

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Senator Karin Brownlee at 8:15 a.m. on March 22, 2002 in Room 123-S of the Capitol.

All members were present except:

Committee staff present:

Sherman Parks, Revisor of Statutes
Norman Furse, Revisor of Statutes
April Holman, Legislative Research
Debra Hollon, Legislative Research
Lea Gerard, Committee Secretary

Conferees appearing before the committee:

Phil Harness, Dept. of Human Resources
Carolyn Bloom, Physical Therapist
Janet Buchanan, KCC

Others attending:

See attached list.

HB 2719—Amendments to state purchasing statutes

Norman Furse, Revisor of Statutes briefed the committee on changes to **HB 2719**, Page 4, stating the section covers competitive purchasing statutes as it relates to the state agencies and the Director of Purchasing.

Senator Barone moved, seconded by Senator Emler to amend **HB 2719**, Page 4, Line 36 and 37, after the word “subsection” to read (h), (i) or (j). Motion carried.

Senator Barone moved, seconded by Senator Emler to amend **HB 2719**, Page 4, Line 26, to insert “Except as otherwise provided”, before the word “Purchases”. Motion carried.

John Houlihan, Director of Purchases, had concern with an amendment for **HB 2719**, Page 5, Line 11 that would allow state agencies to purchase outside of the state-wide contract without his approval. Currently there is a policy in place that allows state agencies to obtain approval to purchase supplies from any source that is cheaper than the price in the state contract (Attachment 1). A form is filled out by the state agency and faxed to the Director of Purchases for approval. Approximately 75% of the requests are approved within 24 hours.

After committee discussion it was decided the current system was working to make purchases and the amendment was not adopted.

Senator Barone moved, seconded by Senator Jordan to move **HB 2719** as amended out favorably for passage. Motion carried.

HB 2729—Workers compensation; wholly dependent children.

Phil Harness, Director of Workers Compensation, testified in support of **HB 2729** (Attachment 2). It accomplishes the following four things:

1. Provides that limited liability company members will be defined the same as individuals employers, partners, or self-employed persons who are not subject to the Workers Compensation Act.
2. Provides that persons receiving workers compensation death benefits will continue to be required to file an annual statement with the insurance carrier, self-insured employer, or group pool that is paying death benefits to prove the person’s continued eligibility for the benefits.
3. Provides that the Division of Workers Compensation records are that are open to public inspection will no longer include individuals social security number.
4. Provides that the Secretary of Revenue will be required to disclose to the Division of Workers Compensation names, addresses and social security numbers of individual income tax payers to verify information in the Division database.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE at on March 22, 2002 in Room 123-S of the Capitol.

Phil Harness stated since the time the bill was first drafted there have been two other items that passed the Workers Compensation Advisory Council for **HB 2729** (Attachment 3).

The committee discussed the proposed amendment to address 44-510-K that defines costs for **HB 2729**. Chairperson Brownlee requested that Senator Emler work with Phil Harness to see if there is an appropriate statute that would define cost.

Senator Emler stated he had a proposed amendment for **HB 2729** (Attachment 4) that would add one member from the Kansas Physical Therapy Group to the Advisory Panel for Workman's Comp. The proposed amendment came from **SB 566**.

Carolyn Bloom, Physical Therapist, testified in support of the proposed amendment for **HB 2729**. Physical Therapists have provided services to patients who have received workman's compensation payments for approximately the last 29 years in Topeka. Physical Therapists provide a large amount of care for workman's comp. patients. As of today, there is not a Physical Therapist on the committee to give input as to the appropriate utilization of physical medicine rehabilitation codes.

Terry Leatherman, KCCI, testified as a neutral party on the proposal to add a Physical Therapist to the Workman's Comp. Advisory Council. The KCCI's concern of adding a Physical Therapist is that currently there is a labor representative, a management representative and many medical providers which typically vote as a bloc.

Wayne Michael, AFL-CIO, testified as a neutral party to the proposal of adding a Physical Therapist to the Workman's Comp Advisory Council. The panel that was originally set-up in 1993 had more authority than now. Labor and Management input now has less impact due to the medical bloc.

Terry Humphrey, Executive Director, Kansas Trial Lawyers Association, presented written testimony as an opponent for **HB 2729** (Attachment 5).

There being no further conferees wishing to testify, the hearing on **HB 2729** was closed.

Janet Buchanan, KCC, briefed the committee on the status of deployment for Broadband and competition (Attachment 6).

Chairperson Brownlee asked Janet Buchanan on Page 12 of the attachment where it says "Confidential" why that information cannot be provided. Janet Buchanan stated for Southwestern Bell's data, except for total line count, they consider that information confidential. For all years but 2001, she was able to find publicly available information. The Southwestern Bell information for year 2000 was provided by ARMIS data that the FCC collects and that data is not yet available for 2001. Chairperson Brownlee stated why is it that Southwestern Bell has to submit the information to the FCC but when the KCC makes a request for it they will not provide the information. Janet Buchanan stated the Commission has grown more concerned about the amount of information that is considered confidential and will be working in the near future with Southwestern Bell to examine more closely what actually is confidential.

