

Preliminary Report of the Statewide Broadband Expansion Planning Task Force to the 2019 Kansas Legislature

CO-CHAIRPERSONS: Senator Robert Olson and Representative Joe Seiwert

LEGISLATIVE MEMBERS: Senators Tom Hawk and Mike Petersen; and Representatives Randy Garber and Annie Kuether

NON-LEGISLATIVE MEMBERS: Kurt David, Daniel Friesen, Patrick Fucik, Colin Hansen, John Idoux, Colleen Jamison, Catherine Moyer, Lon Pishny, Mike Scott, Eric Sartorius, Doug Shepherd

EX OFFICIO MEMBERS: Christine Aarnes, Dan Strom (substitute for Richard Felts), Jennifer Findley, Ann Mah, Larry Thompson

CHARGE

Senate Sub. for HB 2701 (2018) directs the Task Force to:

- Work collaboratively to develop an approach that includes, but is not limited to, the development of criteria for the creation of a statewide map for defining and evaluating the broadband needs of Kansas citizens, businesses, industries, institutions, and organizations;
- Identify and document risks, issues, and constraints associated with a statewide broadband expansion project and develop any corresponding risk mitigation strategies where appropriate;
- Consider recent actions by the Federal Communications Commission relating to broadband services including, but not limited to:
 - The 2018 Broadband Deployment Report;
 - Recommendations of the Broadband Deployment Advisory Committee; and
 - Any actions to implement broadband initiatives using the Connect America Fund Phase II, the Mobility Fund II, or the Remote Areas Fund;

- Identify opportunities and potential funding sources to:
 - Expand broadband infrastructure and increase statewide access to broadband services;
 - Remove barriers that may hinder deployment of broadband infrastructure or access to broadband services; and
 - Consider options for the deployment of new advanced communication technologies;
- Develop criteria for prioritizing the expansion of broadband services across Kansas;
- Review current law and regulations concerning access to the public right-of-way for public utilities and make corresponding recommendations for any changes necessary to encourage broadband deployment; and
- Propose future activities and documentation required to complete the statewide broadband expansion plan, including an upgradeable, functional map of the state of available broadband service, as well as including which technologies should be deployed and the methods to finance broadband expansion.

Statewide Broadband Expansion Planning Task Force

PRELIMINARY REPORT

Conclusions and Recommendations

The Task Force did not make recommendations or propose legislation.

Proposed Legislation: None

BACKGROUND

The Statewide Broadband Expansion Planning Task Force (Task Force) was created by Senate Sub. for HB 2701 (2018), codified at KSA 66-1286. The Task Force is charged with working collaboratively to develop criteria for the creation of a statewide map for defining and evaluating the broadband needs of Kansas, identifying issues associated with a statewide broadband expansion project, considering recent action by the Federal Communications Commission (FCC) related to broadband services, identifying funding sources to expand broadband, developing criteria for prioritizing the expansion of broadband services across Kansas, reviewing current law concerning access to the public right-of-way for public utilities, and proposing future activities to complete the statewide broadband expansion plan.

The Task Force is composed of 22 members (17 voting members and 5 ex officio members) with 3 from the House of Representatives and 3 from the Senate; 11 non-legislative members appointed by the Kansas Association of Counties, League of Kansas Municipalities, Kansas Rural Independent Telephone Coalition, Kansas Cable Telecommunications Association, Cellular Telecommunications Industry Association, an electing carrier, an incumbent local exchange carrier, Kansas Electric Cooperatives, State Independent Telephone Association, Kansas Municipal Utilities, and Kansas Independent Fiber Association; and 5 ex officio members appointed by the Governor, Kansas Hospital Association,

Kansas Corporation Commission, the Commissioner of Education, and the Secretary of Transportation. The Task Force is permitted to meet in an open meeting at any time upon call of either co-chairperson.

