discriminatory or unduly preferential if there are differing rates within an exchange for which the difference can only be explained by differences in the presence of a competitive alternative.

In 2005, AT&T filed a request for price deregulation of certain services in the Kansas City, Topeka, and Wichita Metropolitan exchanges, which the Commission granted in part and denied in part after considering the evidence listed above. Following that proceeding and the result obtained, AT&T turned to the Legislature with proposed new price deregulation legislation, which was passed by the 2006 Legislature as Senate Bill 350. And, as previously noted, the price deregulation provisions were subsequently modified in 2008 in House Bill 2637.

B. Change in Number of Service Providers and Market Share Information

As evaluated by the Commission in its price deregulation proceedings, the Commission again looked at the number of competitive service providers in the market and their respective shares of the market.

Tables 3 and 4, below, reflect the number of competitive local exchange carriers that provided service to at least one access line for business and residential service, respectively, in each of the price deregulated exchanges, sorted by exchange and year.⁸ While the current statutory language for granting price deregulation focuses on the presence of facilities-based competitors in a given exchange, Tables 3 and 4 include all wireline competitors in each exchange including those without facilities (infrastructure) in the exchange. Facilities-based competitors are more likely to provide rigorous competition than other competitors, such as those reselling the services of AT&T or leasing portions of AT&T's network.⁹ However, because the statute does not distinguish between facilities-based competitors and non-facilities based competitors with regard to the weighted, average rate by exchange and the statewide, weighted average rate calculations, the Commission does not distinguish here either and includes all wireline competitors.

The change in the number of competitive carriers may be an indicator of the effectiveness of competition. If competitors are successful and financially stable, one would expect to see carriers remain in the market. If segments of a particular market are still profitable for competitive entry, one might also expect to see increases in the number of competitors. Thus, this information is provided for several years, if available, to help develop a more complete picture of the competitive environment. It is evident in Tables 3 and 4 that the number of competitors has not changed substantially over the last few years in any of the price deregulated exchanges.

⁸ This data is collected from the annual data requests sent to the carriers and is reflective of the lines in service as of July 1st of each year.

⁹ A facilities-based carrier owns its own network, such as a cable provider. Competitors that resell the services of AT&T or lease portions of AT&T's network in order to provide service cannot provide rigorous price competition because their cost of service is determined, in part, by AT&T.

Once again, the absolute number of wireline providers per exchange, standing alone, is not necessarily indicative of the level of competition in each of the price deregulated exchanges. Many of the carriers have a negligible market presence, providing service to only one or a handful of access lines in several of the exchanges. These carriers play a very small role in disciplining the pricing behavior of the incumbent provider, if they can affect pricing at all.

Those carriers that simply resell the services of AT&T or lease portions of AT&T's network are unlikely to be able to provide significant pricing discipline since their cost structure is, in significant part, dependent upon the rates they have the power to negotiate with AT&T, and the retail rates offered by AT&T. As will be discussed further in the Trends in the Telecommunications Market section of this report, resellers receive a 21.6 percent discount from AT&T's retail rates. Thus, resellers' costs are directly influenced by the retail rate offered by AT&T. The costs of the carriers that lease portions of AT&T's network are determined by the rates negotiated with AT&T.

Table 3: Number of Providers of Business Service by Year and Exchange

| Exchange | 2006 | 2007 | 2008 | 2009 | 2010 |
|---------------------|------|------|------|------|------|
| Kansas City | 21 | 20 | 19 | 25 | 36 |
| Topeka | 15 | 13 | 13 | 15 | 20 |
| Wichita | 16 | 16 | 15 | 18 | 19 |
| Almena | - | - | 2 | 2 | 4 |
| Arkansas City | - | - | 6 | 8 | 10 |
| Basehor | - | - | 5 | 5 | 7 |
| Cheney | - | - | - | 6 | 5 |
| Cherryvale | - | - | - | 5 | 6 |
| Clinton | - | - | 3 | 3 | 4 |
| Coffeyville | - | - | - | 10 | 10 |
| Colby-Gem | - | - | 6 | 6 | 7 |
| DeSoto | - | - | - | - | 5 |
| Dodge City | - | - | - | 13 | 16 |
| El Dorado | - | - | 9 | 11 | 16 |
| Erie | - | - | - | 4 | 4 |
| Eudora | - | - | 4 | 5 | 5 |
| Garden City | - | - | - | 14 | 14 |
| Garden Plain | - | - | - | 6 | 6 |
| Goodland | - | - | 4 | 7 | 10 |
| Great Bend | - | - | - | 12 | 12 |
| Halstead | - | - | - | 6 | 3 |
| Hays | - | - | 8 | 11 | 13 |
| Humboldt | - | - | - | 3 | 4 |
| Hutchinson | - | - | 11 | 13 | 15 |
| Iola | - | - | - | 7 | 8 |
| Kingman | - | - | 7 | 8 | 7 |
| Kinsley | - | - | - | 7 | 7 |
| Lamed | - | - | - | 6 | 8 |
| Lawrence | - | - | 8 | 13 | 15 |
| Leavenworth-Lansing | - | - | 12 | 13 | 16 |
| Lindsborg | - | - | - | 5 | 6 |
| Lyons | - | - | - | 9 | 9 |
| Manhattan | - | - | 11 | 12 | 14 |
| McPherson | - | - | - | 10 | 12 |
| Medicine Lodge | - | - | 4 | 4 | 5 |
| Newton | - | - | 11 | 14 | 17 |
| Nickerson | - | - | 3 | 3 | 4 |
| Norton | - | - | 3 | 4 | 5 |
| Oakley | - | - | - | - | 5 |
| Phillipsburg-Kirwin | - | - | 4 | 4 | 5 |
| Pittsburg | - | - | - | 12 | 13 |
| Plainville | - | - | - | 2 | 4 |
| Pratt | - | - | 8 | 11 | 10 |
| Salina | - | - | 12 | 15 | 16 |
| Smith Center | - | - | 4 | 3 | 4 |
| Stockton | - | - | - | - | 3 |
| Tonganoxie | - | - | 6 | 6 | 8 |
| Towanda | - | - | 4 | 4 | 6 |
| Winfield | - | - | - | 9 | 10 |

Table 4: Number of Providers of Residential Service by Year and Exchange

| Exchange | 2006 | 2007 | 2008 | 2009 | 2010 |
|---------------------|------|------|------|------|------|
| Kansas City | 17 | 14 | 15 | 16 | 20 |
| Topeka | 14 | 13 | 14 | 13 | 13 |
| Wichita | 16 | 14 | 14 | 13 | 14 |
| Abilene | - | - | - | - | 8 |
| Almena | - | - | 2 | 3 | 4 |
| Arkansas City | - | - | 7 | 7 | 8 |
| Basehor | - | - | 5 | 7 | 6 |
| Chanute | - | - | - | - | 8 |
| Cheney | - | - | - | 6 | 7 |
| Cherryvale | - | - | - | 5 | 4 |
| Clay Center | - | - | - | - | 7 |
| Coffeyville | - | - | - | 8 | 7 |
| Colby-Gem | - | - | 5 | 9 | 8 |
| DeSoto | - | - | - | - | 7 |
| Dodge City | - | - | - | 13 | 13 |
| El Dorado | - | - | 9 | 7 | 9 |
| Ellsworth | - | - | - | - | 6 |
| Emporia | - | - | - | - | 9 |
| Erie | - | - | - | 8 | 6 |
| Eudora | - | - | 6 | 7 | 8 |
| Garden City | - | - | - | 11 | 12 |
| Garden Plain | - | - | - | 5 | 6 |
| Goodland | - | - | 5 | 8 | 7 |
| Great Bend | - | - | - | 11 | 11 |
| Halstead | - | - | - | 6 | 7 |
| Hays | - | - | 10 | 11 | 12 |
| Hoxie | - | - | - | - | 5 |
| Humboldt | - | - | - | 8 | 6 |
| Hutchinson | - | - | 10 | 11 | 12 |
| Independence | - | - | - | - | 7 |
| Iola | - | - | - | 9 | 8 |
| Kingman | - | - | 5 | 7 | 7 |
| Kinsley | - | - | - | 5 | 5 |
| Larned | - | - | - | 8 | 8 |
| Lawrence | - | - | 10 | 11 | 11 |
| Leavenworth-Lansing | - | - | 9 | 10 | 12 |
| Lindsborg | - | - | - | 8 | 8 |
| Lyons | - | - | - | 6 | 8 |
| Manhattan | - | - | 11 | 10 | 11 |
| McPherson | - | - | - | 10 | 11 |
| Medicine Lodge | - | - | 5 | 7 | 6 |
| Neodesha | - | - | - | - | 3 |
| Newton | - | - | 10 | 8 | 10 |
| Nickerson | - | - | 6 | 6 | 4 |
| Norton | - | - | 4 | 5 | 5 |
| Oakley | - | - | - | - | 6 |
| Parsons | - | - | - | - | 8 |
| Phillipsburg-Kirwin | - | - | 6 | 5 | 6 |
| Pittsburg | - | - | - | 9 | 10 |
| Plainville | - | - | - | 5 | 5 |
| Pratt | - | - | 8 | 10 | 8 |
| Salina | - | - | 11 | 12 | 12 |
| Smith Center | - | - | 6 | 5 | 4 |
| Stockton | - | - | - | - | 4 |
| Tonganoxie | - | - | 6 | 8 | 6 |
| Towanda | - | - | 8 | 5 | 6 |
| Winfield | - | - | - | 9 | 9 |
| Yates Center | - | - | - | - | 6 |

The foregoing data lends itself to a number of conclusions. First, and as to business services, considering three exchanges were automatically price deregulated upon passage of Senate Bill 350, in the four years since the new price deregulation law, the number of competitive carriers has increased in 35 (76.1%) of the price deregulated exchanges since the exchanges were deregulated, remained the same in 9 (19.6%), and decreased in 2 (4.3%), with 3 exchanges being only price deregulated during the past year. However, between 2009 and 2010, only 33 exchanges (71.7%) saw an increase in competitors for business service and the number of exchanges which lost competitors jumped up by 5 exchanges (10.9%). Second, for residential services in the price deregulated exchanges, there has been an increase in the number of competitive carriers in 22 (37.9%) of the exchanges since they were deregulated, a decrease in 10 (17.2%), and no change in 10 (22.4%), while 13 exchanges were newly deregulated. Comparing changes in competitors for residential services over the past year, 20 exchanges (34.4%) saw an increase, 13 (22.4%) had decreases. Third, there is significantly more competition, such as it is, in the market for business services than in the market for residential services, which may be accounted for by there being more money to be made in providing business services.¹⁰

In order to provide a clearer picture of the level of wireline competition in the price deregulated exchanges, the Commission provides Tables 5 and 6, below, which are comparisons of the combined market shares of all of the competitive local exchange carriers and AT&T's share of the wireline market in each of the price deregulated exchanges for residential and business services, respectively. The tables include stand-alone and bundled lines, as well. In these tables, the exchanges are listed in ascending order with the exchange with the lowest

¹⁰ Rates for residential services have historically been lower than rates for business services due to social concerns. Therefore, the profit margin is typically much greater in the business market.

collective competitive local exchange carrier market share at the top and the exchange with the highest collective competitive local exchange carrier market share at the bottom. It should be noted that AT&T's market share percentages do not include its U-Verse Voice over Internet Protocol (VoIP) lines, while most, if not all, of the competitive local exchange carriers' fixed VoIP lines are included in their market share calculations.¹¹ Naturally, AT&T's market share percentages would be even higher if the U-Verse VoIP lines were included.

It is evident from Tables 5 and 6 that competitive local exchange carriers have considerable market share in some of the price deregulated exchanges, such as Almena, Norton, Colby-Gem, and Smith Center, while the competitive local exchange carriers have a minimal collective share of the market in other price deregulated exchanges, such as Neodesha, Chanute, DeSoto, and Parsons. In those exchanges where competitors have little market share, it is less likely that competitors are able to provide pricing discipline.

¹¹ The Commission requested U-Verse VoIP line count information from AT&T, but was informed that the information was not available and could not be provided at the exchange level.

Table 5: Comparison of AT&T Access Lines vs. Total CLEC Access Lines in Price Deregulated Exchanges for Residential Service

| Exchange | % Residential Lines Served by AT&T | % Res. Lines Served by ALL CLECs |
|---------------------|------------------------------------|----------------------------------|
| Neodesha | 99.25% | 0.75% |
| Parsons | 98.36% | 1.64% |
| Chanute | 98.29% | 1.71% |
| DeSoto | 97.59% | 2.41% |
| Independence | 97.52% | 2.48% |
| Leavenworth-Lansing | 93.04% | 6.96% |
| Ellsworth | 91.16% | 8.84% |
| Emporia | 90.63% | 9.37% |
| Abilene | 88.66% | 11.34% |
| Eudora | 87.31% | 12.69% |
| Yates Center | 84.82% | 15.18% |
| Kinsley | 82.50% | 17.50% |
| Erie | 81.43% | 18.57% |
| Cherryvale | 81.33% | 18.67% |
| Halstead | 79.53% | 20.47% |
| Humboldt | 77.89% | 22.11% |
| Nickerson | 76.43% | 23.57% |
| Towanda | 76.26% | 23.74% |
| Kingman | 74.86% | 25.14% |
| Basehor | 74.72% | 25.28% |
| Cheney | 74.32% | 25.68% |
| Lindsborg | 74.15% | 25.85% |
| Tonganoxie | 73.94% | 26.06% |
| Coffeyville | 73.12% | 26.88% |
| Iola | 70.82% | 29.18% |
| Newton | 70.20% | 29.80% |
| Lyons | 69.37% | 30.63% |
| Garden Plain | 69.13% | 30.87% |
| Topeka | 67.54% | 32.46% |
| Larned | 67.11% | 32.89% |
| El Dorado | 66.96% | 33.04% |
| McPherson | 66.88% | 33.12% |
| Hutchinson | 66.86% | 33.14% |
| Winfield | 66.41% | 33.59% |
| Garden City | 64.99% | 35.01% |
| Pittsburg | 64.17% | 35.83% |
| Dodge City | 63.82% | 36.18% |
| Arkansas City | 62.20% | 37.80% |
| Clay Center | 60.85% | 39.15% |
| Manhattan | 59.82% | 40.18% |
| Pratt | 57.25% | 42.75% |
| Salina | 56.33% | 43.67% |
| Wichita | 55.68% | 44.32% |
| Lawrence | 53.32% | 46.68% |
| Great Bend | 51.28% | 48.72% |
| Kansas City | 50.47% | 49.53% |
| Medicine Lodge | 49.54% | 50.46% |
| Hoxie | 45.64% | 54.36% |
| Oakley | 40.49% | 59.51% |
| Hays | 34.06% | 65.94% |
| Phillipsburg-Kirwin | 31.69% | 68.31% |
| Goodland | 31.44% | 68.56% |
| Colby-Gem | 29.89% | 70.11% |
| Plainville | 29.38% | 70.62% |
| Stockton | 27.10% | 72.90% |
| Smith Center | 21.12% | 78.88% |
| Norton | 20.06% | 79.94% |
| Almena | 11.92% | 88.08% |

Table 6: Comparison of AT&T Lines vs. Total CLEC Lines in Price Deregulated Exchanges for Single-Line Business Service

| Exchange | % Business Lines Served by AT&T | % Bus. Lines Served by All CLECs |
|---------------------|---------------------------------|----------------------------------|
| DeSoto | 85.37% | 14.63% |
| Clinton | 83.67% | 16.33% |
| Halstead | 80.37% | 19.63% |
| Leavenworth-Lansing | 78.87% | 21.13% |
| Towanda | 76.64% | 23.36% |
| Kinsley | 72.62% | 27.38% |
| Cherryvale | 70.21% | 29.79% |
| Humboldt | 68.35% | 31.65% |
| Cheney | 67.78% | 32.22% |
| Coffeyville | 65.10% | 34.90% |
| McPherson | 63.19% | 36.81% |
| Nickerson | 63.16% | 36.84% |
| Garden Plain | 62.82% | 37.18% |
| Iola | 61.96% | 38.04% |
| El Dorado | 61.67% | 38.33% |
| Pittsburg | 61.63% | 38.37% |
| Larned | 61.05% | 38.95% |
| Newton | 60.40% | 39.60% |
| Arkansas City | 59.86% | 40.14% |
| Erie | 59.28% | 40.72% |
| Hutchinson | 58.49% | 41.51% |
| Manhattan | 57.15% | 42.85% |
| Lyons | 56.21% | 43.79% |
| Dodge City | 55.45% | 44.55% |
| Garden City | 55.27% | 44.73% |
| Basehor | 55.11% | 44.89% |
| Kingman | 54.22% | 45.78% |
| Winfield | 52.39% | 47.61% |
| Kansas City | 52.28% | 47.72% |
| Tonganoxie | 52.09% | 47.91% |
| Topeka | 50.56% | 49.44% |
| Great Bend | 49.09% | 50.91% |
| Eudora | 46.69% | 53.31% |
| Salina | 46.47% | 53.53% |
| Pratt | 44.38% | 55.62% |
| Lawrence | 40.78% | 59.22% |
| Wichita | 36.39% | 63.61% |
| Hays | 31.59% | 68.41% |
| Medicine Lodge | 30.15% | 69.85% |
| Plainville | 29.33% | 70.67% |
| Stockton | 28.13% | 71.88% |
| Phillipsburg-Kirwin | 26.89% | 73.11% |
| Oakley | 26.05% | 73.95% |
| Norton | 20.31% | 79.69% |
| Smith Center | 18.37% | 81.63% |
| Colby-Gem | 17.67% | 82.33% |
| Goodland | 16.56% | 83.44% |
| Almena | 11.86% | 88.14% |

As discussed above and illustrated in Tables 5 and 6, the absolute number of providers is not necessarily indicative of the level of competition in any given exchange. For example, there are four competitive providers for both residential and business services in the Smith Center exchange. Those four competitors have a combined market share of 78.88 and 81.63 percent, respectively. By comparison, there are four competitors for residential service and six competitors for business service in the Cherryvale exchange, yet the competitors hold a combined market share percentage of 18.67 percent for residential service and 32.22 for single-line business service in this exchange. Thus, while one might conclude that six competitors would provide more discipline to the market than four, the six competitive carriers in the Cherryvale exchange have a smaller share of the market and therefore may provide less pressure for the incumbent carrier to price competitively.

The data reflected in Tables 5 and 6 clearly demonstrate that most of the price deregulated exchanges resemble a dominant-firm oligopoly market. In this type of market, one firm dominates the market and many other small firms compete for the remaining fraction of the market. It is evident from the market share information, above, that AT&T is the dominant firm in 79.3 percent of the residential markets and 64.6 percent of the business markets in the price deregulated exchanges. That is, AT&T has greater than 50 percent share of the market and there is no other firm that is a close rival in terms of market share.¹²

¹² Chessler, David, *Determining When Competition is "Workable": A Handbook For State Commissions Making Assessments Required By The Telecommunications Act of 1996*. National Regulatory Research Institute. July 1996. Here the author discusses types of markets ranging from pure competition to pure monopoly and provides some identifying characteristics of each. Competition with a dominant firm is described as one firm having "50-100% and no close rival."

C. Herfindahl-Hirschman Index (HHI)

In order to provide an even closer look at the level of competition, the Commission conducted a current Herfindahl-Hirschman Index (HHI) analysis for each of the price deregulated exchanges. HHI is an economic concept widely applied in competition law, antitrust and also technology management. Specifically, the U.S. Department of Justice uses HHI analysis of market concentration in its evaluation of mergers. HHI is a measure of the size of firms in relation to the industry and is an indicator of the amount of concentration in the market and competition among them.

HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty and twenty percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). The HHI number can range from close to zero to 10,000. The HHI approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases. The closer a market is to being a monopoly, the higher the market's concentration (and the lower its competition). If, for example, there were only one firm in an industry, that firm would have 100 percent market share, and the HHI would equal 10,000 (100^2), indicating a monopoly. Or, if there were thousands of firms competing, each would have nearly zero percent market share, and the HHI would be close to zero, indicating nearly perfect competition. Economic theory suggests markets consisting of many evenly sized competitors are likely to be more competitive, and impose more pricing discipline than a market that possesses a single supplier (i.e., monopolist).

The U.S. Department of Justice has developed benchmarks for determining the level of competitiveness of a market using the HHI results. The U.S. Department of Justice considers a market with a HHI result of less than 1,000 to be competitive marketplace; a result of 1,000 to 1,800 to be a moderately concentrated marketplace; and a result of 1,800 or greater to be a highly concentrated marketplace.

For purposes of these analyses, the Commission considered bundled and stand-alone residential wireline access lines within an exchange as the market for residential service and bundled and stand-alone single-line business wireline access lines within an exchange as the market for business service. The Commission utilized data from facilities-based competitors, those competing through a negotiated agreement with AT&T for use of the company's facilities, and those competing by merely reselling the services of AT&T. The Commission recognizes that telecommunications services are provided to customers through other technologies, such as wireless and VoIP, and consumer adoption of these alternative technologies continues to increase. The Commission does not have access to exchange-specific information for the alternative technology providers; thus, they are not included in these HHI analyses.¹³ Alternative technologies will be discussed later in this report.

Tables 7 and 8, below, illustrate the HHI analyses for the residential and single-line business markets, respectively. It is evident that the HHI for all exchanges for both residential and business services exceeds the level considered to be highly concentrated by the Department of Justice.

¹³ The Commission has exchange-specific information for most of the fixed VoIP providers and included this information in its analyses. However, the Commission does not have exchange-specific information for nomadic VoIP providers and wireless providers.

Table 7: HHI Analyses for the Residential Markets in the Price Deregulated Exchanges

| Exchange | Residential HHI |
|---------------------|------------------------|
| Great Bend | 3609 |
| Kansas City | 3656 |
| Hays | 4054 |
| Pratt | 4279 |
| Salina | 4529 |
| Clay Center | 4537 |
| Hoxie | 4563 |
| Arkansas City | 4760 |
| Lawrence | 4768 |
| Wichita | 4783 |
| Medicine Lodge | 4844 |
| Manhattan | 4851 |
| Dodge City | 4923 |
| Garden City | 4970 |
| Goodland | 4973 |
| Pittsburg | 5013 |
| Oakley | 5079 |
| Winfield | 5116 |
| El Dorado | 5155 |
| Garden Plain | 5243 |
| Hutchinson | 5262 |
| McPherson | 5264 |
| Larned | 5404 |
| Topeka | 5416 |
| Lyons | 5506 |
| Newton | 5532 |
| Phillipsburg-Kirwin | 5624 |
| Colby-Gem | 5637 |
| Plainville | 5740 |
| Iola | 5744 |
| Coffeyville | 5779 |
| Cheney | 5821 |
| Tonganoxie | 5878 |
| Lindsborg | 5997 |
| Stockton | 5998 |
| Towanda | 6119 |
| Kingman | 6141 |
| Basehor | 6142 |
| Nickerson | 6311 |
| Humboldt | 6458 |
| Halstead | 6555 |
| Smith Center | 6584 |
| Norton | 6715 |
| Erie | 6893 |
| Cherryvale | 6951 |
| Kinsley | 7046 |
| Almena | 7286 |
| Yates Center | 7385 |
| Eudora | 7687 |
| Abilene | 7949 |
| Emporia | 8283 |
| Ellsworth | 8368 |
| Leavenworth-Lansing | 8683 |
| Independence | 9511 |
| DeSoto | 9525 |
| Chanute | 9662 |
| Parsons | 9676 |
| Neodesha | 9850 |

Table 8: HHI Analyses for the Single-Line Business Markets in the Price Deregulated Exchanges

| Exchange | Single-Line Business HHI |
|---------------------|--------------------------|
| Wichita | 3015 |
| Salina | 3106 |
| Pratt | 3276 |
| Kansas City | 3341 |
| Great Bend | 3354 |
| Topeka | 3572 |
| Garden City | 3623 |
| Dodge City | 3799 |
| Lawrence | 3950 |
| Lyons | 3991 |
| Tonganoxie | 4029 |
| Kingman | 4065 |
| Winfield | 4070 |
| Eudora | 4114 |
| Manhattan | 4170 |
| Hutchinson | 4183 |
| Hays | 4273 |
| Erie | 4303 |
| Lamed | 4355 |
| Basehor | 4380 |
| El Dorado | 4434 |
| Newton | 4455 |
| McPherson | 4547 |
| Arkansas City | 4553 |
| Nickerson | 4630 |
| Garden Plain | 4645 |
| Phillipsburg-Kirwin | 4713 |
| Goodland | 4775 |
| Pittsburg | 4848 |
| Smith Center | 4880 |
| Iola | 4944 |
| Medicine Lodge | 4959 |
| Coffeyville | 5108 |
| Humboldt | 5174 |
| Cherryvale | 5327 |
| Plainville | 5338 |
| Cheney | 5393 |
| Kinsley | 5532 |
| Oakley | 5735 |
| Stockton | 5761 |
| Norton | 5972 |
| Almena | 6064 |
| Towanda | 6138 |
| Colby-Gem | 6172 |
| Leavenworth-Lansing | 6313 |
| Halstead | 6764 |
| Clinton | 7126 |
| DeSoto | 7381 |

VII. Trends in the Telecommunications Market

In 1996, both Congress and the Kansas Legislature determined that it was appropriate to encourage the development of competitive markets for telecommunications services, and in the legislative enactments set forth provisions to facilitate the transition to a telecommunications industry disciplined by competition rather than agency regulation. One key to any market consideration is that of barriers to entry. For telecommunications services, the cost to build a local telecommunications infrastructure is the overriding concern.

Therefore, to encourage competition and ease entry into local telecommunications markets, competitive carriers were permitted by Federal law after 1996 to resell the services of the incumbent local exchange carriers. In the exchanges served by AT&T, competitors can resell the services offered by AT&T by purchasing the services at a 21.6 percent discount off of AT&T's retail rate and resell the services to their customers.¹⁴ Of course, in using that business model the resellers' costs are directly influenced by the retail rate offered by the incumbent carrier.

Competitive carriers were also able to lease elements of incumbent local exchange carriers' network that are necessary to complete a local call, such as the switch. These elements are referred to as unbundled network elements (UNEs).¹⁵ This method was viewed by the FCC as a mechanism to encourage entrants into the local market who might later build facilities, rather than rely permanently on the existing incumbent telephone company's network. The rates for UNEs were initially set by the state commissions. Many competitive carriers initially

¹⁴ The 21.6 percent wholesale discount for the resale of AT&T's retail services was determined by the Commission in Docket No. 97-SCCC-149-GIT. The resale discount was determined pursuant to Section 252(d)(3) of the Federal Telecommunications Act and K.S.A. 66-02003(c), which state that wholesale rates shall be determined on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection and other costs that will be avoided by the local exchange carrier.

¹⁵ There are numerous Unbundled Network Elements that may be leased, but the most common UNEs are switches, loops and transport.

provided service to their customers via resale, but later transitioned to providing service via the UNE-Platform. The UNE-Platform (also known as UNE-P), is a combination of UNEs that allow a local call to be sent without requiring the competitive carrier to have any facilities of its own. This method was popular for competitors because it was often more profitable than providing service via resale. Competitive carriers utilizing UNE-P were able to differentiate their product from other carriers by selling the access line in combination with certain calling features, such as Caller ID and Call Waiting, and were able to market the “bundled” offering to their target customer base at a set price. Under the resale option, carriers are not able to differentiate their product from the incumbent carrier and other carriers utilizing resale because the carriers are able to resell only those products or packages offered by the incumbent carrier to its retail customers.

The use of the UNE-P waned after February 2005, when the FCC released its Triennial Review Remand Order (TRRO). In accordance with the FCC’s TRRO, incumbent local exchange carriers were no longer obligated to provide competing carriers with unbundled access to mass market local switching. This ruling further released incumbent local exchange carriers from being required to provide competing carriers with UNE-P at regulated rates. Incumbent carriers continue to provide the same unbundled network elements to competitive carriers; however, the rates are no longer set by the state commissions. Instead, the rates are negotiated between the carriers in commercial agreements – an exercise in bargaining power.

Many carriers that were providing their service via UNEs exited the market following the release of the 2005 TRRO. Those carriers that have remained in the market are mainly those that have their own infrastructure in place (“facility-based”), such as cable providers. Attached to

this report, as Appendix C, is a list of certificated competitive local exchange carriers and the percentage change in their line counts for the years 2004 to 2009.¹⁶

Table 9, below, illustrates the progression over time of the method used by competitive carriers to provide telecommunication services. As illustrated in Table 9, carriers continue to transition from providing service via UNEs and resale, and are increasingly providing service via their own facilities. It is evident in Table 9 that the decline in use of UNEs by competitors is directly dated from the FCC's 2005 TRRO. That, in itself, may be a good illustration of market share, and a barrier to market entry.

Table 9: Method of Provisioning Service by Competitive Carriers in Kansas

| | 12/31/03 | 12/31/04 | 12/31/05 | 12/31/06 | 12/31/07 | 12/31/08 | 12/31/09 |
|--|----------|----------|----------|----------|----------|----------|----------|
| Resold Lines | 14.53% | 7.53% | 5.94% | 3.68% | 3.97% | 9.13% | 11.89% |
| UNEs | 64.78% | 62.04% | 50.06% | 37.64% | 33.28% | 20.43% | 16.75% |
| CLEC-Owned | | | | | | | |
| Facilities | 20.69% | 30.43% | 44.00% | 58.69% | 62.75% | 33.65% | 32.77% |
| VoIP | | | | | | | |
| Subscriptions | | | | | | 36.78% | 38.59% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| Data gathered from the FCC's semi-annual "Local Competition Report", compiled by the FCC's Wireline Competition Bureau | | | | | | | |

It is likely that much of the more recent facilities-based competition by competitive carriers in Kansas has been caused by the market penetration of cable providers in the telecommunications market. Nationwide, the percentage of lines served by competitive providers over coaxial cable has increased from 3.8 percent in December 1999 to 50.7 percent in December 2009. Nationwide, about 23.2 million basic local service ("end-user switched access") lines were provided by competitive carriers over coaxial cable connections.¹⁷ Telecommunications, especially to residential customers, is a natural place for a cable provider

¹⁶ The Commission cannot disclose the carriers' actual line counts due to the confidential nature of such information.

¹⁷ Local Telephone Competition: Status as of December 31, 2010, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, Released January 2011, Table 5.

to serve since cable providers have already built facilities. Also, cable customers may find telecommunications service from the cable carrier attractive because the customers are already familiar with the company and customers may desire one-stop shopping.

The Commission also provides Table 10, below, which illustrates the change in access lines served by competitive carriers and incumbent carriers in Kansas. While these data are for the state as a whole, most competitive carriers operating in Kansas provided service in the area served by AT&T. Nationwide data are also provided for comparison. The data indicate that by December 31, 2009, competitive local exchange carriers served 31 percent of the local market in Kansas compared with 30 percent nationwide. Competitive carriers' share of the market declined in 2005 following the FCC's Triennial Review Remand Order, but slowly resurged and surpassed the 2004 figures by December 2007.

Table 10: Competitive Local Exchange Carrier Share of Total Lines by State

| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |
|------------|------|------|------|------|------|------|------|------|------|------|
| State | Dec | Dec | Dec | Dec | Dec | Dec | Dec | Dec | Dec | Dec |
| Kansas | 7 % | 9 % | 17 % | 21 % | 24 % | 21 % | 23 % | 26 % | 31 % | 31 % |
| Nationwide | 8 % | 10 % | 13 % | 16 % | 18 % | 18 % | 17 % | 18 % | 27 % | 30 % |

Data gathered from the FCC's semi-annual "Local Telephone Competition" reports compiled by the Industry Analysis and Technology Division, Wireline Competition Bureau.

As of January 1, 2011, there were 129 competitive local exchange carriers authorized by the Commission to provide local telephone service in the exchanges of AT&T and CenturyLink. Annual Reports filed with the Commission indicate that of the 129 certificated competitive local exchange carriers 58 were actually serving customers in Kansas as of such date.¹⁸ Of those 58 competitive local exchange carriers providing services, 12 (20.7%) were facilities-based providers providing service entirely over their own facilities; 20 (34.5%) resold the services of

¹⁸ Competitive local exchange carriers often file applications requesting approval to compete in all fifty states at one time. However, depending upon the carrier's business plans, it may take months or years before the carrier actually competes in Kansas markets – and some carriers never enter Kansas markets, but continue to retain a certificate to do so.

the incumbent local exchange carrier; 4 (6.9%) were providers utilizing a commercial agreement; and the remaining 22 (37.9%) provided service via a combination of resale, commercial agreement, and their own infrastructure/facilities.

Table 11 demonstrates the percentage change in access line counts for ten of the largest competitive carriers in Kansas, as well as for the price cap carriers, AT&T and CenturyLink, for each year from 2004 to 2009.¹⁹

Table 11: Percentage Change in Access Line Count

| Carrier Name | 2005 | 2006 | 2007 | 2008 | 2009 |
|-----------------------------|---------|---------|---------|---------|---------|
| AT&T / TCG* (CLEC) | -13.67% | -15.89% | -19.25% | 12.71% | -8.82% |
| Birch | -22.47% | -37.97% | -21.16% | -17.05% | -15.73% |
| Cox | 105.64% | 40.29% | 70.84% | 19.62% | 17.51% |
| MCI | -18.89% | -4.27% | -19.26% | -17.29% | -11.03% |
| Nex-Tech | 5.35% | 1.06% | 5.06% | 0.49% | -1.64% |
| NuVox | -27.53% | -1.03% | 21.97% | 11.67% | 8.06% |
| Sage | -19.80% | -11.25% | -26.08% | -25.72% | -24.65% |
| SureWest (formerly Everest) | 4.04% | 11.82% | 6.15% | 21.90% | 2.95% |
| Time Warner Cable | 131.36% | 46.94% | 28.11% | 7.11% | 3.48% |
| WorldNet, LLC | No Data | 18.13% | 2.17% | 2.60% | -0.08% |
| AT&T (ILEC) | 4.00% | -4.94% | -5.84% | -9.01% | -11.04% |
| CenturyLink (ILEC)** | -6.73% | -5.12% | -4.17% | -7.59% | -4.43% |

*AT&T Communications of the Southwest and TCG Kansas City have been affiliates of AT&T since the merger in 2005.
 ** CenturyLink sold 25 exchanges in 2006 to rural telephone companies. Therefore, the Commission excluded the lines in the 25 sold exchanges from the 2004 and 2005 line count data in order to provide an accurate depiction of the actual line losses experienced by CenturyLink.

It is evident that the two price cap carriers have experienced access line losses over the past five years, and the two carriers' line loss percentages have been fairly comparable over the years with the exception of the 2008 to 2009 line loss calculations.²⁰ However, even though the line loss percentages have been comparable it should be noted that none of CenturyLink's

¹⁹ Data for 2010 will not be available until May 2011.

²⁰ AT&T's 2008 to 2009 line loss difference is at least partially due to AT&T's conversion of legacy lines to its U-Verse VoIP service. AT&T launched its U-Verse VoIP voice service in the Kansas City area in March 2008 and other areas in Kansas shortly thereafter.

exchanges have been deemed price deregulated.²¹ From this, one could conclude that deregulation has not engendered competition and the line losses experienced by AT&T.

The data in Table 11 further indicate that only four of the ten largest competitive carriers have experienced increases in access lines from 2008 to 2009, and three of those carriers are cable-based providers. In fact, those three cable-based providers, Cox, SureWest, and Time Warner Cable, experienced access line growth in each of the last five years in which each was operating. The other cable-based provider, WorldNet, experienced a slight access line decline from 2008 to 2009, but experienced access line growth in each of the four prior years.

Nex-Tech is the only competitive carrier that is not a cable-based provider that achieved access line growth in four of the past five years, and NuVox is the only competitive carrier that is not a cable-based provider that experienced access line growth from 2008 to 2009. Nex-Tech is an affiliate of an incumbent local exchange carrier, Rural Telephone Service Company, and has used its expertise in accessing financing through the Rural Utility Service (RUS) to provide state of the art service to rural customers. NuVox has been successful by providing integrated voice, data and Internet services to small- and medium-sized business, and has invested in its own switching and other facilities.

A likely cause for some of the recent decline in access lines is the emergence of Voice over Internet Protocol (VoIP) technology. VoIP is a packet-based technology that allows customers to make voice calls using a broadband Internet connection instead of a regular (or analog) phone line. Some VoIP services only work over a computer or a special VoIP phone, other services use a traditional phone connected to a VoIP adapter. Some customers may have

²¹ Furthermore, CenturyLink does not provide wireless or VoIP services; therefore, its line losses are not due to cannibalization of its own lines.

dropped their landline to switch to a nomadic VoIP provider, such as Vonage or Skype.²² In addition, many carriers also offer a fixed VoIP service, including AT&T's U-Verse voice product. Therefore, it should be recognized that many of AT&T's reported line losses are not actually lines lost to competitors; rather, the customers have merely converted from AT&T's legacy telecommunications service to AT&T's U-Verse voice service.

According to recent data filed with the Commission, thirty-six companies provide either fixed or nomadic VoIP service in Kansas. Of those, at least five companies are nomadic VoIP providers. Moreover, the data discloses that approximately 33,500 Kansans subscribed to VoIP service as of February 2009, and approximately 42,500 Kansans subscribed to VoIP service as of February 2010. VoIP subscriptions continue to increase in Kansas.

Another trend in the telecommunications market and reason for at least some of the access line losses is the significant growth in mobile wireless telephone²³ subscribership. According to the FCC, there were approximately 2.47 million subscribers to wireless service in Kansas as of December 2009. FCC data reveal that wireless subscribers have increased by 2% from December 2008 and by 158% since December 2001.²⁴

Kansas Wireless Subscribers

| Dec 2003 | Dec 2004 | Dec 2005 | Dec 2006 | Dec 2007 | Dec 2008 | Dec 2009 |
|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1,117,277 | 1,454,087 | 1,794,268 | 2,046,542 | 2,261,455 | 2,421,000 | 2,466,000 |

²² "Interconnected VoIP" service allows a customer to make and receive calls to and from traditional phone numbers using an Internet connection, possibly a high-speed (broadband) Internet connection, such as Digital Subscriber Line (DSL), cable modem, or wireless broadband. It can be used in place of traditional phone service. Typically, interconnected VoIP technology works by either placing an adapter between a traditional phone and Internet connection, or by using a special VoIP phone that connects directly to a customer's computer or Internet connection. An interconnected VoIP service from a single location, like a residence, is referred to as "fixed VoIP" and interconnected VoIP services that can be used wherever the customer travels, as long as a broadband Internet connection is available, is known as "nomadic VoIP".

²³ In this report we use the common vernacular "wireless." However, as the reader reviews this report, please be mindful that typically, wherever in the law this technology is addressed, it is identified by its correct technical name: "commercial mobile radio services."