The meeting was adjourned at 9:30 a.m.

The next meeting is scheduled for Monday, March 25, 2002 at 8:30 a.m.

**SENATE COMMERCE COMMITTEE
GUEST LIST**

DATE: March 22, 2002

NAME	REPRESENTING
JANET PUNCHANAN	KCC
TOM DAY	KCC
Kellany Hayes	Federico Consulting
Jerry Niebaum	Board of Regents
Jolene Wilkin	KBOR-KAN-ED
Hal Gardner	KSDE
Michael Byington	KS - Telecommunications Access Program and KAST
D. KEITH MEYERS	ADMINISTRATION
Zeo Vogt	D of A
John Houlihan	"
Phil Harner	KDHR - Div. of Work Comp.
Edward Rodriguez	SWBT
Tim Pickering	SBC - Southwestern Bell
Granda Carter	SWBT
Tom Grachner	Sue BT
Ken Hurst	work Comp.
Mike Reed	AT&T
Wayne Maier	B. PAL - CTO
Susan Mahoney	Gov's Office



DEPARTMENT OF ADMINISTRATION
Division of Purchases

3-22
dto
BILL GRAVES
Governor

JOYCE H. GLASSCOCK
Acting Secretary of Administration

JOHN T. HOULIHAN
Director of Purchases
900 S.W. Jackson, Room 102-N
Landon State Office Building
Topeka, KS 66612-1286
(785) 296-2376
FAX (785) 296-7240
<http://da.state.ks.us/purch>

Memorandum

TO: Members, Senate Commerce Committee

FROM: John T. Houlihan *John T. Houlihan*

SUBJECT: Off Contract Purchasing Authority

DATE: March 21, 2002

Attached is a copy of my policy on off contract purchases. It allows state agencies to obtain approval to purchase supplies from any source that is cheaper than the price in the state contract. Approval is obtained by completing and faxing a one-page form to my office. Approximately 75% of these requests are approved within 24 hours.

Senate Commerce Committee
March 22, 2002
Attachment 1-1



BILL GRAVES
Governor

DEPARTMENT OF ADMINISTRATION
Division of Purchases

JOHN T. HOULIHAN
Director of Purchases
900 S.W. Jackson, Room 102-N
Landon State Office Building
Topeka, KS 66612-1286
(913) 296-2376
FAX (913) 296-7240

August 13, 1996

DIVISION OF PURCHASES INFORMATIONAL CIRCULAR 577

TO: All State Agencies
FROM: John T. Houlihan, Director of Purchases
SUBJECT: Statewide Contracts

The following information is provided on state wide contracts and Kansas Industries for the Blind (KIB) and Rehabilitation Services Products (RSP):

State Wide Contracts:

State wide, requirements type contracts are awarded by the Division of Purchases to take advantage of volume discount pricing for items that have a recurring demand from one or more agencies. These contracts are generally a mandatory source of supply for all state agencies. However, if a state agency locates a vendor that can provide the identical item at a lower price, a waiver to "buy off state contract" may be granted by the state procurement officer. My general policy is to grant these waivers unless there are some "in the best interests of the state" reasons to disapprove the request. The Division of Purchases will try to accommodate agencies in any way possible. To obtain this waiver, the agency purchasing official must fill out and submit the attached prior authorization form. This form is also used to request sole source, emergency, and interagency purchase authorization. Please work with your procurement officer and the authorization form will be quickly processed. These purchases are defined as follows:

- Off Contract Purchase: The purchase of a state wide contract item from a source other than the State contract.
- Sole Source Purchase: No competition exists; laboratory or experimental studies, chemicals, material or equipment; rates are fixed by law.
- Emergency Purchase: A sole source purchase required because of an agency emergency that requires immediate performance by a vendor. (i.e. Roof blows off a building)
- Interagency Purchase: The purchase of goods or services from another government agency or a private Non-Profit Educational Institution.