As required by the bill, the Task Force is to make and submit its initial report to the House Committee on Energy, Utilities and Telecommunications and the Senate Committee on Utilities prior to January 15, 2019, and its final report prior to January 15, 2020. This report replaces a preliminary report published in electronic-only format prior to the statutory deadline. (Please contact the Kansas Legislative Research Department for the electronic-only report.) The Task Force is scheduled to expire on June 30, 2020.

TASK FORCE ACTIVITIES

The Task Force met on January 11, 2019, and, in accordance with its statutory charge, heard presentations on the status of broadband in Kansas, broadband grant projects, and the Connect America Fund.

Broadband in Kansas

The Director of Broadband Initiatives, Kansas Department of Commerce, reviewed the importance of broadband access and utilization to economic growth in Kansas. The Director also noted the five objectives of Kansas public policy

as stated in the Kansas Telecommunications Act: ensure every Kansan has access to a first-class telecommunications infrastructure that provides excellent service at an affordable price, ensure citizens realize the benefits of competition, promote consumer access to a full range of telecommunications services, advance the development of a statewide telecommunications infrastructure, and protect consumers of telecommunications services from fraudulent practices.

Broadband Grant Projects

A representative of Connected Nation explained the Governor's Office received broadband mapping grant funds from the Information Network of Kansas (INK) and the Governor's Office then contracted with Connected Nation to implement two broadband mapping projects. The first project was a Mobility Fund Stage II challenge process and the other project was creation of a statewide broadband availability map.

Mobility Fund Stage II Challenge Process

The representative provided the following explanation and update of the project. The FCC's Mobility Fund Phase II (a component of the federal Universal Service Fund [USF]) has designated \$4.53 billion for long-term evolution (LTE), the highly technical process involved in high-speed data for smart phones and mobile devices, broadband service build-out over ten years in eligible areas across the country.

According to the map created by the FCC indicating the areas eligible for Mobility Fund Phase II funding due to lack of LTE broadband service, Kansas has very few eligible areas. Connected Nation undertook testing across the state to show the number of eligible areas in Kansas should be increased. Connected Nation staff drove more than 15,000 miles across Kansas to conduct tests to determine the download speed per square kilometer grid cell; tests could be no more than 800 meters apart from one another. Of 187,397 tests that were conducted, 119,994 (64.0 percent) failed, meaning the tests indicated less than 5 megabit per second (Mbps) service or no service at all in the areas where service had been reported as available by mobile carriers to the

FCC. The challenge data collected by Connected Nation will be reviewed by the FCC. Mobile carriers will have an opportunity to challenge the challenge and provide evidence that any submitted challenges were done in error. The FCC will adjudicate the claims and publish an updated eligibility map. Carriers will be able to submit bids during the Mobility Fund Phase II reverse auction to build out service in eligible areas. The FCC will announce the auction winners and the winners will begin building out new service. The representative estimated this process would take another year to complete.

Statewide Broadband Availability Map

The representative of Connected Nation stated the second project was to create a granular statewide broadband availability map. Connected Nation collected street-level data on service availability (provider names, provider types, speed, and serviceable location) and service types (fiber, cable DSL, fixed wireless, and mobile wireless). This data was collected from internet service providers (ISPs). Of the 91 viable ISPs, only 6 refused to participate. The initial map was delivered to the Governor's Office on December 31, 2018, and a revised map will be available by July 2019. The interactive map is available at <https://arcg.is/5L9jO>.

Connect America Fund

The Chief of Telecommunications and Southwest Power Pool Affairs (Chief of Telecommunications), Kansas Corporation Commission, provided the history and an update on the federal Connect America Fund (CAF) as follows. In 2011, an FCC Order reformed the federal USF. The Order created the CAF, which replaced the legacy High Cost Fund (HCF), to promote broadband expansion through incentive-based funding to areas that would not otherwise receive this service. The HCF promoted maintaining voice services only and the CAF promotes maintaining and expanding voice and broadband services. The HCF was cost-based funding and CAF is incentive-based funding. Generally, the goal of CAF is to provide voice and broadband services at reasonable rates. The Chief of Telecommunications traced the funding process from 2012 through 2018 for both price-cap funding and rate-of-return (ROR) funding in