²⁴ Local Telephone Competition: Status as of December 31, 2009, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, Released January 2011, Table 17. Data for 2003 and 2004 from Local Telephone Competition: Status as of December 31, 2007 Report.

It should be further noted that wireless service is increasingly becoming a substitute for landline voice service. Many customers are not only subscribing to wireless service, they are dropping their traditional landlines to do so. According to the CTIA, wireless-only households have grown from 7.70 percent in June 2005 to 24.50 percent in June 2010²⁵. Thus, changes in consumer habits have had an impact on the number of landlines for AT&T as well as its landline competitors. It should be recognized that some of AT&T's reported line losses are not actually lines lost to landline competitors; rather, the customers have merely converted from AT&T's legacy telecommunications service to AT&T's wireless affiliate, AT&T Mobility.²⁶

A recent study by the Centers for Disease Control (CDC) indicates that approximately 26.6% of households use only wireless service.²⁷ Other data on wireless usage from the CDC indicate:

The percentage of households that are wireless-only has been steadily increasing. The 2.1-percentage-point increase from the last 6 months of 2009 through the first 6 months of 2010 is similar to the 1.8-percentage-point increase observed from the first 6 months of 2009 through the last 6 months of 2009 and to the 2.5-percentage-point increase observed from the last 6 months of 2008 through the first 6 months of 2009.²⁸

VIII. Prices at Date of Price Deregulation Compared to Prices as of January 1, 2011

The Commission has documented the rates for all services offered by AT&T in the price deregulated exchanges as of the date each exchange was price deregulated, as required by K.S.A.

²⁵ CTIA is the International Association for the Wireless Telecommunications Industry. http://www.ctia.org/media/industry_info/index.cfm/AID/10323

²⁶ AT&T Mobility is currently the largest wireless telecommunications provider in the U.S. with 95.5 million subscribers. <http://www.att.com/gen/press-room?pid=18952&cdvn=news&newsarticleid=31519&mapcode=financial>

²⁷ Blumberg SJ, Luke JV. Wireless substitution: Early release of estimates from the National Health Interview Survey, January-June 2010. National Center for Health Statistics. December 2010. Available from:

<http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201012.pdf>

²⁸ *Id.*

2009 Supp. 66-2005(q)(6).²⁹ The list of services and accompanying rates is too lengthy to justify inclusion in this report, but it is available to legislators upon request. In Tables 12 and 13, we provide the rates for single-line business service and residential service, respectively, as of the date each exchange was price deregulated compared to the rates for these services as of January 1, 2011. The percentage change in the rate since the time of price deregulation is also shown.

It is evident that some of AT&T's rates for local exchange service have increased since the time the exchanges were price deregulated, while others have remained the same. The largest rate increases have been in the Kansas City, Topeka, and Wichita exchanges, with a \$1.75 increase for single-line business lines and a \$1.00 increase for residential lines. This represents a 5.79% and 6.37% increase, respectively. Notably, none of AT&T's single line access rates have decreased in any exchange that has been deemed price deregulated. From this, one might reasonably conclude competition has not been effective in bringing the expected benefit of reduced rates (K.S.A.66-2001(b)).

²⁹ Note that CenturyLink has not requested price deregulation pursuant to K.S.A. 2009 Supp. 66-2005(q)(1)(C) and (D).

Table 12: Business Service Access Line Rates for Price Deregulated Exchanges

| Exchange | Date Business Service Price Deregulated | Single-Line Bus. Rate at Date of Price Dereg. | Single-Line Bus. Rate as of 1/1/2011 | % Change |
|-----------------------|--|--|---|-----------------|
| Almena | 10/23/2007 | \$27.90 | \$28.20 | 1.08% |
| Arkansas City | 11/29/2007 | \$27.90 | \$28.20 | 1.08% |
| Basehor | 9/25/2007 | \$27.90 | \$28.20 | 1.08% |
| Cheney | 12/12/2008 | \$28.20 | \$28.20 | 0.00% |
| Cherryvale | 12/12/2008 | \$28.20 | \$28.20 | 0.00% |
| Clinton | 9/25/2007 | \$27.90 | \$28.20 | 1.08% |
| Coffeyville | 12/12/2008 | \$28.20 | \$28.20 | 0.00% |
| Colby-Gem | 8/31/2007 | \$27.90 | \$28.20 | 1.08% |
| DeSoto | 8/24/2009 | \$28.20 | \$28.20 | 0.00% |
| Dodge City | 6/26/2009 | \$28.20 | \$28.20 | 0.00% |
| El Dorado | 11/29/2007 | \$27.90 | \$28.20 | 1.08% |
| Erie | 7/24/2009 | \$28.20 | \$28.20 | 0.00% |
| Eudora | 9/25/2007 | \$27.90 | \$28.20 | 1.08% |
| Garden City | 6/26/2009 | \$28.20 | \$28.20 | 0.00% |
| Garden Plain | 12/12/2008 | \$28.20 | \$28.20 | 0.00% |
| Goodland | 10/23/2007 | \$27.90 | \$28.20 | 1.08% |
| Great Bend | 12/12/2008 | \$28.20 | \$28.20 | 0.00% |
| Halstead | 12/12/2008 | \$28.20 | \$28.20 | 0.00% |
| Hays | 10/23/2007 | \$27.90 | \$28.20 | 1.08% |
| Humboldt | 6/26/2009 | \$28.20 | \$28.20 | 0.00% |
| Hutchinson | 11/29/2007 | \$27.90 | \$28.20 | 1.08% |
| Iola | 12/12/2008 | \$28.20 | \$28.20 | 0.00% |
| Kansas City | 7/1/2006 | \$30.25 | \$32.00 | 5.79% |
| Kingman | 11/29/2007 | \$27.90 | \$28.20 | 1.08% |
| Kinsley | 6/26/2009 | \$28.20 | \$28.20 | 0.00% |
| Larned | 6/26/2009 | \$28.20 | \$28.20 | 0.00% |
| Lawrence | 9/25/2007 | \$27.90 | \$28.20 | 1.08% |
| Leavenworth – Lansing | 9/25/2007 | \$27.90 | \$28.20 | 1.08% |
| Lyons | 12/12/2008 | \$28.20 | \$28.20 | 0.00% |
| Manhattan | 11/29/2007 | \$27.90 | \$28.20 | 1.08% |
| McPherson | 12/12/2008 | \$28.20 | \$28.20 | 0.00% |
| Medicine Lodge | 10/23/2007 | \$27.90 | \$28.20 | 1.08% |
| Newton | 11/29/2007 | \$27.90 | \$28.20 | 1.08% |
| Nickerson | 11/29/2007 | \$27.90 | \$28.20 | 1.08% |
| Norton | 10/23/2007 | \$27.90 | \$28.20 | 1.08% |
| Oakley | 8/24/2009 | \$28.20 | \$28.20 | 0.00% |
| Phillipsburg – Kirwin | 10/23/2007 | \$27.90 | \$28.20 | 1.08% |
| Pittsburg | 12/12/2008 | \$28.20 | \$28.20 | 0.00% |
| Plainville | 12/12/2008 | \$28.20 | \$28.20 | 0.00% |
| Pratt | 10/23/2007 | \$27.90 | \$28.20 | 1.08% |
| Salina | 11/29/2007 | \$27.90 | \$28.20 | 1.08% |
| Smith Center | 8/31/2007 | \$27.90 | \$28.20 | 1.08% |
| Stockton | 5/5/2010 | \$28.20 | \$28.20 | 0.00% |
| Tonganoxie | 9/25/2007 | \$27.90 | \$28.20 | 1.08% |
| Topeka | 7/1/2006 | \$30.25 | \$32.00 | 5.79% |
| Towanda | 11/29/2007 | \$27.90 | \$28.20 | 1.08% |
| Wichita | 7/1/2006 | \$30.25 | \$32.00 | 5.79% |
| Winfield | 12/12/2008 | \$28.20 | \$28.20 | 0.00% |

Table 13: Residential Service Access Line Rates for Price Deregulated Exchanges

| Exchange | Date Res. Price Dereg. | Res. Rate at Date of Dereg. | Res. Rate as of 1/1/2011 | % Change |
|-----------------------|------------------------|-----------------------------|--------------------------|----------|
| Abilene | 8/26/2009 | \$15.70 | \$15.70 | 0.00% |
| Almena | 10/23/2007 | \$15.70 | \$15.70 | 0.00% |
| Arkansas City | 11/29/2007 | \$15.70 | \$15.70 | 0.00% |
| Basehor | 9/25/2007 | \$15.70 | \$15.70 | 0.00% |
| Chanute | 8/26/2009 | \$15.70 | \$15.70 | 0.00% |
| Cheney | 12/12/2008 | \$15.70 | \$15.70 | 0.00% |
| Cherryvale | 12/12/2008 | \$15.70 | \$15.70 | 0.00% |
| Clay Center | 5/5/2010 | \$15.70 | \$15.70 | 0.00% |
| Coffeyville | 12/12/2008 | \$15.70 | \$15.70 | 0.00% |
| Colby-Gem | 8/31/2007 | \$15.70 | \$15.70 | 0.00% |
| DeSoto | 8/24/2009 | \$15.70 | \$15.70 | 0.00% |
| Dodge City | 6/26/2008 | \$15.70 | \$15.70 | 0.00% |
| El Dorado | 11/29/2007 | \$15.70 | \$15.70 | 0.00% |
| Ellsworth | 8/26/2009 | \$15.70 | \$15.70 | 0.00% |
| Emporia | 8/26/2009 | \$15.70 | \$15.70 | 0.00% |
| Erie | 5/5/2010 | \$15.70 | \$15.70 | 0.00% |
| Eudora | 9/25/2007 | \$15.70 | \$15.70 | 0.00% |
| Garden City | 6/26/2008 | \$15.70 | \$15.70 | 0.00% |
| Garden Plain | 12/12/2008 | \$15.70 | \$15.70 | 0.00% |
| Goodland | 10/23/2007 | \$15.70 | \$15.70 | 0.00% |
| Great Bend | 6/26/2008 | \$15.70 | \$15.70 | 0.00% |
| Halstead | 12/12/2008 | \$15.70 | \$15.70 | 0.00% |
| Hays | 10/23/2007 | \$15.70 | \$15.70 | 0.00% |
| Hoxie | 5/5/2010 | \$15.70 | \$15.70 | 0.00% |
| Humboldt | 12/12/2008 | \$15.70 | \$15.70 | 0.00% |
| Hutchinson | 11/29/2007 | \$15.70 | \$15.70 | 0.00% |
| Independence | 8/26/2009 | \$15.70 | \$15.70 | 0.00% |
| Iola | 6/26/2008 | \$15.70 | \$15.70 | 0.00% |
| Kansas City | 7/1/2006 | \$15.70 | \$16.70 | 6.37% |
| Kingman | 11/29/2007 | \$15.70 | \$15.70 | 0.00% |
| Kinsley | 6/26/2009 | \$15.70 | \$15.70 | 0.00% |
| Larned | 6/26/2008 | \$15.70 | \$15.70 | 0.00% |
| Lawrence | 9/25/2007 | \$15.70 | \$15.70 | 0.00% |
| Leavenworth – Lansing | 9/25/2007 | \$15.70 | \$15.70 | 0.00% |
| Lindsborg | 6/26/2008 | \$15.70 | \$15.70 | 0.00% |
| Lyons | 6/26/2008 | \$15.70 | \$15.70 | 0.00% |
| Manhattan | 11/29/2007 | \$15.70 | \$15.70 | 0.00% |
| McPherson | 12/12/2008 | \$15.70 | \$15.70 | 0.00% |
| Medicine Lodge | 10/23/2007 | \$15.70 | \$15.70 | 0.00% |
| Neodesha | 8/26/2009 | \$15.70 | \$15.70 | 0.00% |
| Newton | 11/29/2007 | \$15.70 | \$15.70 | 0.00% |
| Nickerson | 11/29/2007 | \$15.70 | \$15.70 | 0.00% |
| Norton | 10/23/2007 | \$15.70 | \$15.70 | 0.00% |
| Oakley | 8/24/2009 | \$15.70 | \$15.70 | 0.00% |
| Parsons | 8/26/2009 | \$15.70 | \$15.70 | 0.00% |
| Phillipsburg – Kirwin | 10/23/2007 | \$15.70 | \$15.70 | 0.00% |
| Pittsburg | 6/26/2008 | \$15.70 | \$15.70 | 0.00% |
| Plainville | 12/12/2008 | \$15.70 | \$15.70 | 0.00% |
| Pratt | 10/23/2007 | \$15.70 | \$15.70 | 0.00% |
| Salina | 11/29/2007 | \$15.70 | \$15.70 | 0.00% |
| Smith Center | 8/31/2007 | \$15.70 | \$15.70 | 0.00% |
| Stockton | 5/5/2010 | \$15.70 | \$15.70 | 0.00% |
| Tonganoxie | 9/25/2007 | \$15.70 | \$15.70 | 0.00% |
| Topeka | 7/1/2006 | \$15.70 | \$16.70 | 6.37% |
| Towanda | 11/29/2007 | \$15.70 | \$15.70 | 0.00% |
| Wichita | 7/1/2006 | \$15.70 | \$16.70 | 6.37% |
| Winfield | 6/26/2008 | \$15.70 | \$15.70 | 0.00% |
| Yates Center | 5/5/2010 | \$15.70 | \$15.70 | 0.00% |

The Commission would remind the Legislature that the price deregulated carrier is allowed by statute to increase its rates for the initial residential access line and up to four business lines at one location without Commission approval, as long as the increase is no greater than the rate of inflation. K.S.A. 66-2009(q)(1)(F). This means rates are legally permitted to increase, but the increases can not exceed inflation.

This provision was intended to provide some degree of pricing protection for residential and small business customers that do not wish to purchase bundled services, knowing that competitive providers offer their most competitive rates only for bundled services. Thus, those competitive carriers' pricing behavior does not serve to discipline the price of the incumbent provider for basic local service and as a result customers may not have a viable option for any such service from competitors. K.S.A. 66-2005(q)(1)(F), as amended by House Bill 2637 and effective July 1, 2008 states:

On and after July 1, 2008, the local exchange carrier shall be authorized to adjust such rates without commission approval by not more than the percentage increase 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, in any one year period and such rates shall not be adjusted below the price floor established in subsection (k). Such rates shall not be affected by purchase of one or more of the following: Call management services, intraLATA long distance service or interLATA long distance service. . .

Below, in Table 14, the Commission provides AT&T's rates since July 1, 2006 adjusted by inflation and compared to the rate increases that have been filed by AT&T. Since the pricing provision of K.S.A. 66-2005(q)(1)(F) went into effect on July 1, 2008, AT&T has increased its residential and business rates for the local exchange access line in the Kansas City, Topeka, and Wichita exchanges only, those being the exchanges with in excess of 75,000 lines in service, and

the largest by far of the exchanges in Kansas; therefore, Table 14 reflects rates for only those three exchanges. Although AT&T's rates have increased, the rates are in line with inflation.

Table 14: AT&T Rate Increases Compared to Inflation

| Exchange | AT&T's 7/1/06 Rate | CPI Change 2006- 2007 | Inflation- adjusted | CPI Change 2007- 2008 | Inflation- adjusted | CPI Change 2008- 2009 | Inflation- adjusted | CPI Change 2009- 2010 | Inflation- adjusted | AT&T's Rate as of 7/1/10 |
|----------------------|--------------------------|--------------------------------|------------------------|--------------------------------|------------------------|--------------------------------|------------------------|--------------------------------|------------------------|--------------------------------|
| Kansas City – Bus | \$30.25 | 2.7% | \$31.07 | 5.0% | \$32.62 | -1.4% | \$32.16 | 1.1% | \$32.52 | \$32.00 |
| Topeka – Bus | \$30.25 | 2.7% | \$31.07 | 5.0% | \$32.62 | -1.4% | \$32.16 | 1.1% | \$32.52 | \$32.00 |
| Wichita – Bus | \$30.25 | 2.7% | \$31.07 | 5.0% | \$32.62 | -1.4% | \$32.16 | 1.1% | \$32.52 | \$32.00 |
| Kansas City – Res | \$15.70 | 2.7% | \$16.12 | 5.0% | \$16.93 | -1.4% | \$16.69 | 1.1% | \$16.88 | \$16.55* |
| Topeka – Res | \$15.70 | 2.7% | \$16.12 | 5.0% | \$16.93 | -1.4% | \$16.69 | 1.1% | \$16.88 | \$16.55* |
| Wichita – Res | \$15.70 | 2.7% | \$16.12 | 5.0% | \$16.93 | -1.4% | \$16.69 | 1.1% | \$16.88 | \$16.55* |

* - AT&T increased its residential rate in the Kansas City, Topeka, and Wichita exchanges; however, the rate increase was not filed until October 2010. It should be noted that the new rate of \$16.70 still falls below the inflation-adjusted rate of \$16.88.

IX. Price Deregulation of Bundled Services

The price for bundled services has been price deregulated statewide for carriers under price cap regulation since July 1, 2006, pursuant to K.S.A 66-2005(q). According to the statute, bundled services are a combination of local telecommunications service and one or more call management features³⁰, long distance service, Internet access, video services, or wireless services offered together at one price. However, a bundle does not include a combination of the local service (one residential line and up to four business lines) and only long distance service.

Since bundles were price deregulated on July 1, 2006, AT&T has made thirty-five tariff filings and CenturyLink has made thirty-one tariff filings regarding bundled service offerings. Within those filings, some bundles have been grandfathered (meaning they are not available to

³⁰ Call management features are optional telephone services, such as Caller ID, Call Waiting, and Call Forwarding.

new customers), new bundles have been introduced; some bundle rates increased and some have been reduced. Changes in service offering availability and rates were made on a statewide basis.

AT&T's rates for some of its bundles are higher in the Basehor exchange than the other exchanges; however, the rate for the access line in this exchange has been historically higher due to the optional extended area service option for Basehor residents wishing to receive and make calls to the Kansas City Metropolitan exchange.

One CenturyLink bundled service offering, Special Plan – Metro Bundle, is available for \$24.95 in the Gardner exchange and \$29.95 in all other CenturyLink exchanges when the customer also subscribes to CenturyLink Internet, video or wireless services. The Gardner exchange was deemed competitive and placed in a competitive sub-basket pursuant to a different statute, K.S.A. 66-2005(n), on January 27, 2005; after CenturyLink made a showing that it faced competition in the particular exchange. Services in that exchange, other than bundles, remain under price cap. It is likely that the pricing differential for the bundles is explained by the competitive pressures in this exchange relative to other exchanges served by CenturyLink.

X. Bundled Services Offerings

The Commission further notes that AT&T and CenturyLink not only offer bundles that include the local access line and various features; the carriers also offer bundles that include non-regulated services, such as television programming, Internet access, and wireless telephone service. AT&T's current offerings include a package for \$71.99 that includes a home telephone access line (U-Verse VoIP telephone service) and digital television programming; a package for \$91.94 that includes a home telephone access line (U-Verse VoIP telephone service), Internet access, and digital television programming with a digital video recorder; and a package for

\$89.94 that includes a home telephone access line (U-Verse VoIP telephone service), Internet access, and AT&T Nation 450 wireless service. The Commission notes that these same packages were advertised at \$69.99, 94.99, and \$99.99, respectively, the same time last year. However, it should be noted that the second package included Direct TV programming last year as opposed to the U-verse television programming that is currently included, which may be less costly for AT&T to offer and part of the reason for the price reduction.