Kansas Industries for the Blind and Rehabilitation Services Products (KIB/RSP):

K.S.A. 75-3321 requires all state agencies to purchase products listed in the "Catalogue of Blind and Handicapped Made Products" from KIB/RSP. K.S.A. 75-3322 allows the Secretary of Social and Rehabilitation Services to waive the catalogue as a mandatory source if KIB/RSP cannot supply the products listed or are unable to meet delivery requirements. Remanufactured and new printer cartridges are listed in the catalogue and are an important product for KIB/RSP. In order for the remanufactured program to be successful, approximately 75% of all cartridges ordered must be remanufactured. In some cases, the remanufactured cartridge is about one half the cost of a new cartridge; so the use of these cartridges will result in considerable savings to the state. KIB/RSP has assured me that these cartridges have a 100% satisfaction warranty and they will promptly fix or replace any defective cartridges. I encourage all state agencies to support KIB/RSP by ordering remanufactured rather than new cartridges.

cc: Jeff Wagaman
Shirley Moses
Art Griggs

PRIOR AUTHORIZATION FORM

INSTRUCTIONS: Submit form in duplicate to: Kansas Division of Purchases, 900 S.W. Jackson, Room 102N, Landon State Office Building, Topeka, Kansas 66612-1286.

Acquisition in the amount of \$ _____ is requested for:

() Off Contract Purchase () Sole Source () Emergency Purchase () Interagency

Vendor:

Address:

Description of Material or Service:

Reason for Acquisition or Exception:

AGENCY USE ONLY

Agency Name: _____

Agency Approval: _____ Date: _____
(Signature and Title)

DIVISION OF PURCHASES USE ONLY

Approved by: _____ Date _____
(State Procurement Officer Signature)

1.4

**TESTIMONY BEFORE THE SENATE COMMERCE COMMITTEE
ON HOUSE BILL 2729**

By Philip S. Harness
March 21, 2002

House Bill 2729 is a compilation of the items which have passed the Workers Compensation Advisory Council earlier this year.

House Bill 2729 accomplishes four things.

1. **Sections 1 and 3** provide that limited liability company members will be defined the same as individual employers, partners, or self-employed persons, who are not subject to the Workers Compensation Act, but may elect to bring themselves under the act by filing an election to that effect with the Division of Workers Compensation (and purchasing insurance). The limited liability company act formerly contained a provision that limited liability company members would be treated as partners. However, the 1999 revised limited liability company act repealed that provision, leaving nothing in its place. Therefore, a question had arisen as to the appropriate treatment of limited liability company members.
2. **Section 2** provides that persons receiving workers compensation death benefits will continue to be required to file an annual statement with the insurance carrier, self-insured employer, or group-funded workers compensation pool who is paying the death benefits to prove the person's continued eligibility for those benefits. This changes the existing statute wherein the person's annual statement must be filed with both the Director and the payor, and would require the statement to be filed only with the payor. **Section 2** also rewords, but does not change the law of the eligibility for a "wholly dependent child" of the deceased employee to receive compensation.
3. **Section 4** provides that the Division of Workers Compensation records that are open to public inspection will no longer include an individual's social security number unless the requester meets the criteria set forth in subsections (A) through (G). Also the record of requests shall likewise not include social security numbers.
4. **Section 5** provides that the Secretary of Revenue will be required to disclose to the Division of Workers Compensation names, addresses, and social security numbers of individual income tax payers for use in verifying information in the Division database.

Senate Commerce Committee
March 22, 2002
Attachment 2-1

44-510k. Post-award medical benefits; application; notice; attorney fees. (a) At any time after the entry of an award for compensation, the employee may make application for a hearing, in such form as the director may require for the furnishing of medical treatment. Such post-award hearing shall be held by the assigned administrative law judge, in any county designated by the administrative law judge, and the judge shall conduct the hearing as provided in K.S.A. 44-523 and amendments thereto. The administrative law judge can make an award for further medical care if the administrative law judge finds that the care is necessary to cure or relieve the effects of the accidental injury which was the subject of the underlying award. No post-award benefits shall be ordered without giving all parties to the award the opportunity to present evidence, including taking testimony on any disputed matters. A finding with regard to a disputed issue shall be subject to a full review by the board under subsection (b) of K.S.A. 44-551 and amendments thereto. Any action of the board pursuant to post-award orders shall be subject to review under K.S.A. 44-556 and amendments thereto.

(b) Any application for hearing made pursuant to this section shall receive priority setting by the administrative law judge, only superseded by preliminary hearings pursuant to K.S.A. 44-534a and amendments thereto. The parties shall meet and confer prior to the hearing pursuant to this section, but a prehearing settlement conference shall not be necessary. The administrative law judge shall have authority to award medical treatment relating back to the entry of the underlying award, but in no event shall such medical treatment relate back more than six months following the filing of such application for post-award medical treatment. Reviews taken under this section shall receive priority settings before the board, only superseded by reviews for preliminary hearings. A decision shall be rendered by the board within 30 days from the time the review hereunder is submitted.

(c) The administrative law judge may award attorney fees and costs on the claimant's behalf consistent with subsection (g) of K.S.A. 44-536 and amendments thereto. *As used in this subsection "costs" include witness fees, mileage allowances, any costs associated with reproduction of documents that become a part of the hearing record and the expense of making a record of the hearing.*

44-523. Hearing procedure; time limitations on evidence and entry of award; prehearing settlement conference; change of administrative law judge. (a) The director, administrative law judge or board shall not be bound by technical rules of procedure, but shall give the parties reasonable opportunity to be heard and to present evidence, insure the employee and the employer an expeditious hearing and act reasonably without partiality.