Kansas and reviewed the CAF funding requirements for broadband service in price-cap areas. The CAF Phase I Round 1 funding began in 2012 with a service requirement of 4 Mbps download and 1 Mbps upload (4/1) to at least one unserved location for each \$775 received. Kansas providers did not receive any of this funding. Round 2 of CAF Phase I funding reduced the speed requirement to 3 Mbps download and 768 kilobits per second upload. Three Kansas providers received Round 2 funding for a total of \$214,825 for 346 locations in Kansas. In 2014, the FCC offered the Rural Broadband Experiments and offered funding for 25 Mbps download and 5 Mbps upload in certain areas and 10 Mbps download and 1 Mbps upload (10/1) in other areas. Only one Kansas provider was approved for funding under this program. In 2015, CAF Phase II offered funding for 10/1 service speed. AT&T accepted \$18.9 million to provide 10/1 to 35,375 eligible locations and Century Link accepted \$16.5 million to deploy 10/1 to 29,018 eligible locations. In the 2018 CAF Phase II Auction, funding was offered for a minimum speed 10 Mbps to 1 gigabit per second. Seven Kansas providers were awarded funds and six providers have completed the initial paperwork.

To receive CAF funding, ROR carriers were required to offer 10/1 broadband service upon a customer's reasonable request. If 10/1 speed was not reasonable, the FCC allowed ROR carriers to offer 4/1. In a 2014 order, the FCC defined a reasonable request as a request where the carrier could cost-effectively extend a voice and broadband-capable network to that location. Further, in determining whether a particular upgrade is cost effective, the order stated the carrier should consider not only its anticipated end-user voice and broadband revenues, but other sources of support, such as USF. In 2016, the FCC developed the Alternative Connect America Cost Model (A-CAM) to provide support based on cost models to ROR carriers with a 10/1 requirement. In 2018, the FCC issued a CAF Reform Report and Order. ROR carriers that currently receive A-CAM support were offered additional funding if they would expand the broadband availability to 25/3 while deploying at least 10/1 to new locations in their service areas. The order also provided an opportunity for ROR carriers that did not elect to transition to A-CAM support in 2016 to transition to A-CAM II model-based support in return for

specifically tailored obligations to deploy 25/3. Finally, the order authorized support for those ROR carriers that elected to remain on legacy ROR support in exchange for build-out of 25/3 service.

The Chief of Telecommunications concluded by stating at its January 30, 2019, meeting the FCC was slated to issue an order to address the support provided to competitive eligible telecommunications carriers (CETC) for expansion of mobile broadband. CETC support is frozen at 60.0 percent of the 2011 amount, and the new order may continue phasing down the CETC support in 2019.

Task Force Discussion

After hearing the presentations detailed above, the Task Force generally discussed the following:

- Appreciation for the broadband vision and funding provided by Governor Colyer and INK;
- Whether a broadband accessibility map is necessary to promote broadband expansion in the state and the expense of maintaining such a map;
- The FCC's role in encouraging ISPs to share their data;
- The standard the State should follow to set a new definition of broadband;
- Options for funding broadband expansion;
- Whether and to what extent the Task Force should partner with the House Committee on Rural Revitalization;
- What additional information the Task Force needs to fulfill its statutory charge and what stakeholders should provide the information;
- The adoption rate of broadband across various customer bases in the state;

- The possibility of building a system that will be sustainable into the future;
- The challenge of identifying all federal funding available to the State;
- The benefit of reviewing broadband expansion plans from other states;
- The need to develop criteria for prioritizing the expansion of broadband services across Kansas; and

- Whether working groups should be formed to work on specific areas of the statutory charge.

The Co-chairperson asked members to prepare for the next meeting by identifying and prioritizing key tasks necessary to fulfill the Task Force's charge.

CONCLUSIONS AND RECOMMENDATIONS

The Task Force did not make recommendations or propose legislation.