Similarly, CenturyLink's current offerings include a package for \$45 that includes a home telephone access line and Internet access, and a bundle for \$84.95 that includes a home telephone access line, Internet service, and television programming. The Commission notes that these packages were advertised for virtually the same price, \$45 and \$85, last year.

AT&T and CenturyLink are not alone in diversifying their service offerings to include services that are closely related to their legacy product, landline telecommunications service. Cable companies previously offered cable television programming services exclusively, but are now competing for telecommunications and broadband customers as well. Cable companies that operate in Kansas, such as Time Warner Cable, SureWest, and Cox offer service packages that include Internet access, telecommunications, and cable television services. Cox's current bundled offerings start at \$82.01 per month and include television programming, Internet access, and a telephone line. Time Warner Cable offers cable television, Internet, and telephone service packages starting at \$94.85 per month, and bundles that include telephone and cable television for \$89.90 per month. SureWest offers bundles that include the local telephone access line, Internet access, and cable television programming for \$81.99 per month. The Commission notes that Cox's advertised bundled service offerings started at \$102 per month; Time Warner's bundled offerings started at \$99.85 per month; and, SureWest's bundles started at \$85 per month

one year ago. The features included in the bundles are not necessarily identical to those included in the bundles advertised last year, but it appears that the overall rates for bundles have decreased since last year.

The Commission has not included AT&T's or its competitors' bundled package rates and associated access lines in its weighted average rate calculations, as the rates for such bundles that include multiple services that vary by provider would significantly distort the calculations. The Commission, however, believes it is important to recognize that such packages are available to customers.

XI. Bundled vs. Stand-Alone Service by Exchange

The Commission provides Table 15, below, which illustrates the percentage of bundles compared to the percentage of stand-alone access lines for both residential and single-line business customers in price deregulated exchanges. As illustrated in Table 15, it is evident that a large percentage of lines are provided as part of a bundle, although there are many customers that still desire stand-alone voice service. This is significant in light of the Commission's prior determination that the fundamental need of customers is basic local service, as that assures the infrastructure which is the condition precedent to having access to all other telecommunications services, including access to broadband and Internet services. The Commission, again, notes that AT&T's bundles that include U-Verse VoIP voice service are not included in these calculations. If these bundles were included, the bundled percentages would be higher.

Table 15: Percentage of Stand-Alone Lines Compared to Percentage of Bundles

| Exchange | Res. Stand-Alone | Res. Bundles | Bus Stand-Alone | Bus Bundles |
|---------------------|------------------|--------------|-----------------|-------------|
| Kansas City | 26.21% | 73.79% | 73.01% | 26.99% |
| Topeka | 57.05% | 42.95% | 71.42% | 28.58% |
| Wichita | 62.10% | 37.90% | 80.96% | 19.04% |
| Abilene | 46.48% | 53.52% | N/A | N/A |
| Almena | 94.82% | 5.18% | 89.83% | 10.17% |
| Arkansas City | 50.71% | 49.29% | 66.61% | 33.39% |
| Basehor | 35.94% | 64.06% | 57.01% | 42.99% |
| Chanute | 44.81% | 55.19% | N/A | N/A |
| Cheney | 42.19% | 57.81% | 70.00% | 30.00% |
| Cherryvale | 48.76% | 51.24% | 63.48% | 36.52% |
| Clay Center | 65.10% | 34.90% | N/A | N/A |
| Clinton | N/A | N/A | 32.65% | 67.35% |
| Coffeyville | 46.69% | 53.31% | 68.78% | 31.22% |
| Colby-Gem | 85.26% | 14.74% | 93.00% | 7.00% |
| DeSoto | 39.71% | 60.29% | 52.74% | 47.26% |
| Dodge City | 48.15% | 51.85% | 56.72% | 43.28% |
| El Dorado | 50.63% | 49.37% | 69.61% | 30.39% |
| Ellsworth | 51.02% | 48.98% | N/A | N/A |
| Emporia | 41.16% | 58.84% | N/A | N/A |
| Erie | 48.97% | 51.03% | 76.29% | 23.71% |
| Eudora | 89.54% | 10.46% | 74.83% | 25.17% |
| Garden City | 46.97% | 53.03% | 59.66% | 40.34% |
| Garden Plain | 42.72% | 57.28% | 70.51% | 29.49% |
| Goodland | 81.14% | 18.86% | 93.25% | 6.75% |
| Great Bend | 61.61% | 38.39% | 76.83% | 23.17% |
| Halstead | 45.09% | 54.91% | 48.60% | 51.40% |
| Hays | 69.91% | 30.09% | 79.44% | 20.56% |
| Hoxie | 77.87% | 22.13% | N/A | N/A |
| Humboldt | 46.40% | 53.60% | 67.27% | 32.73% |
| Hutchinson | 53.48% | 46.52% | 67.65% | 32.35% |
| Independence | 44.41% | 55.59% | N/A | N/A |
| Iola | 56.11% | 43.89% | 71.30% | 28.70% |
| Kingman | 55.80% | 44.20% | 71.67% | 28.33% |
| Kinsley | 56.11% | 43.89% | 57.54% | 42.46% |
| Larned | 57.52% | 42.48% | 63.18% | 36.82% |
| Lawrence | 35.30% | 64.70% | 76.81% | 23.19% |
| Leavenworth-Lansing | 41.53% | 58.47% | 60.74% | 39.26% |
| Lindsborg | 59.34% | 40.66% | 62.15% | 37.85% |
| Lyons | 58.54% | 41.46% | 72.55% | 27.45% |
| Manhattan | 58.31% | 41.69% | 64.74% | 35.26% |
| McPherson | 56.75% | 43.25% | 67.23% | 32.77% |
| Medicine Lodge | 28.99% | 71.01% | 71.76% | 28.24% |
| Neodesha | 45.80% | 54.20% | N/A | N/A |
| Newton | 54.49% | 45.51% | 63.58% | 36.42% |
| Nickerson | 48.90% | 51.10% | 77.89% | 22.11% |
| Norton | 90.09% | 9.91% | 93.06% | 6.94% |
| Oakley | 78.64% | 21.36% | 85.65% | 14.35% |
| Parsons | 41.72% | 58.28% | N/A | N/A |
| Phillipsburg-Kirwin | 87.56% | 12.44% | 86.40% | 13.60% |
| Pittsburg | 41.81% | 58.19% | 68.14% | 31.86% |
| Plainville | 86.43% | 13.57% | 85.04% | 14.96% |
| Pratt | 51.83% | 48.17% | 70.44% | 29.56% |
| Salina | 59.56% | 40.44% | 73.63% | 26.37% |
| Smith Center | 92.11% | 7.89% | 85.83% | 14.17% |
| Stockton | 87.94% | 12.06% | 87.15% | 12.85% |
| Tonganoxie | 29.27% | 70.73% | 77.58% | 22.42% |
| Towanda | 42.24% | 57.76% | 59.85% | 40.15% |
| Winfield | 54.24% | 45.76% | 74.38% | 25.62% |
| Yates Center | 54.29% | 45.71% | N/A | N/A |

XII. Conclusion

Assessing the level of competition in a market is difficult and the result of such an effort is likely to be imperfect. However, given the importance of telecommunications services to individual Kansans and to the growth if not the sustainability of the Kansas economy, it seems prudent to give the data presented here careful consideration.

The Commission has attempted to use data that examines competition in the most favorable light. The Commission has examined data from all types of service providers rather than only facilities-based providers. Additionally, competition is evaluated by including all services, bundled and stand-alone services, in the analysis of a market. While the Commission believes it to be more appropriate to conduct separate analyses of the bundled and stand-alone service markets; nonetheless, considering the data presented in this report in light of the public policy goals expressed by the Legislature, it is a reasonable conclusion that competition is and will continue to be less effective for stand-alone service, especially residential, given that most competition is for bundled services.³¹

Reviewing all of the indicators together, it is clear that there is some level of competition in each of the price deregulated exchanges. The market structure of each price deregulated exchange could be described as landing somewhere on the continuum between a monopoly market and perfect competition -- that is, the market structure of each exchange is most appropriately described by imperfect competition; customers have several options from which to choose a service provider and service offerings; the number of competitors is fairly stable; yet, in each exchange there is a dominant firm and few small competitors.

³¹ If one feels that wireless services should be included in the analysis, then the analysis of the indicators can be discounted slightly in favor of a more competitive market.

From the data it is not clear that this competition, characterized by a dominant firm and a few small competitors, is effective in disciplining the pricing of the dominant firm in all exchanges. In all exchanges, the HHI for residential and business service is greater than that considered to be a highly concentrated market by the Department of Justice and other authorities. Additionally, for residential service, the weighted, average rate is higher than the inflation-adjusted calculations in 63.8% (37 of the 58) price deregulated exchanges. For business service, the weighted average rate is higher than the inflation-adjusted calculations in 53.1% (26 of the 49) price deregulated exchanges. Examining the indicators together, it is not clear that there is solid price competition or effective competition in all price deregulated exchanges. This concern is magnified by the fact that the HHI and weighted average rate in price deregulated exchanges include data from resellers and those carriers providing service through negotiated agreements to use AT&T's facilities. These carriers are unlikely to impose pricing discipline since AT&T possesses greater bargaining power in the wholesale negotiations and can then, at least in part, determine the rate level of some of its competitors.

As stated in this report, wireless service is increasingly becoming a substitute for wireline service. Given this, one might question the effect of including wireless in the analysis of the state of competition in each price deregulated exchange. The Commission did consider inclusion of wireless service in its analyses. However, wireless service can only serve as a substitute for wireline service when it is consistently available at the customer's residence. While consistently available service may exist for those living in cities or along major highways, service is not always available outside the population center. Thus, because each exchange contains both population centers and more remote service locations, it is difficult to determine how much

emphasis to place on the availability of wireless service and its ability to discipline the pricing behavior of the incumbent in any particular exchange.

Even with an adjustment to account for competition from wireless carriers, it would be difficult to conclude that there is effective competition in any of the deregulated exchanges. While the Commission is mindful that AT&T's rates have remained unchanged the past two years in smaller price deregulated exchanges with fewer competitors, in those exchanges for which there are the greatest number of competitors and for which it is most likely that there is consistent access to wireless service (Kansas City, Topeka, and Wichita) and reliable competition from wireless service providers, AT&T has been able to increase its rates for both residential and business services since becoming price deregulated. This is particularly troubling given that it was believed regulated rates in these exchanges subsidized regulated rates for services in less densely populated exchanges.

XIII. Recommended Changes

The Commission is directed 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. Again, it is presumed the Legislature believed a higher weighted average rate in the price deregulated exchanges would indicate that competition was not sufficiently disciplining the price for telecommunications services and some corrective action might be necessary.

As discussed in the 2010 Price Deregulation Report, it is difficult to measure the effectiveness of competition based on a single measure; however, the Commission recognizes 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. The Commission has attempted to provide other measures of competition to assist in the evaluation of the level of competition in price deregulated exchanges. Reviewed together these indicators cast doubt on the effectiveness of competition. Thus, the Commission makes the following recommendations:

1. Change the CPI Index Used. Consistent with its recommendation in the 2010 Price Deregulation Report, the Commission suggests an inflation factor that is more closely aligned to the telecommunications market be used. The statute currently requires the use of the "consumer price index for all urban consumers." 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 2005-2006.

Within the CPI is an index titled "telephone services." The telephone services index previously included three components: local telephone service charges, long distance telephone services, and cellular telephone services. However, as of January 2010, the telephone services index was revised to include: wireless telephone services and land-line telephone services (with no distinction between local and long distance). These services are weighted by the relative importance of each in the index. While one might argue that the telephone services index is not an accurate indicator of price fluctuations for local service since it includes wireless service, the Commission believes it is a reliable indicator because AT&T competes against wireless service providers and wireless service is increasingly becoming a substitute for local landline service. The index will reflect changes to local rates that are the result of regulatory action since many areas covered by the index remain price regulated or can be influenced by changes in access charges ordered by either the FCC or state Commissions.

Even with these shortcomings, the telephone services index is certainly more closely aligned with the service for which the reasonableness of price changes is being assessed. If the statute were revised to require the change in the telephone services index within the CPI for the study period be used as the inflation factor, rather than the broad CPI for goods and services, then price changes that are not closely related to the telecommunications market and that may not affect telephone rates (or that would minimally affect telephone rates), would be excluded. The CPI can fluctuate greatly from year to year due to vast fluctuations in the energy market or other items that do not affect telecommunications prices as much as prices for other goods and services. A more closely aligned price index will allow Legislators to have greater confidence in their measure of competition and they would not be forced to make judgments about whether factors that may have greatly influenced the change in the CPI, such as fluctuations in gasoline prices, really would have affected telecommunications prices to the same extent.

Were the Commission to have used the telephone services expenditure category of the CPI as the inflation factor for the 2008 to 2009 and the 2009 to 2010 time periods, which were 1.5% and 0.1%, respectively, for the same study periods, the inflation-adjusted statewide average rate would be \$16.10 for residential service and \$28.18 for business service. Using this new benchmark, the report would be that the weighted average rate for 16 exchanges for residential service and 20 exchanges for business service would exceed the inflation-adjusted statewide, weighted average rate. The Commission believes this inflation factor gives a better picture of how the rates in the price deregulated exchanges stack up compared to the statewide, weighted average rate.

2. Consistent with the 2010 Price Deregulation Report, the Commission finds it concerning that this is the third consecutive year that the weighted average rate in several of the

price deregulated exchanges is higher than the inflation adjusted statewide, weighted average rate for the study period. The Commission has observed that a single measure of competition may not be reflective of the effectiveness of competition; nonetheless, the other indicators provided in this Report support the contention that Kansas price deregulated telecommunication exchanges lack effective competition. Therefore, the Commission recommends that the Legislature consider remedial steps for exchanges that exceed the statewide, weighted average rate adjusted for inflation comparison.

There is any number of viable alternatives but one straight forward possibility is to resume price cap regulation. The Legislature could require a carrier to resume price cap regulation if the inflation-adjusted statewide, weighted average rate is lower than the weighted average rate for the price deregulated exchange for a specified period, after two, three, or four consecutive years, in the absence of evidence that 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.

3. The Commission recommends that in the event price deregulation is granted by the Commission upon application, there be included a "Safe Harbor" provision for those customers subscribing to stand-alone voice service. The Safe Harbor provision would require the price deregulated incumbent to provide stand-alone voice service at the rate level in effect as of the date the price deregulation became effective, and no term commitment should be required in order to receive such pricing.

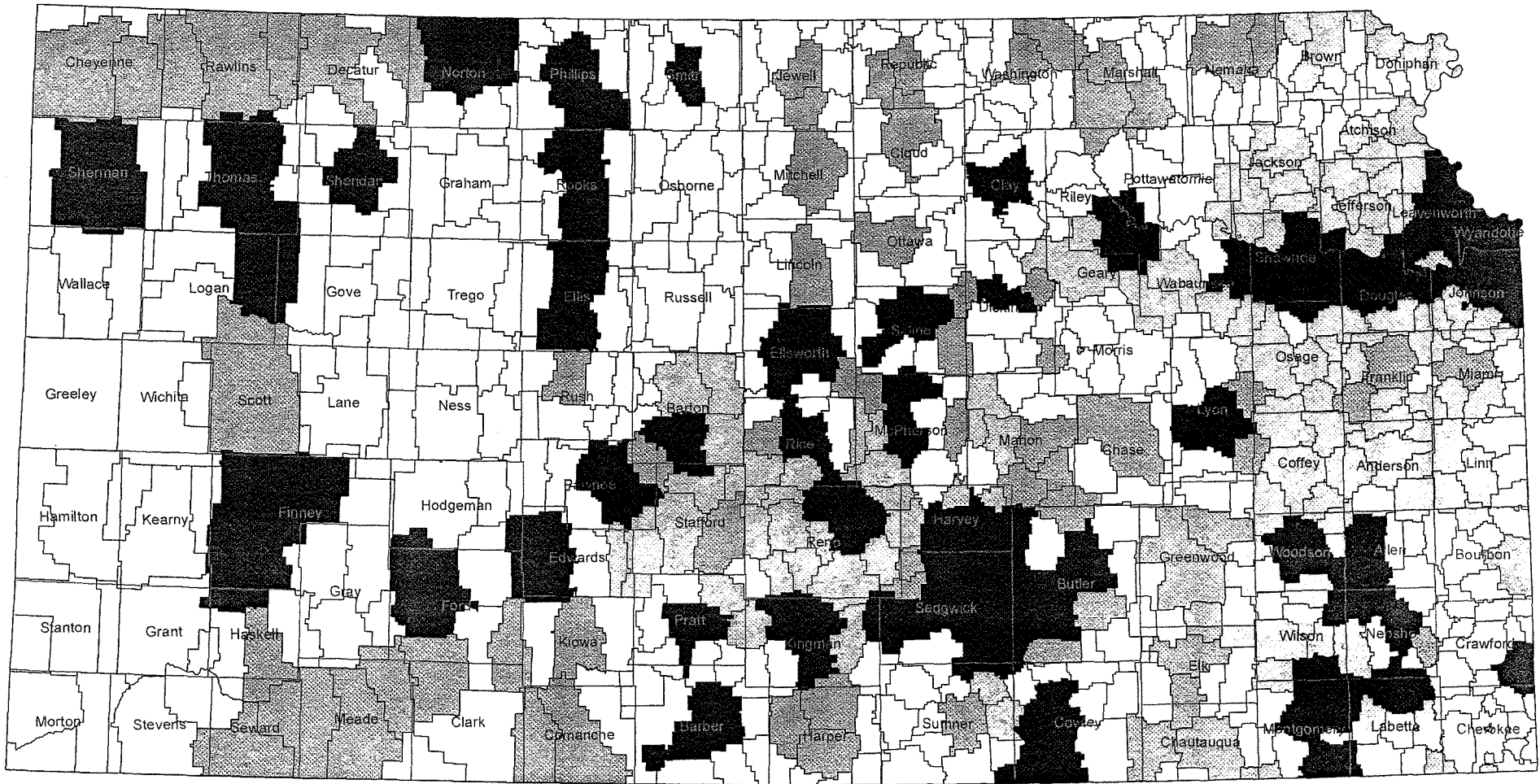
The price deregulated incumbent should make the stand-alone service option readily available within its service area and provide notice of such option to customers in a clear and prominent manner. Such customer notification might be required to occur every 6 months, in the




form of a bill page message providing an objective description of the Safe Harbor option, including a telephone number and website address where the customer may obtain additional information from the carrier, all in a form as approved by the Commission. While notification could also occur through the carrier's website, that should only be an additional requirement. The Commission believes that those customers maintaining stand-alone services, especially residential, are the least likely to be computer or Internet savvy, and would not typically access a carrier's website.

To evaluate the effectiveness of any customer protection measures, and the recommended Safe Harbor protection, the Legislature should require the price deregulated incumbent to provide the Commission with semi-annual subscribership reports as of June 30 and December 31 that contain the number of its customers subscribing to the Safe Harbor, stand-alone service. Reports containing data as of December 31 would be provided to the Commission by March 1. Reports containing data as of June 30 would be provided to the Commission by September 1.

In conclusion, the indicators cast doubt on the effectiveness of competition in the price deregulated exchanges. Thus, in the absence of effective competition the Commission makes the foregoing recommendations to the Legislature in an effort to preserve and promote the public policy goals of a ubiquitous first-class telecommunications infrastructure, excellent service quality, affordable prices, and consumer protection in every corner of our state -- from St. Francis to Baxter Springs, and Elkhart to White Cloud.

AT&T and CenturyLink Regulation Status



-  ATT Deregulated *
-  ATT Non-Deregulated
-  CenturyLink Non-Deregulated

* Exchange could be deregulated for business, residential or both.