(b) Whenever a party files an application for hearing pursuant to K.S.A. 44-534 and amendments thereto, the matter shall be assigned to an administrative law judge for hearing and the administrative law judge shall set a terminal date to require the claimant to submit all evidence in support of the claimant's claim no later than 30 days after the first full hearing before the administrative law judge and to require the respondent to submit all evidence in support of the respondent's position no later than 30 days thereafter. An extension of the foregoing time limits shall be granted if all parties agree. An extension of the foregoing time limits may also be granted:

(1) if the employee is being paid temporary or permanent total disability compensation;

(2) for medical examination of the claimant if the party requesting the extension explains in writing to the administrative law judge facts showing that the party made a diligent effort but was unable to have a medical examination conducted prior to the submission of the case by the claimant but then only if the examination appointment was set and notice of the appointment sent prior to submission by the claimant; or

(3) on application for good cause shown.

(c) When all parties have submitted the case to an administrative law judge for an award, the administrative law judge shall issue an award within 30 days. When the award is not entered in 30 days, any party to the action may notify the director that an award is not entered and the director shall assign the matter to an assistant director or to a special administrative law judge who shall enter an award forthwith based on the evidence in the record, or the director, on the director's own motion, may remove the case from the administrative law judge who has not entered an award within 30 days following submission by the party and assign it to an assistant director or to a special administrative law judge for immediate decision based on the evidence in the record.

(d) Not less than 10 days prior to the first full hearing before an administrative law judge, the administrative law judge shall conduct a prehearing settlement conference for the purpose of obtaining stipulations from the parties, determining the issues and exploring the possibility that the parties may resolve those issues and reach a settlement prior to the first full hearing.

(e)(1) If a party or a party's attorney believes that the administrative law judge to whom a case is assigned cannot afford that party a fair hearing in the case, the party or attorney may file a motion for change of administrative law judge. A party or a party's attorney shall not file more than one motion for change of administrative law judge in a case. The administrative law judge shall promptly hear the motion informally upon reasonable notice to all parties who have appeared in the case. Notwithstanding the provisions of K.S.A. 44-552 and amendments thereto, the administrative law judge shall decide, in the administrative law judge's discretion, whether or not the hearing of such motion shall be taken down by a certified shorthand reporter. If the administrative law judge disqualifies the administrative law judge's self, the case shall be assigned to another administrative law judge by the director. If the administrative law judge refuses to disqualify the administrative law judge's self, the party seeking a change of administrative law judge may file in the district court of the county in which the accident occurred the affidavit provided in subsection (e)(2). If an affidavit is to be filed in the district court it shall be filed within 10 days.

(2) *If a party or party's attorney files an affidavit alleging any of the grounds specified*

in subsection (e)(3), the chief judge shall at once determine, or refer the affidavit to another district court judge for prompt determination of, the legal sufficiency of the affidavit. If the affidavit is filed in a district court in which there is no other judge who is qualified to hear the matter, the chief judge shall at once notify the departmental justice for the district and request the appointment of another district judge to determine the legal sufficiency of the affidavit. If the affidavit is found to be legally sufficient the district court judge shall order the director to assign the case to another administrative law judge or to an assistant director.

(3) Grounds which may be alleged as provided in subsection (e)(2) for change of administrative law judge are that:

(A) The administrative law judge has been engaged as counsel in the case prior to the appointment as administrative law judge.

(B) The administrative law judge is otherwise interested in the case.

(C) The administrative law judge is related to either party in the case.

(D) The administrative law judge is a material witness in the case.

(E) The party or party's attorney filing the affidavit has cause to believe and does believe that on account of the personal bias, prejudice or interest of the administrative law judge such party cannot obtain a fair and impartial hearing. Such affidavit shall state the facts and the reasons for the belief that bias, prejudice or an interest exists.

(4) In any affidavit filed pursuant to subsection (e)(2), the recital of previous rulings or decisions by the administrative law judge on legal issues or concerning prior motions for change of administrative law judge filed by counsel or such counsel's law firm, pursuant to this subsection, shall not be deemed legally sufficient for any belief that bias or prejudice exists.

Proposed Amendment to HB 2729

Be amended:

On page 11, after line 10, by inserting the following:

"Sec. 6. K.S.A. 2001 Supp. 44-510i is hereby amended to read as follows: 44-510i. (a) The director shall appoint, subject to the approval of the secretary, a specialist in health services delivery, who shall be referred to as the medical administrator. The medical administrator shall be a person licensed to practice medicine and surgery in this state and shall be in the unclassified service under the Kansas civil service act.

