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Before the House Energy, Utilities and Telecommunications Committee  
February 5, 2018

Neutral Testimony  
On House Bill 2563

Submitted by Christine Aarnes, Chief of Telecommunications, Utilities Division  
On Behalf of  
The Staff of the Kansas Corporation Commission

Chair Seiwert, Vice Chair Garber, Ranking Minority Member Kuether, and members of the committee, thank you for the opportunity to provide written testimony to your committee today on behalf of the staff of the Kansas Corporation Commission (Commission).

The Commission Staff is taking a neutral position on HB 2563. I would like to use this opportunity to explain and highlight some of the provisions of the bill from our perspective.

The proposed bill creates a rural broadband deployment and maintenance account within the Kansas Universal Service Fund (KUSF) to fund deployment and maintenance of broadband service in rural areas. The rural broadband deployment and maintenance account is to be funded by: (1) contributions from advanced telecommunications providers (as defined in the bill); and (2) by repurposing a portion of the KUSF support that is currently provided to eligible telecommunications carriers (ETCs).

Current and proposed contributions to the KUSF are paid by providers. Providers are allowed, but not required, to collect from their consumers an amount equal to their contribution to the KUSF. The bill does not contain a cap or estimate of the size of the rural broadband deployment and maintenance account; therefore, Staff is unable to ascertain the financial impact the bill may have on contributors to the KUSF or to consumers.

As noted, the new broadband account is to be partially funded by capping the amount of KUSF support provided to ETCs based upon the amount of KUSF “that was received...between March 1, 2017, and March 1, 2018”, and by incrementally reducing the amount of KUSF support received by ETCs beginning March 1, 2019. Staff notes a few issues with the proposed language that may need to be addressed. First, it is unclear whether the cap and phase-down of KUSF support is only applicable to high-cost recipients or to Lifeline recipients as well, as the bill does not explicitly limit the cap to high-cost KUSF recipients. Second, the cap is based upon the amount of KUSF that was received between March 1, 2017, and March 1, 2018. KUSF support is provided on or before the first of the month; therefore, the capped amount of support would technically include thirteen months of KUSF support. If the cap was intended to be limited to twelve months of support, March 1, 2018, should be changed to February 28, 2018. Third,

pursuant to current statute, competitive ETC high-cost support will be reduced to zero on March 1, 2018. Under the proposed bill, it appears that approximately \$2.2 million in annual high-cost support (or approximately \$2.4 million for thirteen months of support) would be reinstated and paid to competitive ETCs beginning March 1, 2019. If this was not the intent, Staff suggests the language in K.S.A. 66-2008(c)(7) be clarified to exclude competitive ETC support.

The bill provides for advanced telecommunications providers to submit applications to the KUSF administrator for financial assistance from the rural broadband deployment and maintenance account, and provides the KUSF administrator with the authority to approve such applications. The current KUSF administrator is not under contract to perform the various obligations and duties outlined in the proposed bill and Staff is uncertain whether the administrator has the expertise or personnel available to perform such obligations, such as reviewing and approving rural broadband deployment and maintenance applications. It would be necessary for the Commission to renegotiate the contract with the KUSF administrator to perform the plethora of additional duties assigned or to seek another administrator to perform the additional duties. Staff further notes that some provisions of the bill require the Commission to determine the requirements for rural broadband deployment and maintenance applications, while other provisions of the bill state that the KUSF administrator is provided with the authority to determine the application criteria.

Lastly, the bill provides for the KUSF administrator to set contribution rates for advanced telecommunications services based upon the projected obligations of the rural broadband deployment and maintenance account. As it is unknown how much support will be requested from the rural broadband deployment and maintenance account and it is unknown how much net retail revenue advanced telecommunications service providers generate in the state of Kansas, it may prove difficult for the KUSF administrator to project the funding requirement or assessment amount – at least in the first few years of the broadband account’s existence. Although some “seed money” will be provided by moving some funding allocated to ETCs to the rural broadband account, it may not be adequate to cover all of the broadband funding requests.

Thank you for the opportunity to offer our perspective on the proposed bill.