Miles

0 15 30 60 90 120



Corporation Commission

January 2011

PRICE DEREGULATED EXCHANGES PURSUANT TO KSA 66-2005(q)

| Exchange | Carrier | Bus | Res | Docket No. | Date Filed | Date Approved |
|---------------------|---------|-----|-----|----------------------------------|------------|---------------|
| Abilene | AT&T | | X | 10-SWBT-019-PDR | 7/6/2009 | 8/26/2009 |
| Almena | AT&T | X | X | 08-SWBT-316-PDR | 10/2/2007 | 10/23/2007 |
| Arkansas City | AT&T | X | X | 08-SWBT-452-PDR | 11/8/2007 | 11/29/2007 |
| Basehor | AT&T | X | X | 08-SWBT-246-PDR | 9/5/2007 | 9/25/2007 |
| Chanute | AT&T | | X | 10-SWBT-019-PDR | 7/6/2009 | 8/26/2009 |
| Cheney | AT&T | X | X | 09-SWBT-435-PDR | 11/21/2008 | 12/12/2008 |
| Cherryvale | AT&T | X | X | 09-SWBT-435-PDR | 11/21/2008 | 12/12/2008 |
| Clay Center | AT&T | | X | 10-SWBT-668-PDR | 4/16/2010 | 5/5/2010 |
| Clinton | AT&T | X | | 08-SWBT-246-PDR | 9/5/2007 | 9/25/2007 |
| Coffeyville | AT&T | X | X | 09-SWBT-435-PDR | 11/21/2008 | 12/12/2008 |
| Colby-Gem | AT&T | X | X | 08-SWBT-173-PDR | 8/10/2007 | 8/31/2007 |
| DeSoto | AT&T | X | X | 10-SWBT-018-PDR | 7/6/2009 | 8/24/2009 |
| Dodge City | AT&T | | X | 08-SWBT-1081-PDR | 6/6/2008 | 6/26/2008 |
| Dodge City | AT&T | X | | 09-SWBT-937-PDR | 6/5/2009 | 6/26/2009 |
| El Dorado | AT&T | X | X | 08-SWBT-452-PDR | 11/8/2007 | 11/29/2007 |
| Ellsworth | AT&T | | X | 10-SWBT-019-PDR | 7/6/2009 | 8/26/2009 |
| Emporia | AT&T | | X | 10-SWBT-019-PDR | 7/6/2009 | 8/26/2009 |
| Erie | AT&T | X | | 09-SWBT-936-PDR | 6/5/2009 | 7/24/2009 |
| Erie | AT&T | | X | 10-SWBT-668-PDR | 4/16/2010 | 5/5/2010 |
| Eudora | AT&T | X | X | 08-SWBT-246-PDR | 9/5/2007 | 9/25/2007 |
| Garden City | AT&T | | X | 08-SWBT-1081-PDR | 6/6/2008 | 6/26/2008 |
| Garden City | AT&T | X | | 09-SWBT-937-PDR | 6/5/2009 | 6/26/2009 |
| Garden Plain | AT&T | X | X | 09-SWBT-435-PDR | 11/21/2008 | 12/12/2008 |
| Goodland | AT&T | X | X | 08-SWBT-316-PDR | 10/2/2007 | 10/23/2007 |
| Great Bend | AT&T | | X | 08-SWBT-1081-PDR | 6/6/2008 | 6/26/2008 |
| Great Bend | AT&T | X | | 09-SWBT-434-PDR | 11/21/2008 | 12/12/2008 |
| Halstead | AT&T | X | X | 09-SWBT-435-PDR | 11/21/2008 | 12/12/2008 |
| Hays | AT&T | X | X | 08-SWBT-316-PDR | 10/2/2007 | 10/23/2007 |
| Hoxie | AT&T | | X | 10-SWBT-668-PDR | 4/16/2010 | 5/5/2010 |
| Humboldt | AT&T | | X | 09-SWBT-434-PDR | 11/21/2008 | 12/12/2008 |
| Humboldt | AT&T | X | | 09-SWBT-937-PDR | 6/5/2009 | 6/26/2009 |
| Hutchinson | AT&T | X | X | 08-SWBT-452-PDR | 11/8/2007 | 11/29/2007 |
| Independence | AT&T | | X | 10-SWBT-019-PDR | 7/6/2009 | 8/26/2009 |
| Iola | AT&T | | X | 08-SWBT-1081-PDR | 6/6/2008 | 6/26/2008 |
| Iola | AT&T | X | | 09-SWBT-434-PDR | 11/21/2008 | 12/12/2008 |
| Kansas City Metro | AT&T | X | X | Pursuant to KSA 66-2005(q)(1)(B) | | 7/1/2006 |
| Kingman | AT&T | X | X | 08-SWBT-452-PDR | 11/8/2007 | 11/29/2007 |
| Kinsley | AT&T | X | X | 09-SWBT-936-PDR | 6/5/2009 | 6/26/2009 |
| Larned | AT&T | | X | 08-SWBT-1081-PDR | 6/6/2008 | 6/26/2008 |
| Larned | AT&T | X | | 09-SWBT-937-PDR | 6/5/2009 | 6/26/2009 |
| Lawrence | AT&T | X | X | 08-SWBT-246-PDR | 9/5/2007 | 9/25/2007 |
| Leavenworth-Lansing | AT&T | X | X | 08-SWBT-246-PDR | 9/5/2007 | 9/25/2007 |
| Lindsborg | AT&T | | X | 08-SWBT-1081-PDR | 6/6/2008 | 6/26/2008 |
| Lindsborg | AT&T | X | | 09-SWBT-937-PDR | 6/5/2009 | 7/24/2009 |
| Lyons | AT&T | | X | 08-SWBT-1081-PDR | 6/6/2008 | 6/26/2008 |
| Lyons | AT&T | X | | 09-SWBT-434-PDR | 11/21/2008 | 12/12/2008 |
| Manhattan | AT&T | X | X | 08-SWBT-452-PDR | 11/8/2007 | 11/29/2007 |
| McPherson | AT&T | X | X | 09-SWBT-435-PDR | 11/21/2008 | 12/12/2008 |
| Medicine Lodge | AT&T | X | X | 08-SWBT-316-PDR | 10/2/2007 | 10/23/2007 |

| | | | | | | |
|---------------------|------|---|---|----------------------------------|------------|------------|
| Neodesha | AT&T | | X | 10-SWBT-019-PDR | 7/6/2009 | 8/26/2009 |
| Newton | AT&T | X | X | 08-SWBT-452-PDR | 11/8/2007 | 11/29/2007 |
| Nickerson | AT&T | X | X | 08-SWBT-452-PDR | 11/8/2007 | 11/29/2007 |
| Norton | AT&T | X | X | 08-SWBT-316-PDR | 10/2/2007 | 10/23/2007 |
| Oakley | AT&T | X | X | 10-SWBT-018-PDR | 7/6/2009 | 8/24/2009 |
| Parsons | AT&T | | X | 10-SWBT-019-PDR | 7/6/2009 | 8/26/2009 |
| Phillipsburg/Kirwin | AT&T | X | X | 08-SWBT-316-PDR | 10/2/2007 | 10/23/2007 |
| Pittsburg | AT&T | | X | 08-SWBT-1081-PDR | 6/6/2008 | 6/26/2008 |
| Pittsburg | AT&T | X | | 09-SWBT-434-PDR | 11/21/2008 | 12/12/2008 |
| Plainville | AT&T | X | X | 09-SWBT-435-PDR | 11/21/2008 | 12/12/2008 |
| Pratt | AT&T | X | X | 08-SWBT-316-PDR | 10/2/2007 | 10/23/2007 |
| Salina | AT&T | X | X | 08-SWBT-452-PDR | 11/8/2007 | 11/29/2007 |
| Smith Center | AT&T | X | X | 08-SWBT-173-PDR | 8/10/2007 | 8/31/2007 |
| Stockton | AT&T | X | X | 10-SWBT-669-PDR | 4/16/2010 | 5/5/2010 |
| Tonganoxie | AT&T | X | X | 08-SWBT-246-PDR | 9/5/2007 | 9/25/2007 |
| Topeka Metro | AT&T | X | X | Pursuant to KSA 66-2005(q)(1)(B) | | 7/1/2006 |
| Towanda | AT&T | X | X | 08-SWBT-452-PDR | 11/8/2007 | 11/29/2007 |
| Wichita Metro | AT&T | X | X | Pursuant to KSA 66-2005(q)(1)(B) | | 7/1/2006 |
| Winfield | AT&T | | X | 08-SWBT-1081-PDR | 6/6/2008 | 6/26/2008 |
| Winfield | AT&T | X | | 09-SWBT-434-PDR | 11/21/2008 | 12/12/2008 |
| Yates Center | AT&T | | X | 10-SWBT-668-PDR | 4/16/2010 | 5/5/2010 |

Competitive Local Exchange Carrier Line Count History

| Company | 2004-2005 % Change | 2005-2006 % Change | 2006-2007 % Change | 2007-2008 % Change | 2008-2009 % Change |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 1-800 Reconex, Inc | 83% | -43% | -36% | -100% | |
| AccuTel of Texas Inc. | 0% | No Data* | -62% | -40% | -33% |
| American Fiber Network | -3% | -14% | -11% | -9% | -20% |
| AT&T Communications of the Southwest | -16% | -20% | -31% | 23% | -9% |
| Avid Communications, LLC | • | No Data* | No Data* | 483% | 102% |
| Basic Phone, Inc. | -100% | | | | |
| Big River Telephone Company, LLC | • | No Data* | No Data* | 133% | 51% |
| Birch Telecom of Kansas Inc. | -23% | -38% | -21% | -17% | -16% |
| Budget Phone, Inc. | No Data* | No Data* | -44% | -36% | -55% |
| Bullseye Telecom, Inc. | 211% | 27% | 109% | -1% | 32% |
| Buy-Tel Communications | -100% | | | | |
| Carson Communications, LLC d/b/a Rainbow Communications | • | No Data* | -10% | 67% | 22% |
| Cat Communications Int'l | -73% | -100% | | | |
| CenturyTel Acquisition LLC dba KMC Telecom III | No Data* | No Data* | No Data* | 57% | -71% |
| CenturyTel Fiber Company II, LLC | 0% | No Data* | No Data* | 0% | 0% |
| Comm South Companies, Inc. | -100% | | | | |
| Comtel Telecom Assets LP | No Data* | No Data* | -51% | -30% | -100% |
| Cox KS Telcom | 106% | 40% | 71% | 20% | 18% |
| Credit Loans, Inc. | -33% | 200% | -50% | -100% | |
| Cunningham Communications | No Data* | No Data* | No Data* | 952% | 75% |
| dPi TeleConnect, LLC | -13% | -50% | -42% | -49% | 24% |
| DSLnet Communications, LLC | 0% | No Data* | -100% | | |
| Ernest Communications, Inc | No Data* | 126% | 165% | 14% | 4% |
| Everest Midwest Licensee (SureWest) | 4% | 12% | 6% | 22% | 3% |
| Excel Telecommunications | -49% | -100% | | | |
| First Communications, LLC | • | • | No Data* | -25% | -52% |
| France Telecom Corporate Solutions | No Data* | 3% | -18% | 0% | No Data* |
| Giant Communications, Inc. | -1% | -22% | -34% | 11% | -8% |
| Global Connection Inc. of America | 0% | No Data* | 400% | -60% | -50% |
| Global Crossing Local Services | -75% | 177% | -26% | -16% | -9% |
| Global Crossing Telemanagement | -19% | -31% | -11% | -11% | -17% |
| Granite Telecommunications | 178% | 46% | 46% | 17% | 24% |
| H&B Cable Services, Inc. | • | No Data* | -1% | -7% | 1% |
| Inter-Tel NetSolutions, Inc. | No Data* | No Data* | 29% | No Data* | No Data* |
| Ionex Communications, Inc. (Feist in 1999) | 41% | -34% | -18% | -50% | -24% |
| KMC Telecom III, Inc. | -100% | | | | |
| Lightyear Network Solutions | -49% | -25% | -35% | -41% | -33% |
| Local Phone Services | 0% | 0% | 0% | -44% | -100% |
| Logix Communications LP (fkaWestern Communications) | -68% | -45% | -23% | 0% | -58% |
| Matrix Telecom, Inc. | 0% | No Data* | 49% | -45% | -33% |
| MCIMetro Access Transmission Services, Inc. | -19% | -4% | -19% | -17% | -11% |
| McLeodUSA Telecommunications Services, Inc. | -5% | -11% | -11% | 9% | -21% |
| Metro Teleconnect Companles | -100% | | | | |
| Metropolitan Telecommunications of Kansas, Inc. | 0% | No Data* | 68% | 53% | 91% |
| Mitel NetSolutions, Inc. | • | • | | No Data* | No Data* |
| Navigator Telecommunications, LLC | 9% | -9% | -4% | 0% | -20% |
| New Access Communications LLC | -77% | -23% | -37% | -100% | |

• = Not yet certified

No Data* = Data not available to make the calculation

Competitive Local Exchange Carrier Line Count History

| Company | 2004-2005 % Change | 2005-2006 % Change | 2006-2007 % Change | 2007-2008 % Change | 2008-2009 % Change |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Nex-Tech | 5% | 1% | 5% | 0% | -2% |
| Nexus Communications, Inc. | No Data* | No Data* | No Data* | 183% | -69% |
| NOS Communications Inc. | -100% | | -26% | -45% | -9% |
| NuVox Communications of Kansas, Inc. | -29% | 1% | 22% | 12% | 8% |
| Prairie Stream Communications Inc. | -86% | | | | |
| Preferred Carrier Services, Inc. | -100% | | | | |
| QuantumShift Communications. (formerlyVMX Communications Inc.) | -100% | No Data* | -45% | -67% | 0% |
| S&T Communications LLC | 1% | 12% | -2% | 0% | 11% |
| Sage Telecom | -20% | -11% | -26% | -26% | -25% |
| SKT, Inc. | No Data* | 58% | 28% | 42% | 19% |
| South Central Wireless, Inc. | -78% | -14% | 20% | -10% | -2% |
| Sprint Communications Company, L.P. | -32% | -100% | -69% | 75% | -100% |
| Talk America | -64% | 113% | 0% | -94% | -100% |
| TCG Kansas City | -9% | -7% | 2% | 0% | -9% |
| TelCove Investment, LLC (f/n/a Adelphia Business Solutions Investment) | -19% | 4% | -2% | -13% | No Data* |
| Tel West Communications LLC | 0% | 0% | No Data* | No Data* | 0% |
| The Pager Company (now YourTel America, Inc.) | 9% | -9% | -18% | -8% | -1% |
| Time Warner Cable Information Services Kansas | 131% | 47% | 28% | 7% | 3% |
| Time Warner Telecom of Kansas City LLC f/k/a Xspedius Mgmt. | • | • | No Data* | 129% | -25% |
| Trinsic Communications, Inc. (f/k/a Z-Tel Communications, Inc.) | -48% | 0% | No Data* | No Data* | No Data* |
| Twin Valley Communications, Inc. | • | • | No Data* | No Data* | -90% |
| Twin Valley Telephone, Inc. | • | • | No Data* | 0% | 0% |
| United American Technologies | • | • | No Data* | 0% | 0% |
| United Telecom, Inc. | • | • | No Data* | 838% | No Data* |
| Universal Telecom, Inc. | -22% | -40% | No Data* | No Data* | -100% |
| Utphone, Inc. | • | No Data* | No Data* | 31% | -16% |
| VarTec Telecom | -43% | No Data* | No Data* | No Data* | No Data* |
| Worldnet, LLC | No Data* | 18% | 2% | 3% | 0% |
| WTC Communications | No Data* | No Data* | 49% | 49% | -26% |
| Xspedius Management Co. of Kansas City, LLC | 9% | 0% | -100% | | |
| Xspedius Management Co. Switched Services | -14% | 0% | -100% | | |

• = Not yet certified

No Data* = Data not available to make the calculation

The Companies listed below were certified during at least some portion of the time period reported on but reported no access lines in Kansas.

01 Communications of Kansas, LLC
360 Networks (USA) Inc.
Abovenet Communications, Inc. (FKA Metromedia Fiber Network Services, Inc.)
ACN Communications Services, Inc.
ACSI Local Sitched Services Inc.
Aero Communications LLC
Affordable Phone Services Inc.
ALEC, Inc.
Alltel Communications
American Fiber Systems
ARC Networks, Inc. d/b/a InfoHighway
BAK Communications LLC
BLC Management, LLC
Bandwidth.com
BT Communications Sales
Business Productivity Solutions, Inc.
Business Telecom Inc. dba BTI
Camarato Distributing, Inc. D/b/a New-Phon
CCCKS, Inc.
CenturyTel Solutions, LLC
Charter Fiberlink KS - CCO, LLC
Cinergy Communications Company (now Norlight, Inc.)
CI2, Inc.
ClearTEch.com, Inc.
CLEC, Inc.
Comcast Phone of Kansas, LLC
CommPartners, LLC
Computer Network Technology Corp
Comtech21, LLC
Connect Insured Telephone dba Connect IT
Cordia Communications Corp.
CoreTel Kansas
Covista Inc.
Dieca Communications, Inc.
DSLnet Communications, LLC
Easton Telecom Services LLC
Electric Lightwave, LLC
Emergent Communications, LLC
Enhanced Communications Group LLC
ExOp of Missouri dba Unite
GBT Communications, Inc.
Global Capacity Group, Inc.
Globcom, Inc.
Gorham Communications Inc.

Hierholzer Communications, Inc.
HCI Telecom, Inc.
High Plains Telecommunications, Inc.
Hypercube Telecom, LLC
ICG Telecom Group
IDT America, Corp
Image Access, Inc.
Intellicall Operator Services, Inc.
Intrado Communications Inc.
Ironhorse Services LLC
Kansas Telecom Inc.
Kentucky Data Link, Inc.
Kin Network
Kitnet LLC
KMC Data
LDM Systems, Inc.
Lambeau Telecom Company, LLC
Level III Communications, LLC
Local Telephone Services
Lone Wolf Communications, LLC
LR Communications, Inc.
McGraw Communications, Inc.
Mobilite, LLC
Momentum Telecom, Inc.
Net Talk Com, Inc.
Network PTS, Inc.
Neutral Tandem-Kansas, LLC
New Edge Network, Inc.
Nii Communications, Ltd
Now Acquisition Corp
NOW Communications, Inc.
Ntera, Inc.
Omniplex Communications
Pacific Centrex Services, Inc.
Paging Professionals of Oklahoma
PAETec Communications, Inc.
PAC-West Telecomm, Inc.
Panhandle Telecommunications Systems, Inc - PTCI
Phone 1, Inc.
Phone Remedies, LLC
Premiere Network services
Qwest Communications Corp.
Qwest Interprise America, Inc.
Reliant Communications, Inc. (f/k/a HJN Telecom, Inc.)
Southern Telcom Network
Stonebridge Communications LLC

Sure-Tel, Inc.
Syniverse Technologies, Inc.
TouchTone Communications
UCN, Inc.
Unite Private Network, LLC (fka ExOp of Missouri dba Unite)
Universal Access, Inc.
Universal Telephone
USLD Communications
U.S. Telepacific Corp
Western CLEC Corp.
Wildflower Telecommunications d/b/a Wildflower
Winstar Communications, LLC
WWC License LLC
XO Communications Services, Inc.
Ymax Communications Corp.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Determination of the Weighted,)
Statewide Average Rate of Nonwireless Basic) File No. TO-2011-0073
Local Telecommunication Services)

REVISED STAFF REPORT

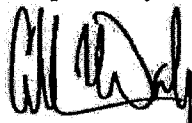
COMES NOW the Staff of the Missouri Public Service Commission and respectfully submits the attached revised Memorandum and states:

1. Section 392.245.13 RSMo Supp. 2010 provides that the Commission shall determine the weighted, statewide average rate of nonwireless basic local telecommunications services and shall report its findings to the general assembly by January 30, 2011. If the Commission finds that the reported rate exceeds the 2006 rate by a percentage greater than the percentage increase in the Consumer Price Index, then the Commission is to include in its report its suggestions for changes to state law "to achieve the purposes set forth in section 392.185."