(b) The medical administrator, subject to the direction of the director, shall have the duty of overseeing the providing of health care services to employees in accordance with the provisions of the workers compensation act, including but not limited to:

(1) Preparing, with the assistance of the advisory panel, the fee schedule for health care services as set forth in this section;

(2) developing, with the assistance of the advisory panel, the utilization review program for health care services as set forth in this section;

(3) developing a system for collecting and analyzing data on expenditures for health care services by each type of provider under the workers compensation act; and

(4) carrying out such other duties as may be delegated or directed by the director or secretary.

(c) The director shall prepare and adopt rules and regulations which establish a schedule of maximum fees for medical, surgical, hospital, dental, nursing, vocational rehabilitation or any other treatment or services provided or ordered by health care providers and rendered to employees under the workers compensation act and procedures for appeals and review of disputed charges or services rendered by health care providers under this section;

(1) The schedule of maximum fees shall be reasonable, shall promote health care cost containment and efficiency with respect to the workers compensation health care delivery system, and shall be sufficient to ensure availability of such reasonably necessary treatment, care and attendance to each injured employee to cure and relieve the employee from the effects of the injury. The schedule shall include provisions and review procedures for exceptional cases involving extraordinary medical procedures or circumstances and shall include costs and charges for medical records and testimony.

(2) In every case, all fees, transportation costs, charges under this section and all costs and charges for medical records and testimony shall be subject to approval by the director and shall be limited to such as are fair, reasonable and necessary. The schedule of maximum fees shall be revised as necessary at least every two years by the director to assure that the schedule is current, reasonable and fair.

(3) Any contract or any billing or charge which any health

care provider, vocational rehabilitation service provider, hospital, person or institution enters into with or makes to any patient for services rendered in connection with injuries covered by the workers compensation act or the fee schedule adopted under this section, which is or may be in excess of or not in accordance with such act or fee schedule, is unlawful, void and unenforceable as a debt.

(d) There is hereby created an advisory panel to assist the director in establishing a schedule of maximum fees as required by this section. The panel shall consist of the commissioner of insurance and seven members appointed as follows: One person shall be appointed by the Kansas medical society; one member shall be appointed by the Kansas association of osteopathic medicine; one member shall be appointed by the Kansas hospital association; one member shall be appointed by the Kansas chiropractic association; one member shall be appointed by the Kansas physical therapy association; and three members shall be appointed by the secretary. Of the members appointed by the secretary, one shall be a representative of employers recommended to the secretary by the Kansas chamber of commerce and industry; one shall be a representative of employees recommended to the secretary by the Kansas AFL-CIO; and one shall be a representative of providers of vocational rehabilitation services pursuant to K.S.A. 44-510g and amendments thereto. Each appointed member shall be appointed for a term of office of two years which shall commence on July 1 of the year of appointment.

Members of the advisory panel attending meetings of the advisory panel, or attending a subcommittee of the advisory panel authorized by the advisory panel, shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

(e) All fees and other charges paid for such treatment, care and attendance, including treatment, care and attendance provided by any health care provider, hospital or other entity providing health care services, shall not exceed the amounts prescribed by the schedule of maximum fees established under this section or the amounts authorized pursuant to the provisions and review procedures prescribed by the schedule for exceptional cases. With the exception of the rules and regulations established for the payment of selected hospital inpatient services under the diagnosis related group prospective payment system, a health care provider, hospital or other entity providing health care services shall be paid either such health care provider, hospital or other entity's usual and customary charge for the treatment, care and attendance or the maximum fees as set forth in the schedule, whichever is less. In reviewing and approving the schedule of maximum fees, the director shall consider the following:

(1) The levels of fees for similar treatment, care and attendance imposed by other health care programs or third-party payors in the locality in which such treatment or services are rendered;

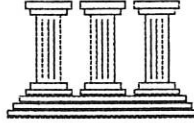
(2) the impact upon cost to employers for providing a level

of fees for treatment, care and attendance which will ensure the availability of treatment, care and attendance required for injured employees;

(3) the potential change in workers compensation insurance premiums or costs attributable to the level of treatment, care and attendance provided; and

(4) the financial impact of the schedule of maximum fees upon health care providers and health care facilities and its effect upon their ability to make available to employees such reasonably necessary treatment, care and attendance to each injured employee to cure and relieve the employee from the effects of the injury.";

And by renumbering sections and adjusting the repealer and title accordingly;



KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

TO: Members of the Senate Commerce Committee

FROM: Terry Humphrey, Executive Director
Kansas Trial Lawyers Association

RE: 2002 HB 2729

DATE: March 21, 2002

Chairperson Brownlee and members of the Senate Commerce Committee, thank you for the opportunity to submit our written comments regarding HB 2729.