2. The Staff filed this Report on January 19, 2011, but subsequently revised footnotes four and six on page four of the Memorandum.

WHEREFORE, the Staff respectfully submits the revised Memorandum and Appendices A-D thereto.

Respectfully submitted,



Colleen M. Dale, Senior Counsel
Missouri Bar No. 31624
Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4255 (Telephone)
cully.dale@psc.mo.gov

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 28th day of January, 2011.

A handwritten signature in black ink, appearing to be "Allan D. [unclear]".

Memorandum

To: Official Case File
Case No. TO-2011-0073

From: Dana Parish and John Van Eschen
Telecommunications Department

Date: January 19, 2011

Subject: Statutory requirement to determine statewide average rate

Executive Summary

Section 392.245.13 RSMo requires the Missouri Public Service Commission (MoPSC) to periodically determine the weighted, statewide average rate of nonwireless basic local telecommunications services. If the statewide average rate is greater than the statewide average rate from the initial study multiplied by one plus the percentage increase in the Consumer Price Index (CPI) for all goods and services then the MoPSC should recommend to the general assembly such changes in state law as the MoPSC deems appropriate to achieve the purposes set forth in Section 392.185. The calculations for this rate along with the CPI comparisons were previously performed in 2005 and later in 2007.¹ This report identifies the weighted, statewide average rate as of August 28, 2010 is \$22.49 and marks the final report. The MoPSC is required to report its findings to the general assembly by January 30, 2011. Listed below is a summary of Staff's findings:

| Statewide Average Rates | | | | % Change (2010 vs. 2005) |
|-------------------------|------------|------------|------------|-----------------------------|
| | 2005 study | 2007 study | 2010 study | |
| Residential | \$11.62 | \$11.49 | \$17.11 | +47% |
| Business | \$27.91 | \$29.77 | \$34.35 | +23% |
| Overall | \$13.77 | \$14.66 | \$22.49 | +63% |
| CPI | 196.4 | 207.9 | 218.31 | 11.15% |

As the above table shows the overall statewide average rate has increased from \$13.77 in 2005 to \$22.49 in 2010. Furthermore the percentage increase of the overall statewide average rate from the 2005 study to the 2010 study is 63% which exceeds the 11.15% change in the CPI for this time period. Although the percentage change in Staff's calculated statewide average rate exceeds the percentage change in the CPI, Staff is not recommending any changes to be offered to the general assembly. The Staff's position will be explained in this memorandum.

¹ See Case No. TO-2006-0084 for Commission Orders and Staff Reports for both 2005 and 2007.

Background

Pursuant to Section 392.245.13, the MoPSC is required to determine the weighted statewide average rate of nonwireless basic local telecommunications services three times over a six year time period: August 28, 2005, August 28, 2007 and August 28, 2010. The initial weighted statewide average rate determination was based on basic local telecommunications rates in effect as of August 28, 2005. The weighted statewide average rate was re-determined for August 28, 2007 based on basic local telecommunications rates in effect at that time. The statute directs the MoPSC to determine the weighted statewide average rate a third time based on rates in effect as of August 28, 2010. Each time the MoPSC recalculates the weighted statewide average rate of nonwireless basic local telecommunications services, after excluding certain allowed increases pursuant to Section 392.245.13, the MoPSC is required to compare the change in rate to the CPI. If the percentage change between the two rates exceeds the percentage change in the Consumer Price Index (CPI) for the period, the MoPSC is to advise the legislature and to suggest corrective remedies.

Procedure

The same procedure was used to calculate the statewide weighted average rate for the 2005, 2007 and 2010 studies. The weighted statewide average rate of nonwireless basic local telecommunications services attempts to calculate the average rate all companies charge for basic local telecommunications service. In simple terms the weighted statewide average rate is calculated by summing applicable residential and business local service revenues received by all companies for basic local telecommunications services and then dividing by the sum of all companies' qualifying reported local service lines. Local service revenues were derived from reported line quantities and applicable local service rates. A qualifying line provides local voice service and excludes lines providing broadband or Digital Subscriber Line (DSL) service. For higher capacity lines, a qualifying line is based on the number of voice grade channels.

Staff requested all companies providing local voice service to submit qualifying line quantity and applicable local service rates as of August 28, 2010. Appendix A is the form companies were requested to complete. Appendix B is the instructions for completing this form. Responses were received from 43 incumbent local exchange companies (ILECs), 118 competitive local exchange companies (CLECs) and VoIP providers. Of the total responders, 50 CLECs or VoIPs responded that they are not providing local voice service. In addition, 13 CLECs and VoIPs did not respond to the request. As a result, the statewide average rate calculations are based on information supplied by 43 ILECs and 55 CLECs and VoIPs.²

² For comparative purposes the 2007 statewide average rate was based on information supplied by 43 ILECs and 44 CLECs. VoIP registration with the Missouri PSC began in August 2008 and consequently the 2010 study marks the first time with VoIP provider information.

Companies were specifically instructed to identify the applicable residential and business rates for single-line basic local telecommunications service on an exchange-specific basis. Likewise companies were instructed to identify any mandatory rate plan applied to all customers within the exchange, such as any applicable extended area service rates. In addition, a company was instructed to provide the number of applicable qualified residential versus qualified business lines within the exchange for local telecommunications service. This information was requested for both stand-alone single lines where a customer solely subscribes to basic local telecommunications service and bundled single lines where a customer may subscribe to basic local service as part of a package of services. A company's applicable stand-alone and bundled residential lines for an exchange are summed and multiplied by the applicable local and mandatory EAS rates in order to calculate the company's residential local service revenue for that exchange. Similar calculations are performed for the company's business customers to quantify the company's business local service revenue for that exchange. Applicable local service revenues were then summed for all company exchanges and divided by the sum of all applicable lines to generate a statewide average rate.

Results

The Consumer Price Index for all goods and services was 196.4 in August 2005, 207.9 in August 2007 and 218.312 in August 2010. These indices produce a change of 5.86% in the CPI over the August 2005-August 2007 study period, 4.9% over the August 2007-August 2010 study period and 11.15% over the August 2005-August 2010 study period.

The following two tables show the statewide average rates from the 2005, 2007 and 2010 studies along with the percentage change in statewide average rates:

| Statewide Average Rates | | | |
|--------------------------------|-------------------|-------------------|-------------------|
| | 2005 study | 2007 study | 2010 study |
| Residential | \$11.62 | \$11.49 | \$17.11 |
| Business | \$27.91 | \$29.77 | \$34.35 |
| Overall | \$13.77 | \$14.66 | \$22.49 |

| Percentage Change in Statewide Average Rates | | | |
|---|---------------------|---------------------|---------------------|
| | 2005 to 2007 | 2007 to 2010 | 2005 to 2010 |
| Residential | -1.08% | +49% | +47% |
| Business | +6.66% | +15% | +23% |
| Overall | +6.47% | +53% | +63% |

The statewide average rate information can be further broken down based in incumbent versus competitive local exchange companies:

| ILEC vs. CLEC Statewide Average Rate Comparison | | | | | | |
|--|-------------------|----------------|-------------------|----------------|-------------------|----------------|
| | 2005 study | | 2007 study | | 2010 study | |
| | ILEC | CLEC | ILEC | CLEC | ILEC | CLEC |
| Residential | \$10.56 | \$22.37 | \$11.18 | \$15.13 | \$16.36 | \$21.26 |
| Business | \$26.63 | \$33.00 | \$29.16 | \$32.17 | \$35.05 | \$31.72 |
| Overall | \$12.45 | \$25.05 | \$13.94 | \$21.03 | \$21.92 | \$25.26 |

These results show that ILEC statewide weighted average rates have generally been less than CLEC statewide weighted average rates; however the 2010 study reflects for the first time whereby the respective statewide average rates for business service is higher for ILECs than CLECs.³

Analysis

The 2010 statewide average rates have increased in comparison to the 2007 and 2005 statewide average rates. Caution should be given to interpreting these changes as solely caused by rate increases. As pointed out in Staff's 2007 study, changes in access line quantities can have a significant impact on these results. Residential line quantities have dropped⁴ while business line quantities have increased.⁵ If rates were to have remained unchanged then this change in access line quantities would have increased the overall statewide average rate, regardless, because business rates are and have been generally higher than residential rates. In regards to solely looking at the residential statewide average rate, residential line quantities have continued to drop for ILECs but have increased for CLECs.⁶ If rates were to have remained unchanged then this shift in line quantities will cause the residential statewide average rate to increase because CLEC residential rates have generally been higher than ILEC residential rates. Overall business line quantities have increased for both ILECs and CLECs.⁷

³ Section 392.200.8(3) RSMo allows all ILECs and CLECs to have customer-specific pricing for business services. For statewide average rate calculation purposes companies supplied their tariffed local business rate for single-line service. In addition, multi-line rates and quantities were ignored in calculating the statewide average rate.

⁴ Total residential line quantities used to calculate the statewide average rate were 2,218,543 (2005 study), 1,980,060 (2007 study) and 1,615,612 (2010 study).

⁵ Total business line quantities used to calculate the statewide average rate were 336,450 (2005 study), 415,023 (2007 study) and 733,103 (2010 study).

⁶ For example, in simply comparing the 2007 and 2010 studies, residential line quantities dropped from 1,821,064 to 1,368,590 for ILECs but increased from 158,996 to 247,022 for CLECs.

⁷ A comparison of the 2007 and 2010 studies show business line quantities increased from 330,810 to 580,164 for ILECs and 84,213 to 152,939 for CLECs.

One way to analyze the data is to recalculate the statewide average rate using 2010 rates with 2007 line quantities. This recalculation produces the following statewide average rates⁸:

| Statewide Average Rate using 2010 rates and 2007 line quantities | |
|--|---------|
| Residential | \$17.38 |
| Business | \$33.59 |
| Overall | \$20.19 |

The overall statewide average rate using this recalculated method results in a \$20.19 rate. The recalculated rate of \$20.19 is less than the overall statewide average rate identified in the 2010 study of \$22.49. This result suggests access line quantity changes from 2007 to 2010 have perhaps overstated the 2010 statewide average rate. Regardless the recalculated rate of \$20.19 is still significantly higher than the \$14.66 overall statewide average rate identified in the 2007 study. This result suggests rates have actually increased and an analysis of company-specific data confirms this result.⁹

Recommendation

At this time Staff does not have any recommendations even though Staff anticipates the statewide average rate will continue rise. This recommendation is based on several considerations:

The geographic areas experiencing significant rate increases have occurred in metro areas where greater competition exists for local voice service. Likewise the statewide average residential rate for ILECs is still significantly below the statewide average rate for CLECs.

Limited price controls still exist for all ILECs. Three ILECs are classified as competitive companies; however these companies still do not have unlimited flexibility to increase basic local rates in "noncompetitive" exchanges.¹⁰ Two ILECs remain under price cap status and the remaining ILECs are regulated under rate-of-return regulation.

Recent passage of House Bill 1750 during the 95th general assembly suggests the legislature may be primarily concerned with reducing intrastate switched access rates. In

⁸ These calculations applied 2010 rates to 2007 line quantities. This recalculation was performed for each company on an exchange-specific basis and then assembled into statewide average rates.

⁹ Perhaps the biggest impact to a higher statewide average rate is the ILEC with the largest number of lines in Missouri increased rates for residential services in its most populated exchanges. For example the basic single-line rate in metro areas increased from approximately \$12.00 and \$13.00 to a rate of \$19.00.

¹⁰ These three ILECs are AT&T Missouri, CenturyLink d/b/a Embarq, and CenturyLink d/b/a CenturyTel. See Section 392.245.5(7) for pricing limitations in non-competitive exchanges.

addition, the Federal Communications Commission has also suggested preempting states in an effort to reform intercarrier compensation.¹¹ Any attempt to somehow further control local rate adjustments may complicate efforts for intercarrier compensation reform.

Finally, a significant and growing number of customers subscribe to bundles of services that include both regulated and non-regulated services such as Internet service and video service. Unlimited pricing flexibility is currently allowed for any local voice service that is part of a bundle or package of services.¹² From a practical standpoint any potential additional price limitations could only apply to a small subset of customers solely subscribing to basic local telecommunications service.

Attachments:

Appendix A: The form companies were requested to compile.

Appendix B: The instructions for completing the form.

Appendix C: Statewide average rates for ILECs

Appendix D: Statewide average rates for CLECs.

¹¹ FCC's National Broadband Plan released March 2010; page 148; FCC Recommendation No. 8.7.

¹² Section 392.200.12 RSMo.

Instructions for completing the Statewide Average Rate Data Collection Worksheet

Please use the attached Excel spreadsheet. When you have completed it, please electronically forward it to dana.parish@psc.mo.gov by September 30, 2010. If you have any questions, please call Dana at (573) 526.4777 or use her e-mail address.

Please provide your company name and contact information in the spaces provided on the accompanying spreadsheet (Cells B1-B4).

The following information should be provided on an exchange-specific basis as of August 28, 2010 or as close to that date as practical:

1. **Exchange Name:** Please indicate the exchange name in the space provided.
2. **Single-Lines:** Single-line refers to single-line basic local telecommunications service. Quantities requested for single-line basic local telecommunications service should not include multi-line services such as PBX trunk service, Centrex services or other multi-line services provided to a customer.
 - a. **Stand-Alone Single-Lines:** Quantify the number of respective residential and business customers subscribing to single-line basic local telecommunications service on a stand-alone basis.
 - b. **Bundled Single-Lines:** Quantify the number of respective residential and business customers subscribing to single-line basic local telecommunications service as a bundled or packaged service. A bundled or packaged service refers to a service where basic local telecommunications service is combined with one or more other telecommunications services and/or non telecommunications services.
Note: If your company does not distinguish bundled single lines versus stand-alone single lines simply identify total single-lines in the "stand-alone" column.
3. **Local Rate:** Identify the applicable single-line basic local telecommunications service rate applied to respective single-line residential and single-line business customers in the exchange.
4. **EAS or other Mandatory Plan Rate:** Identify the applicable rate applied to all respective residential and business customers in the exchange for any mandatory expanded calling arrangements such as Extended Area Service where all customers are assessed an additional monthly charge for the service. Do not include rate information for any optional expanded calling services.

Calculation of 2010 and Comparison with 2007 Statewide Weighted Average Basic Local Telephone Service Rate

| Incumbent Local Exchange Carrier Company Name | Company Statewide Residential Weighted Average Rate | | Percentage Change in Statewide Residential Weighted Average Rate | Company Statewide Business Weighted Average Rate | | Percentage Change in Statewide Business Weighted Average Rate | Statewide Overall Weighted Average Rate | | Percentage Change in Statewide Combined Weighted Average Rate |
|--|---|----------|--|--|----------|---|---|----------|---|
| | 2007 | 2010 | | 2007 | 2010 | | 2007 | 2010 | |
| Alma Telephone Company | \$ 6.50 | \$ 6.50 | 0.00% | \$ 10.25 | \$ 10.25 | 0.00% | \$ 7.17 | \$ 6.78 | -5.34% |
| BPS Telephone Company | \$ 6.94 | \$ 6.94 | 0.05% | \$ 13.96 | \$ 13.90 | -0.39% | \$ 7.35 | \$ 7.42 | 0.87% |
| CenturyTel of NW Ark. | \$ 11.06 | \$ 11.06 | 0.00% | \$20.02 | \$20.02 | 0.00% | \$ 11.43 | \$ 11.84 | 3.56% |
| CenturyTel of Missouri, LLC | \$ 11.11 | \$ 12.94 | 16.46% | \$18.81 | \$21.18 | 12.59% | \$ 11.53 | \$ 14.87 | 28.96% |
| Chariton Valley Telephone Corporation | \$ 12.00 | \$ 12.00 | 0.00% | \$ 12.00 | \$ 12.00 | 0.00% | \$ 12.00 | \$ 12.00 | 0.00% |
| Choctaw Telephone Company | \$ 9.90 | \$ 9.90 | 0.00% | \$ 12.40 | \$ 12.40 | 0.00% | \$ 10.15 | \$ 10.18 | 0.34% |
| Citizens Telephone Company of Higginsville, Missouri | \$ 8.25 | \$ 8.25 | 0.00% | \$ 14.00 | \$ 14.00 | 0.00% | \$ 9.95 | \$ 9.95 | -0.08% |
| Craw-Kan Telephone Cooperative, Inc. | \$ 5.24 | \$ 5.24 | -0.04% | \$ 8.03 | \$ 8.10 | 0.87% | \$ 5.55 | \$ 5.56 | 0.10% |
| Ellington Telephone Company | \$ 5.70 | \$ 5.70 | 0.00% | \$ 9.50 | \$ 9.50 | 0.00% | \$ 6.42 | \$ 6.42 | 0.09% |
| Embarq Missouri, Inc. | \$ 14.18 | \$ 16.81 | 18.50% | \$ 21.90 | \$ 22.00 | 0.45% | \$ 15.76 | \$ 17.98 | 14.10% |
| Fairpoint Communications Missouri, Inc | \$ 6.96 | \$ 6.83 | -1.88% | \$ 13.73 | \$ 13.73 | 0.03% | \$ 7.86 | \$ 7.80 | -0.74% |
| Farber Telephone Company | \$ 6.50 | \$ 7.75 | 19.23% | \$ 11.00 | \$ 12.25 | 11.36% | \$ 7.41 | \$ 8.40 | 13.26% |
| Fidelity Telephone Company | \$ 10.25 | \$ 10.25 | 0.00% | \$ 19.95 | \$ 19.95 | 0.00% | \$ 12.62 | \$ 12.62 | 0.00% |
| Goodman Telephone Company | \$ 7.60 | \$ 7.60 | 0.00% | \$ 12.65 | \$ 12.65 | 0.00% | \$ 8.00 | \$ 7.99 | -0.07% |
| Granby Telephone Company | \$ 6.60 | \$ 6.60 | 0.00% | \$ 8.85 | \$ 8.85 | 0.00% | \$ 6.96 | \$ 6.78 | -2.55% |
| Grand River Mutual Telephone Corporation | \$ 8.24 | \$ 8.24 | -0.03% | \$ 14.18 | \$ 14.18 | -0.05% | \$ 9.19 | \$ 9.19 | 0.07% |
| Green Hills Telephone Corporation | \$ 13.00 | \$ 13.00 | 0.00% | \$ 16.00 | \$ 16.00 | 0.00% | \$ 13.30 | \$ 13.31 | 0.10% |
| Holway Telephone Company | \$ 13.00 | \$ 13.00 | 0.00% | \$ 25.00 | \$ 25.00 | 0.00% | \$ 14.27 | \$ 14.27 | 0.00% |
| IAMO Telephone Company | \$ 8.00 | \$ 8.00 | 0.00% | \$ 10.00 | \$ 10.00 | 0.00% | \$ 8.09 | \$ 8.30 | 2.55% |
| Kingdom Telephone Company | \$ 10.34 | \$ 10.38 | 0.38% | \$ 12.32 | \$ 13.51 | 9.69% | \$ 10.66 | \$ 10.51 | -1.40% |
| KLM Telephone Company | \$ 7.25 | \$ 7.25 | 0.00% | \$ 12.75 | \$ 12.75 | 0.00% | \$ 8.26 | \$ 8.29 | 0.38% |
| Lathrop Telephone Company | \$ 7.15 | \$ 7.15 | 0.00% | \$ 10.15 | \$ 10.15 | 0.00% | \$ 7.49 | \$ 7.55 | 0.74% |
| Le-Ru Telephone Company | \$ 10.50 | \$ 10.50 | 0.00% | \$ 17.00 | \$ 17.00 | 0.00% | \$ 11.10 | \$ 11.05 | -0.49% |
| Mark Twain Rural Telephone Company | \$ 9.00 | \$ 9.00 | 0.00% | \$ 10.25 | \$ 10.25 | 0.00% | \$ 9.06 | \$ 9.05 | -0.04% |
| McDonald County Telephone Company | \$ 5.75 | \$ 9.70 | 68.70% | \$ 8.75 | \$ 8.75 | 0.00% | \$ 6.12 | \$ 9.39 | 53.32% |
| Mid-Missouri Telephone Company | \$ 8.00 | \$ 8.00 | 0.00% | \$ 12.85 | \$ 12.85 | 0.00% | \$ 8.62 | \$ 8.64 | 0.19% |
| Miller Telephone Company | \$ 9.00 | \$ 9.00 | 0.00% | \$ 14.00 | \$ 14.00 | 0.00% | \$ 9.39 | \$ 9.37 | -0.17% |
| MoKan Dial, Inc. | \$ 5.90 | \$ 5.90 | 0.00% | \$ 9.15 | \$ 9.15 | 0.00% | \$ 6.26 | \$ 6.38 | 1.88% |
| New Florence Telephone | \$ 5.75 | \$ 4.50 | -21.74% | \$ 7.75 | \$ 6.00 | -22.58% | \$ 6.46 | \$ 5.02 | -22.21% |
| New London Telephone Company | \$ 12.30 | \$ 12.30 | 0.00% | \$ 22.10 | \$ 22.10 | 0.00% | \$ 14.21 | \$ 14.21 | -0.02% |
| Northeast Missouri Rural Telephone Company | \$ 10.04 | \$ 6.54 | -34.87% | \$ 15.04 | \$ 6.54 | -56.48% | \$ 10.33 | \$ 6.54 | -36.71% |
| Orchard Farm Telephone Company | \$ 13.25 | \$ 13.25 | 0.00% | \$ 25.40 | \$ 25.40 | 0.00% | \$ 15.19 | \$ 15.13 | -0.38% |
| Oregon Farmers Mutual Telephone | \$ 8.00 | \$ 8.00 | 0.00% | \$ 12.00 | \$ 12.00 | 0.00% | \$ 8.50 | \$ 8.32 | -2.13% |
| Ozark Telephone Company | \$ 6.50 | \$ 6.50 | 0.00% | \$ 13.00 | \$ 13.00 | 0.00% | \$ 7.15 | \$ 7.04 | -1.53% |
| Peace Valley Telephone Company, Inc. | \$ 4.50 | \$ 4.50 | 0.00% | \$ 5.50 | \$ 5.50 | 0.00% | \$ 4.55 | \$ 4.58 | 0.58% |
| Rock Port Telephone Company | \$ 5.40 | \$ 5.40 | 0.00% | \$ 7.90 | \$ 7.90 | 0.00% | \$ 6.49 | \$ 6.26 | -3.43% |

Calculation of 2010 and Comparison with 2007 Statewide Weighted Average Basic Local Telephone Service Rate

| | | | | | | | | | |
|--|----------|----------|--------------|----------|----------|--------------|----------|----------|--------------|
| Southwestern Bell Telephone, L.P. dba AT&T Mo. | \$ 11.34 | \$ 18.40 | 62.27% | \$ 32.12 | \$ 39.25 | 22.22% | \$ 14.88 | \$ 25.46 | 71.13% |
| Seneca Telephone Company | \$ 8.10 | \$ 8.10 | 0.00% | \$ 11.80 | \$ 11.80 | 0.00% | \$ 8.37 | \$ 8.37 | -0.08% |
| Spectra Communications Group, LLC | \$ 8.77 | \$ 10.54 | 20.13% | \$ 15.63 | \$ 17.75 | 13.57% | \$ 9.14 | \$ 11.88 | 29.96% |
| Steelville Telephone Exchange, Inc. | \$ 8.95 | \$ 8.95 | 0.00% | \$ 14.45 | \$ 14.45 | 0.00% | \$ 10.40 | \$ 10.49 | 0.82% |
| Stoutland Telephone Company | \$ 8.75 | \$ 8.75 | 0.00% | \$ 13.25 | \$ 13.25 | 0.00% | \$ 9.24 | \$ 9.18 | -0.64% |
| Windstream Iowa (fka: Iowa Telecom) | \$ 21.54 | \$ 24.54 | 13.94% | \$ 41.70 | \$ 49.30 | 18.21% | \$ 24.98 | \$ 29.43 | 17.82% |
| Windstream Missouri, Inc. | \$ 8.25 | \$ 11.69 | 41.82% | \$ 14.79 | \$ 18.61 | 25.87% | \$ 9.17 | \$ 12.76 | 39.13% |
| Median Percentage Change in Weighted Average Rates: | | | 0.00% | | | 0.00% | | | 0.07% |

Calculation of 2010 and Comparison with 2007 Statewide Weighted Average Basic Local Telephone Service Rate

| Responding Competitive Local Exchange Carrier | Company Statewide Residential Weighted Average Rate | | Percentage Change in Statewide Residential Weighted Average Rate | Company Statewide Business Weighted Average Rate | | Percentage Change in Statewide Business Weighted Average Rate | Statewide Overall Weighted Average Rate | | Percentage Change in Statewide Combined Weighted Average Rate |
|--|---|----------|--|--|-----------|---|---|-----------|---|
| | 2007 | 2010 | | 2007 | 2010 | | 2007 | 2010 | |
| Access Point, Inc. | | 0 | (1) | | \$ 28.50 | (1) | | \$ 28.50 | (1) |
| Accutel of Texas | \$ 34.57 | \$ 29.99 | -13.26% | 0 | 0 | 0.00% | \$ 34.57 | \$ 29.99 | -13.26% |
| A C N Communications, Inc. | \$ 23.99 | \$ 22.00 | -8.30% | 0 | 0 | 0.00% | \$ 23.99 | \$ 22.00 | -8.30% |
| AT&T Communications of the Southwest, Inc. - Highly Confidential | \$ 21.46 | 0 | -100.00% | \$ 41.17 | \$ 39.39 | -4.33% | \$ 40.30 | \$ 39.39 | -2.27% |
| AT&T TCG Kansas City | 0 | 0 | 0.00% | \$ 46.40 | \$ 53.30 | 14.87% | \$ 46.40 | \$ 53.30 | 14.87% |
| AT&T TCG St. Louis | 0 | 0 | 0.00% | \$ 46.40 | \$ 53.30 | 14.87% | \$ 46.40 | \$ 53.30 | 14.87% |
| Big River Telephone Company, LLC | \$ 27.29 | \$ 29.49 | 8.06% | \$ 24.80 | \$ 25.70 | 3.60% | \$ 26.15 | \$ 27.66 | 5.74% |
| Birch Telecom of Missouri (Birch) | \$ 14.60 | \$ 44.44 | 204.37% | \$ 32.07 | \$ 45.04 | 40.45% | \$ 30.77 | \$ 44.95 | 46.09% |
| Budget Prepay, Inc. | \$ 59.95 | \$ 40.88 | -31.81% | 0 | 0 | 0.00% | \$ 59.95 | \$ 40.88 | -31.81% |
| BullsEye Telecom Inc. | 0 | 0 | 0.00% | \$ 25.40 | \$ 26.63 | 4.82% | \$ 25.40 | \$ 26.63 | 4.82% |
| Cebridge Telecom d/b/a Suddenlink Communications | | \$ 49.95 | (2) | | \$ 49.95 | (2) | | \$ 49.95 | (2) |
| Chariton Valley Telecom Corp. | \$ 7.50 | \$ 9.75 | 30.00% | \$ 15.00 | \$ 17.00 | 13.33% | \$ 7.87 | \$ 12.13 | 54.17% |
| Charter Fiberlink Missouri, LLC | \$ 9.00 | \$ 15.31 | 70.14% | \$ 33.25 | \$ 34.99 | 5.23% | \$ 9.14 | \$ 16.59 | 81.57% |
| Cincinnati Bell Any Distance, Inc. | | 0 | (1) | | \$ 38.00 | (1) | | \$ 38.00 | (1) |
| dPi Teleconnect | \$ 48.51 | \$ 30.35 | -37.45% | 0 | 0 | 0.00% | \$ 48.51 | \$ 30.35 | -37.45% |
| Ernest Communications, Inc. | 0 | 0 | 0.00% | \$ 29.00 | \$ 23.00 | -20.69% | \$ 29.00 | \$ 23.00 | -20.69% |
| Fidelity Communications Services I, Inc. | \$ 16.46 | \$ 16.97 | 3.08% | \$ 25.84 | \$ 25.37 | -1.85% | \$ 19.79 | \$ 19.41 | -1.95% |
| Fidelity Communications Services II, Inc. | \$ - | \$ 14.00 | 0.00% | \$ 20.00 | \$ 22.00 | 10.00% | \$ 20.00 | \$ 21.97 | 9.86% |
| Global Connection Inc. of America | \$ 50.32 | \$ 35.66 | -29.14% | 0 | 0 | 0.00% | \$ 50.32 | \$ 35.66 | -29.14% |
| Global Crossing Local Services, Inc. | | 0 | (1) | | \$ 400.00 | (1) | | \$ 400.00 | (1) |
| Global Crossing Telemanagement, Inc. | 0 | 0 | 0.00% | \$ 39.58 | \$ 54.00 | 36.43% | \$ 39.58 | \$ 54.00 | 36.43% |
| Green Hills Telecommunications Services | \$ 6.50 | \$ 13.00 | 100.00% | \$ 30.00 | \$ 19.50 | -35.00% | \$ 7.86 | \$ 13.33 | 69.58% |
| Ionex Communications, Inc. (Birch Communications) | \$ 23.67 | 0 | -100.00% | \$ 33.58 | \$ 44.84 | 33.54% | \$ 33.56 | \$ 44.84 | 33.62% |
| Level 3 Communications, LLC | | 0 | (3) | | \$ 1.31 | (3) | | \$ 1.31 | (3) |
| Lightyear Network Solutions LLC | | \$ 24.99 | (1) | | \$ 24.99 | (1) | | \$ 24.99 | (1) |
| Logix Communications | | 0 | (1) | | \$ 57.79 | (1) | | \$ 57.79 | (1) |
| Mark Twain Communications Co. | \$ 6.25 | \$ 9.05 | 44.80% | \$ 12.75 | \$ 15.40 | 20.78% | \$ 6.69 | \$ 9.54 | 42.62% |
| Matrix Telecom Inc., d/b/a Excel Communications | \$ 30.00 | \$ 30.00 | 0.00% | 0 | 0 | 0.00% | \$ 30.00 | \$ 30.00 | 0.00% |
| Matrix Telecom Inc., d/b/a Trinsic Communications | | \$ 36.49 | (1) | | \$ 32.00 | (1) | | \$ 34.18 | (1) |

Calculation of 2010 and Comparison with 2007 Statewide Weighted Average Basic Local Telephone Service Rate

| | | | | | | | | | |
|--|----------|----------|----------|----------|----------|----------|----------|----------|---------|
| Matrix Telecom Inc., d/b/a VarTec Telecom | \$ 34.95 | \$ 34.95 | 0.00% | 0 | 0 | 0.00% | \$ 34.95 | \$ 34.95 | 0.00% |
| MCImetro Access Transmission Services, LLC | \$ 30.81 | \$ 40.92 | 32.82% | \$ 33.99 | \$ 46.99 | 38.25% | \$ 31.47 | \$ 42.13 | 33.88% |
| McLeodUSA Telecommunications Services, Inc. PAETEC Busines Services) | \$ 33.46 | \$ 25.95 | -22.45% | \$ 31.78 | \$ 35.33 | 11.20% | \$ 31.86 | \$ 35.07 | 10.08% |
| Mercury Voice and Data Co. | | 0 | (1) | | \$ 23.00 | (1) | | \$ 23.00 | (1) |
| Metropolitan Telecommunications of Missouri (MetTel) | 0 | 0 | 0.00% | \$ 22.96 | \$ 48.22 | 110.00% | \$ 22.96 | \$ 48.22 | 110.00% |
| Missouri Telecom, Inc. | | \$ 17.95 | (1) | | \$ 19.95 | (1) | | \$ 18.73 | (1) |
| N-1 Communications, LLC d/b/a High Beam Internet and Voice | | \$ 27.00 | (2) | | \$ 27.00 | (2) | | \$ 27.00 | (2) |
| Navigator Telecommunications, LLC | \$ 11.10 | 0 | -100.00% | \$ 30.12 | \$ 20.55 | -31.76% | \$ 28.03 | \$ 20.55 | -26.67% |
| Netelligent Corp | | 0 | (1) | | \$ 22.00 | (1) | | \$ 22.00 | (1) |
| Nexus Communications, Inc. d/ba TSI | \$ 39.95 | \$ 37.92 | -5.09% | 0 | 0 | 0.00% | \$ 39.95 | \$ 37.92 | -5.09% |
| Powernet Global Communications | | 0 | (1) | | \$ 18.33 | (1) | | \$ 18.33 | (1) |
| QuantumShift Communications, Inc. | | 0 | (3) | | \$ 33.38 | (3) | | \$ 33.38 | (3) |
| Ren-Tel Communications, Inc. d/b/a Dialtone & More | | \$ 20.36 | (4) | | 0 | (4) | | \$ 20.36 | (4) |
| Sage Telecom Inc. | \$ 25.00 | \$ 25.00 | 0.00% | \$ 29.00 | \$ 32.99 | 13.76% | \$ 25.08 | \$ 31.73 | 26.49% |
| Socket Telecom, LLC | | \$ 15.37 | (3) | | \$ 23.18 | (3) | | \$ 20.88 | (3) |
| Sprint Communications, L.P. | 0 | 0 | 0.00% | \$ 34.79 | \$ 41.68 | 19.81% | \$ 34.79 | \$ 41.68 | 19.81% |
| SureWest Kansas Licenses, LLC (SureWest) | | \$ 12.75 | (1) | | \$ 23.86 | (1) | | \$ 14.97 | (1) |
| Telcove Operation, LLC | | 0 | (1) | | \$ 36.50 | (1) | | \$ 36.50 | (1) |
| The Phone Connection, Inc. d/b/a Affordable Phone | \$ 39.95 | \$ 39.95 | 0.00% | 0 | 0 | 0.00% | \$ 39.95 | \$ 39.95 | 0.00% |
| Trans National Communications Int., Inc. | 0 | \$ 41.99 | 0.00% | \$ 55.00 | 0 | -100.00% | \$ 55.00 | \$ 41.99 | -23.65% |
| TWC Digital Phone, LLC | | \$ 29.99 | (2) | | \$ 29.99 | (2) | | \$ 29.99 | (2) |
| Compliance Solutions, Inc. | | 0 | (1) | | \$ 23.00 | (1) | | \$ 23.00 | (1) |
| Windjammer | | \$ 39.99 | (2) | | \$ - | (2) | | \$ 39.99 | (2) |
| Windstream Nuvox Missouri, Inc. | | 0 | 0.00% | | \$ 36.89 | 0.00% | | \$ 36.89 | 0.00% |
| XO Communications Services Inc. | 0 | 0 | 0.00% | \$ 34.93 | \$ 34.52 | -1.17% | \$ 34.93 | \$ 34.52 | -1.17% |
| YourTel America Inc. | \$ 29.95 | \$ 29.95 | 0.00% | \$ 39.95 | \$ 39.95 | 0.00% | \$ 30.02 | \$ 29.98 | -0.12% |

Totals

Notes:

- (1) New Company (after 2007) or new to Company List
- (2) IVoIP Company
- (3) Company listed on the Zero Lines / Zero Customers List in 2007
- (4) Company listed on Non-Responsive List in 2007

COMMITTEE MEETING REPORT

Energy & Utilities Subcommittee

3/22/2011 8:30:00AM

Location: Webster Hall (212 Knott)

Other Business Appearance:

Discussion regarding the safety of Florida's Nuclear Power Plants

John A. (Art) Stall - Information Only

Florida Power & Light

1803 SW Foxpoint Trail

Palm City Florida 34990

Phone: 772-221-0575

Discussion regarding the safety of Florida's Nuclear Power Plants

Jerry Paul - Information Only

Capitol Energy Communications, LLC

2507 Callaway Road, Suite 104

Tallahassee Florida 32303

Phone: 850-386-5267

Committee meeting was reported out: Tuesday, March 22, 2011 2:45:47PM



Briefing on FPL Nuclear Plants

Art Stall

March 22, 2011

Events and facts in Japan continue to evolve

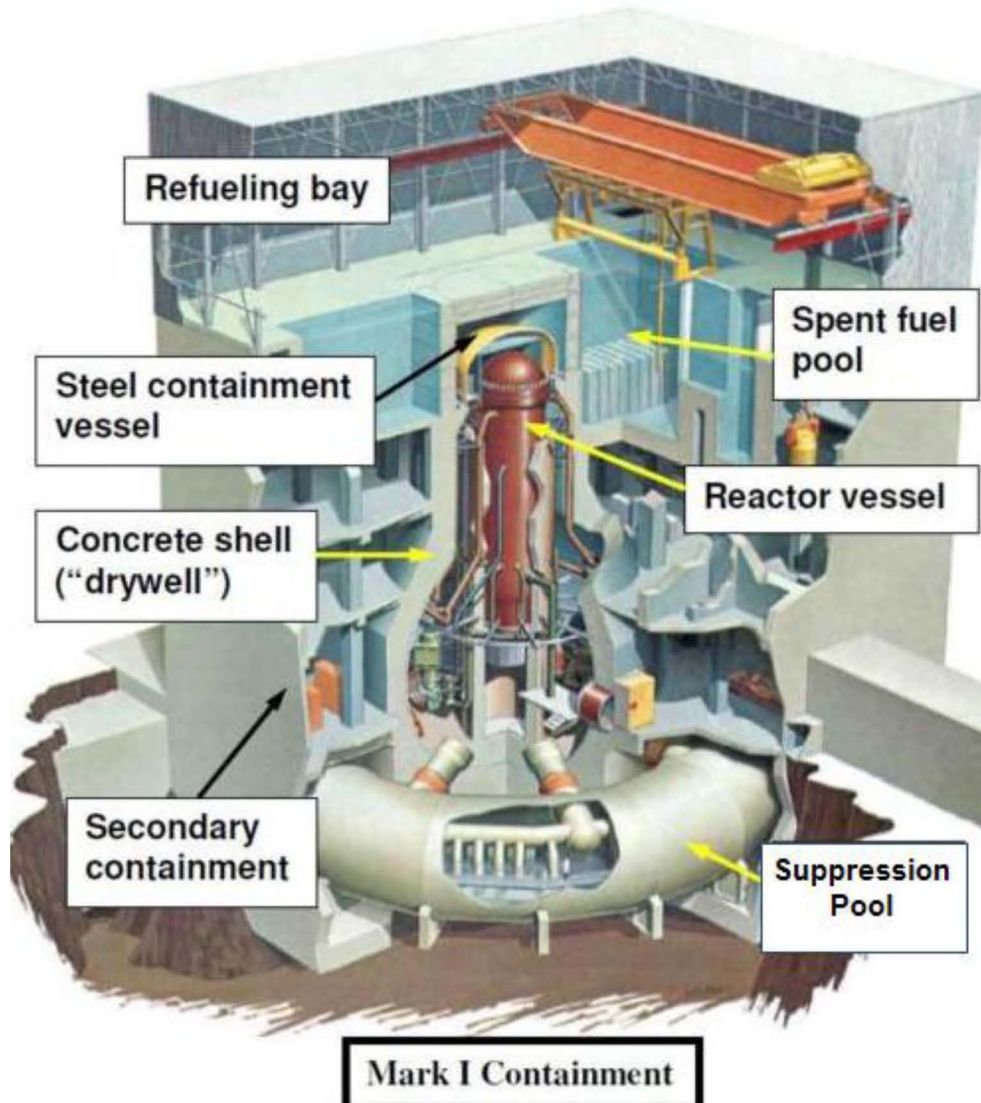
Fukushima-Daiichi event

- **Fukushima Daiichi Plant is located on the ocean's edge**
 - 6 Units, 4696 total MW
- **Nuclear Units faced an extreme natural disaster**
 - 9.0 Richter earthquake
 - Tsunami greater than 20 feet
- **Structurally survived earthquake beyond design**
 - Design 0.18g
 - Reported 0.25g
 - At Epicenter - 0.35g (9.0 Richter)
- **Tsunami disabled backup emergency diesel generators**
 - Units 1, 2, 3 lost ability to cool the cores and spent fuel pool cooling lost on Units 1-4