We have reviewed this bill and have no opposition to the proposed changes. We understand that these are primarily technical changes that have been approved by the Workers Compensation Advisory Council.

Again, we appreciate the Committee's consideration of our comments.

Terry Humphrey, Executive Director

Jayhawk Tower • 700 SW Jackson, Suite 706 • Topeka, Kansas 66603-3758 •
E-Mail: triallaw@ink.org

Senate Commerce Committee
March 22, 2002
Attachment 5-1



Kansas Corporation Commission

Bill Graves, Governor John Wine, Chair Cynthia L. Claus, Commissioner Brian J. Moline, Commissioner

Status Report on Broadband Deployment and Status Report on Competition

Broadband Deployment

A. General Information

Nationwide, use of the Internet is becoming an integral part of our lives. According to a report published by the U.S. Department of Commerce using data from 2001, between 55% and 61% of Kansans use the Internet, while 54% of the nation as a whole uses the Internet.¹ As more and more commercial activity, government services, health information and educational materials are offered online, access to the Internet has become more important. Increasingly, discussion of access to the Internet has focused on the speed with which data can be accessed. Traditional dial-up access provides speeds of less than 56 kbps while broadband technology provides for speeds of at least 200 kbps in at least one direction. Many new broadband technologies are able to provide speeds well in excess of 200 kbps. It is believed that high-speed access will make distance learning and telemedicine programs more effective and provide access to new entertainment opportunities and additional services. Thus, deployment of broadband has become a topic of national concern.

The National Regulatory Research Institute and BIGresearch conducted a survey in 2001 regarding Internet issues. Approximately 150 Kansans responded to the survey. Thus, the results may have limited statistical significance but do provide at least some anecdotal evidence to consider. It is reported that approximately 54% of Kansans responding to the

¹ U.S. Department of Commerce, "A Nation Online: How Americans Are Expanding Their Use of the Internet," 2002, Table 1-1, page 10

Senate Commerce Committee
March 22, 2002
Attachment 6-1

survey utilized a dial-up service to access the Internet, approximately 31% utilized a cable modem service and approximately 12% utilized DSL or ADSL service.² The survey also indicates that the speed of the Internet connection meets the expectations of the majority (approximately 70%) of those Kansans surveyed.³ However, the majority of those surveyed also indicated that they would consider switching to a different Internet service.⁴ Of those surveyed that indicated they would consider switching, 33% indicated that they would choose a cable modem service, approximately 25% indicated they would choose DSL or ADSL service, approximately 7% would select a wireless or satellite service and approximately 34% were unsure what type of service they would choose.⁵ Those indicating that they would consider switching to a different Internet service thought that they would receive faster data rates, fewer interruptions, a lower price, fewer data rate fluctuations, better technical support and better visual quality.⁶

B. FCC Data

The FCC has determined that most traffic over broadband services is interstate in nature. Thus, the FCC has jurisdiction over the retail offering of DSL and other types of broadband services. The FCC recently released a report regarding high-speed Internet Access.⁷ The FCC defines high-speed access as access that delivers transmissions to a customer at a speed in excess of 200 kbps in at least one direction. A facilities-based provider of high-speed lines (or wireless channels) is required to file state reports with the FCC providing basic service information if it has at least 250 lines in a state. Providers that do not meet this threshold file information on a voluntary basis. It is likely that Kansas numbers are underreported.

² National Regulatory Research Institute and BIGresearch, "Internet Service Quality, Results of a Survey: Kansas," February 2002, page 2.

³ Ibid, page 11.

⁴ Ibid, page 19.

⁵ Ibid, page 20. Note that those surveyed were allowed to select only one type of service.

⁶ Ibid, page 21. Note that those surveyed were allowed to select as many options as were applicable. Only the most popular responses were indicated above.

⁷ Industry Analysis Division of the Common Carrier Bureau, FCC, "High-Speed Services for Internet Access: Subscriberhip as of June 30, 2001," February 2002.

As of June 30, 2001, the FCC finds that there are six providers of coaxial cable service and ten providers of either a wireline service other than ADSL, optical fiber or wireless service.⁸ The number of ADSL providers in Kansas was too small (less than 3) for the FCC to report and maintain confidentiality. The number of high-speed lines subscribed to in Kansas is increasing. The FCC reports the following number of high-speed access lines for Kansas⁹:

December 1999	June 2000	December 2000	June 2001
26, 179	42,679	68,743	101,734
	63% increase	61% increase	48% increase

Of those lines subscribed to as of June 30, 2001, 74,337 were provided over coaxial cable. The remaining lines, 27,397, were provided either over ADSL, a non-ADSL wireline service, optical fiber, or wireless technology. The number of lines per category was too small to report with more specificity and maintain confidentiality. This seems to be consistent with national trends. In the News Release accompanying the release of this report, the FCC states that nationwide, coaxial cable lines outnumber any other high-speed access line.¹⁰ The News Release also indicates that, nationwide, approximately 97% of DSL lines were reported by incumbent local exchange companies. Of those incumbent local exchange company DSL lines, 86% were reported by Regional Bell Operating Companies. The FCC reports that as of June 30, 2001, 96,393 of the high-speed access lines were provided to residential and small business customers.¹¹ The remaining lines, 5341, were provided to medium and large businesses, government entities, or other large institutional customers.

The FCC also reports the percentage of zip codes with various numbers of high-speed access providers as of June 30, 2001. The data provided for Kansas and nationwide is as follows:¹²

⁸ Ibid, Table 6: Providers of High-Speed Lines by Technology as of June 30, 2001.

⁹ Ibid, Table 7: High-Speed Lines by Technology.

¹⁰ FCC, News Release, "FCC Release Report on the Availability of High-Speed and Advanced Telecommunications Capability," February, 7, 2002.

¹¹ Industry Analysis Division of the Common Carrier Bureau, FCC, "High-Speed Services for Internet Access: Subscribership as of June 30, 2001," February 2002., Table 8: High-Speed Lines by Type of User.

¹² Ibid, Table 10: Percentage of Zip Codes with High-Speed Lines in Service as of June 30, 2001.

	0	1-3	4	5	6	7 or more
Kansas	35%	52%	8%	4%	1%	0
Nationwide	22%	50%	8%	5%	4%	11%

Kansas has a higher percentage of zip codes with no provider of high-speed access than the nation as a whole. This is likely a result of Kansas having low population density in many areas of the state.

The FCC has several proceedings open that may have an impact on the availability of broadband. The FCC is considering how to classify cable modem service and what regulations should apply to that service. The FCC is also considering how to classify wireline broadband services and what level of regulation should be applied to incumbent local exchange carriers offering such service. Lastly, the FCC has undertaken its triennial review of unbundled network elements. Among other things in this review, the FCC will address the incumbent local exchange carriers' wholesale obligations under Section 251 of the Federal Telecommunications Act to make facilities available to competitors to provide broadband services. Recent releases from the FCC seem to indicate that the FCC is inclined to find that both cable modem service and incumbent broadband Internet access service are information services. Information services are subject to less regulation than telecommunications services. The FCC made this determination for cable modem service on March 14, 2002. The FCC issued a notice of proposed rulemaking regarding classification of broadband services on February 15, 2002. Comments are still being filed in that proceeding

C. KCC Data

The Commission can provide limited information regarding the deployment of broadband in Kansas. The Commission does not have regulatory authority over the retail offering of many forms of broadband service; thus, information is provided primarily on a voluntary basis. However, incumbent local exchange carriers report enhanced services information on Schedule 23 of the Annual Report filed with the KCC. Attached is a list of all incumbent local exchange carriers and information regarding each carrier's deployment of broadband in its respective territory. The information provided is from the 2000

Annual Report that reflects data as of December 31, 2000. You can see from the attachment that 14 of the 40 local exchange carriers were capable of providing DSL to some portion of their customers in 2000. The availability of this service to customers ranges from 1% to 100%. Staff was not able to gather data in a similar format for 2001 but illustrative data will be provided below.

From the Attachment, you see that ISDN is available throughout SWBT's territory. SWBT has been progressing toward deployment of broadband facilities as required by a Stipulation and Agreement reached in Docket Number 98-SWBT-677-GIT. By August 1, 2003, SWBT must deploy DSL near ubiquitously¹³ in 24 wire centers serving the following cities: Hays, Hutchinson, Kansas City, Lawrence, Manhattan, Salina, Topeka and Wichita. While SWBT is able to provide DSL service in these communities if the customer is within 14,000 to 15,000 feet of the central office, the company is still deploying facilities that are necessary to provide service ubiquitously. SWBT has deployed Optical Control Devices, which are necessary in order for SWBT to offer DSL service ubiquitously, in 13 of the 24 wire centers. SWBT is also in the process of deploying new remote terminals. The company has deployed 391 remote terminals in 21 of the 24 wire centers. By August 1, 2003, SWBT must deploy DSL facilities where technically feasible¹⁴ in 16 wire centers serving the following cities: Arkansas City, Bonner Springs, Coffeyville, Dodge City, El Dorado, Emporia, Garden City, Great Bend, Independence, Leavenworth, Liberal, McPherson, Newton, Ottawa, Parsons and Pittsburg. SWBT has deployed all of the facilities necessary to provide DSL, where technically feasible, to these communities.

Through this and other deployment, SWBT has made DSL available to 56% of its customers. SWBT reports that it has 27,379 DSL lines in service with a subscribership rate that ranges from 1.22% to 8.69% depending upon the wire center in question.