TEPCO Fukushima Daiichi Station

The Fukushima Daiichi Boiling Water Reactor (BWR) is a Mark I containment design

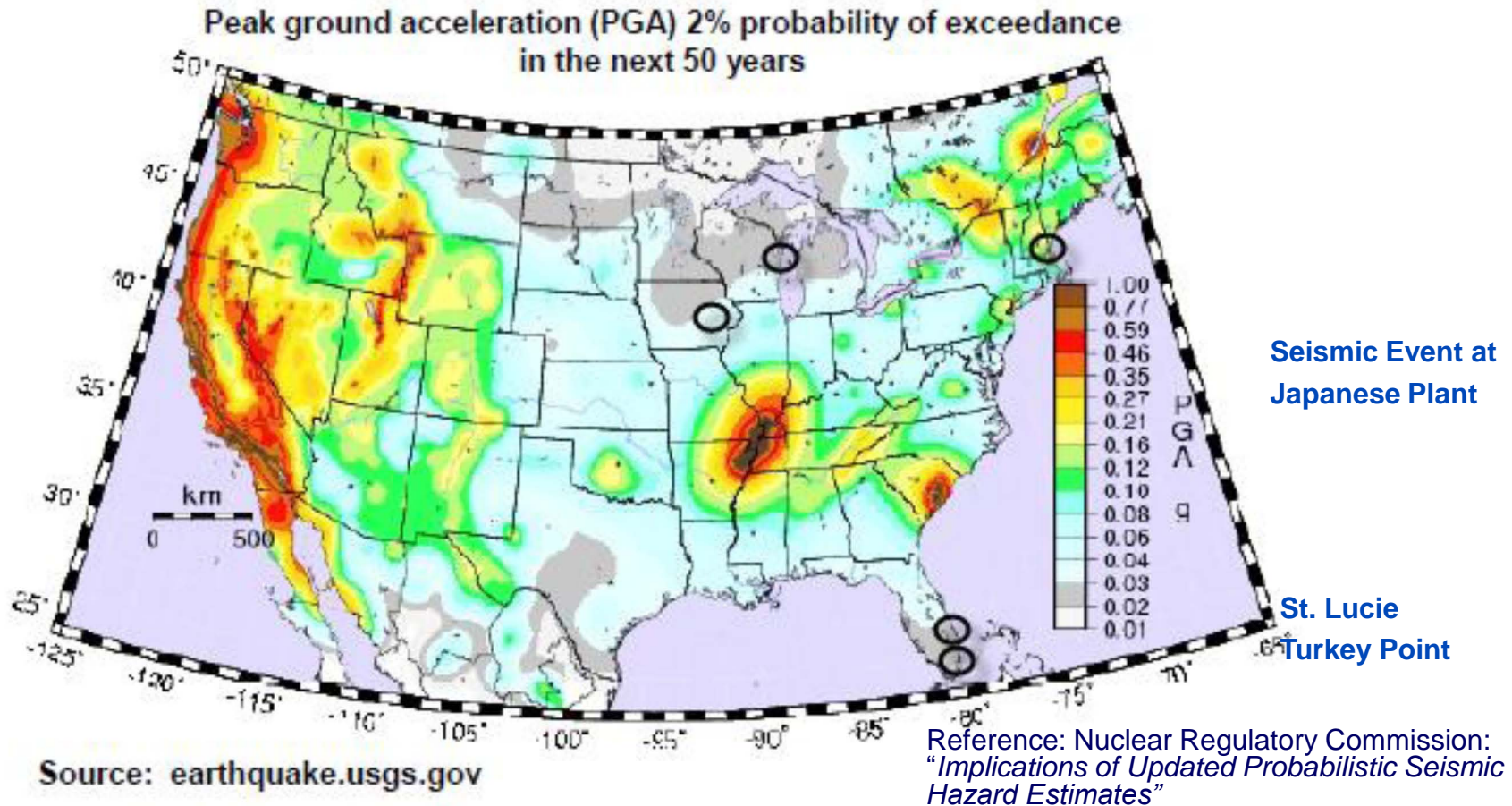
BWR containment overview



- **Mark I Containment Design**
 - Primary containment is the concrete shell surrounding the reactor vessel
 - Secondary containment is the building surrounding primary containment
 - Also concrete shell
- **Spent Fuel Pool**
 - Located directly atop secondary containment structure
 - Inside refueling bay
 - Refueling bay walls and roof are sheet metal

FPL's nuclear plants are located outside of "high hazard" areas defined by USGS and the NRC

Seismic Hazard Variability



Overview of the FPL seismic and flood design criteria

Turkey Point & St. Lucie Nuclear Plants



Turkey Point
South of Miami
Seismic: 0.15g
Flood: 22'

Pressurized Water Reactor

Workforce: Apx. 800 during normal operations.

Salaries: Approximately \$80 million annually.



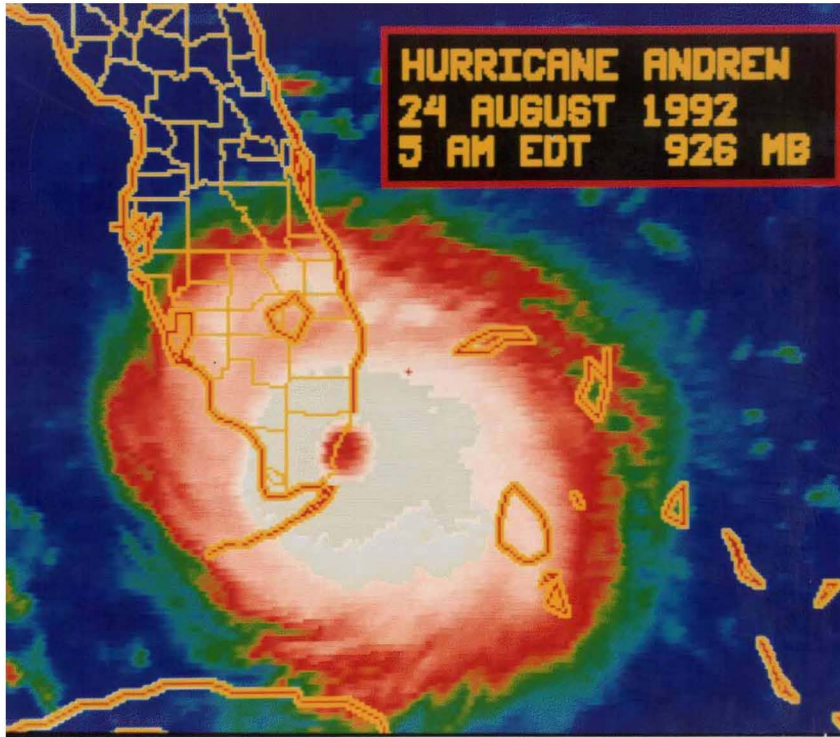
St. Lucie
Hutchinson Island
Seismic: 0.10g
Flood: 20'

Pressurized Water Reactor

Workforce: Apx. 800 during normal operations.

Salaries: Approximately \$67 million annually.

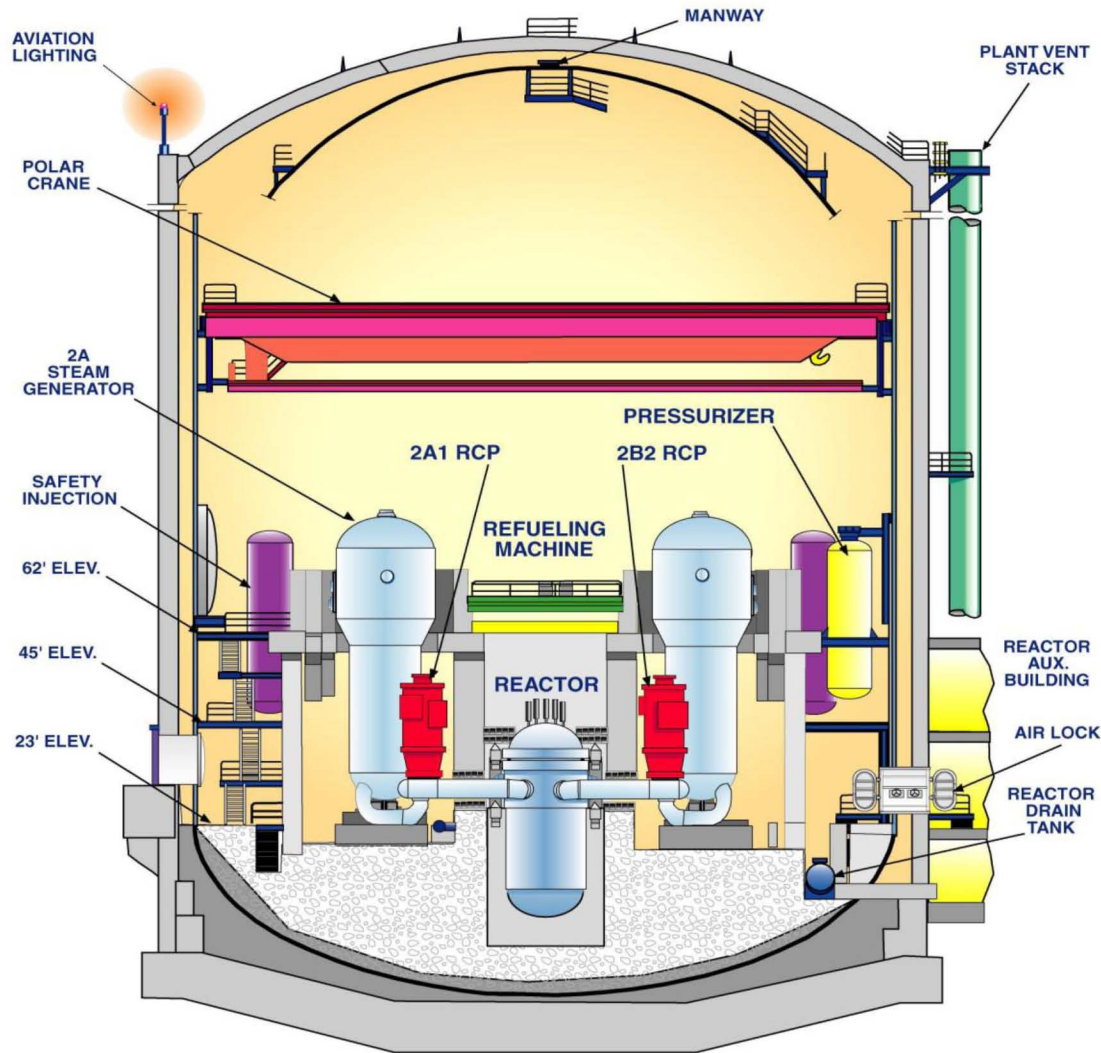
St. Lucie and Turkey Point have shown the strength of nuclear plant designs by withstanding severe weather events



Turkey Point Plant

- Units shut down hours prior to onset of hurricane force winds or any extreme external event
- Plants can withstand
 - Earthquakes
 - Category 5 hurricanes
 - Storm surges and flooding
 - Tornadoes and high winds
- Units constructed 20' above sea level
- 1992: Turkey Point withstood Hurricane Andrew
 - Direct hit to plant site
 - Category 5 storm
 - Offsite power was lost for 5 days
- Seismic Monitoring capability

All fuel inside a pressurized water reactor (PWR) is protected by a multi-layer containment system



PWR containment

1. Fuel cladding

- Zircaloy; strength of stainless steel

2. Reactor vessel and cooling system

- Vessel is protected by 9 inches to 1 foot of steel

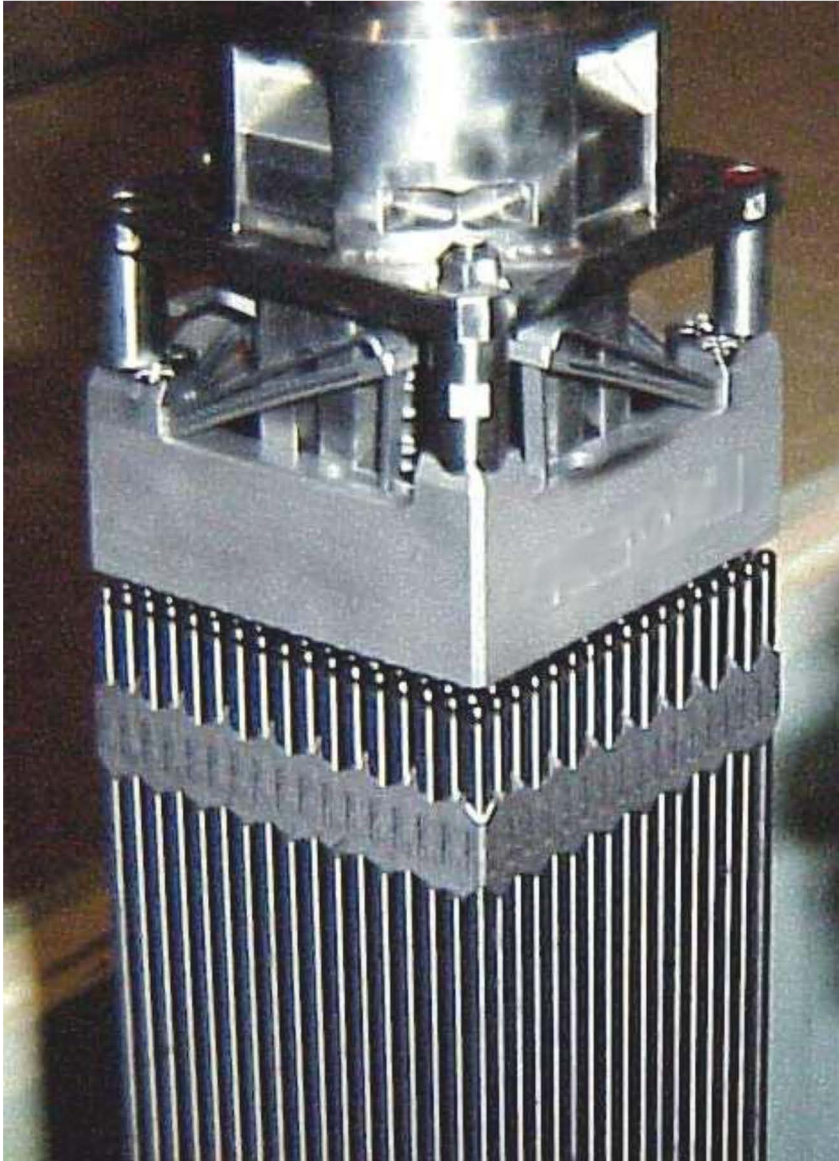
3. Multi-layer containment structure

- Over 3 feet concrete; steel liner inside the dome

St. Lucie and Turkey Point designs incorporate multiple and redundant systems

- **Defense in Depth is part of plant design**
- **Cooling systems designed with redundancy**
- **Redundant power sources for critical systems**
 1. Multiple off-site power lines (3)
 2. Emergency Diesel Generators (4)
 - Only one required to power cooling system
 - 7 days worth of fuel stored onsite
 - Fuel storage is protected
 3. Backup batteries for cooling and control room are stored onsite
 4. Multiple steam-driven Auxiliary Feed Water systems
 - Do not require AC power
 5. Portable diesel driven injection pumps
 - Pre-staged hoses and connections

Nuclear fuel comes in the form of pellets. These pellets are stacked inside fuel rods in a “fuel assembly”



Nuclear Fuel

- Different from weapons grade materials
- Commercial fuel enriched to 5%
- Weapons require enrichment over 85%

Pressurized Water Reactors have robust spent fuel pool cooling design



PWR Spent Fuel Pool

- Located outside reactor containment building in a steel reinforced concrete structure
 - Walls 1.5 feet thick concrete
- Multiple offsite power lines feed spent fuel pool cooling pumps
- Emergency diesel generators provide backup power
- Portable diesel driven fire pump supply available
- Alternate cooling sources available (site water, ocean water)

Procedures and training for “worst case” events is in place at all FPL nuclear plants



Operators review procedures in the control room while putting St. Lucie Unit 2 online following a refueling outage.

- **Tiered procedure levels**
 - Normal, off-normal, emergency, severe accident
- **Regular training for “worst case” scenarios**
 - Seismic events
 - Severe weather
 - Loss of cooling
 - Loss of offsite/ onsite power
- **Procedures and training have been tested in real events and simulated conditions**
 - Industry events and experience are routinely used to upgrade training and procedures

All nuclear plants are designed for and practice responding to even the most unlikely scenarios



During 2008's "500-year" flood, the Duane Arnold plant continued to operate safely and reliably because of design and elevation.

- **Planning, preparation is key**
- **Seasonal readiness:**
 - Formal review of plant equipment and personnel
 - Formal preparation for "worst case" severe weather
- **Preparation includes:**
 - Preparations for flooding and wind
 - Pre-staging tools and materials
 - Pre-staging of recovery teams, fuel, and other equipment
- **Seismic monitoring capability**

All FPL nuclear plants have integrated response plans with state, local emergency management agencies



Site emergency response teams perform regular, “real life” drills and briefings

- **Integrated State, County and plant emergency response**
 - On-site and off-site command centers
 - Siren activation (always available)
 - Preplanned Protective Actions
- **Drills involving state and local emergency organizations. Evaluated by FEMA and NRC. Drills include:**
 - Off Normal
 - Expected Emergencies
 - Events beyond Design
- **Real-life experience during hurricanes at both Florida sites**

We are at the “beginning of the beginning;” the situation will likely change and evolve over time

Summary

- **A similar event (earthquake and tsunami) is highly unlikely at FPL nuclear sites**
- **All plants are designed for the most severe events**
- **Redundant core cooling and power systems are built into designs**
- **Training and drills reflect “worst case” scenarios**
- **Company response has been quick, aggressive and coordinated**
- **Nuclear plants are proactively revalidating defense-in-depth**
- **Industry will incorporate lessons learned going forward**