¹³ In this context, the phrase "near ubiquitously" means that DSL will be available beyond the usual distance limitation of 14,000 to 15,000 feet from the central office. SWBT agreed to deploy additional facilities that would permit DSL service to be provided to more customers in the communities listed above.

¹⁴ In this context, the phrase "technically feasible" means that DSL will be available to customers within the distance limitation of 14,000 to 15,000 feet from the central office.

ISDN is available to all customers in Sprint/United territory. While Sprint/United had not deployed DSL services as of December 31, 2001, the company reports that it will begin deployment in 2002 to meet requirements of a Stipulation and Agreement reached in Docket Number 99-UTDT-455-GIT. According to the Stipulation and Agreement, Sprint/United must deploy ADSL to Bucyrus, Edgerton, Spring Hill and Gardner. Sprint also indicates that it will deploy facilities, subject to availability, in Junction City, Fort Riley, Lyndon and Osage City. Sprint/United reports a forecasted subscribership rate of 5% for these areas.

ISDN is not available in all independent rural telephone company territories. But in those territories where it is available, it is predominately available to all customers. The independent rural companies have made great strides in deployment of broadband. Much of this deployment has been stimulated by the low interest loans available to rural companies. The RUS has low interest loans available to rural carriers specifically for deployment of broadband facilities. RTSC Communications, Inc., a subsidiary of Rural Telephone Service Company, was one of the first companies in the nation to receive such a loan. It should also be noted that the independent rural companies do not face the same urgency regarding the unbundling concern that SWBT has identified as an impediment to deployment of broadband.¹⁵ The independent rural companies, as a group, indicate that as of 2001, approximately 55% of their customers have DSL service available to them. They also indicate that 2,057 DSL lines are in service with the rate of subscribership varying from 1% to 25% depending upon the company in question. One independent company has indicated that it plans to make DSL available to approximately 2800 lines within the next 90 days. Another company indicates that it will make DSL available to an additional 1000 lines by the end of 2002. These increases would increase the availability of DSL in independent rural telephone company territory to approximately 61%.

¹⁵ According to K.S.A. 66-2004 (a) and Section 251(f)(1) of the Federal Telecommunications Act, the obligations of an incumbent local exchange carrier do not apply to a rural carrier unless it receives a bona fide request and the Commission finds that the request is not unduly economically burdensome, is technically feasible, and preserves and enhances universal service. Thus, among other reasons, it is less attractive for competitive local exchange carrier using traditional wireline technology to enter rural company territories because the regulatory hurdles are higher for such entry. To date, the Commission has not received a request to make such a determination.

Broadband services are also offered by competitive providers. While the Commission does not have jurisdiction over cable modem services, the Mid-America Cable Association kindly responded to Staff's request for information. The Association reports that 88,379 of its 675,336 cable television customers have also subscribed to cable modem services as of December 31, 2001. This would mean that 13% of the Kansas cable television customers also subscribe to cable modem services. Cable services are likely to be available to more Kansans than the 675,336 who choose to subscribe to television service, but the Mid-America Cable Association was not able to provide that data. However, it is likely that the penetration rate for cable modem service is something less than 13%. Staff has identified 12 competitive local exchange carriers who provide broadband services. These carriers have approximately 9,878 customers. These carriers are predominately offering their services in SWBT's larger exchanges.

SWBT, Sprint/United and the independent rural carriers all state that they face competition from various types of technology for the provisioning of broadband services. SWBT states that it faces competition from cable modem service in some exchanges and, in the Kansas City area, from fixed wireless service. SWBT also believes that satellite service is available nearly statewide. Sprint/United indicated that it faces competition from cable modem service in some exchanges. Information from the independent rural companies regarding the competition they face for the provisioning of broadband is not yet available.

In summary, it appears that broadband is being deployed in Kansas. Cable modem lines out number DSL lines in Kansas. This is consistent with the finding of the FCC for the nation as a whole. There are 88,379 cable modem lines in service and approximately 34,515 DSL lines operating in the State.

Competition

A. Background Information

With the Kansas Telecommunications Act of 1996 (“KTA”) and the Federal Telecommunications Act of 1996 (“FTA”), this Legislature and Congress determined that the telecommunications markets could be disciplined through competition rather than regulation. The FCC and state Commissions were then set on the task of transitioning the markets from regulation toward deregulation when competition is sufficient and market dominance of a carrier is no longer a threat to the public interest.

The Commission has been working to implement the FTA and the KTA. Over the past six years, the Commission has addressed various issues to foster the development of competition for telecommunications services while ensuring that universal service goals are also met. The Commission has evaluated and approved well over one hundred interconnection agreements between incumbent local exchange carriers and competitive local exchange carriers. Negotiation of an interconnection agreement is the first step for a competitor wishing to enter the market. Through the Commission’s evaluation of SWBT’s application for approval to provide in-region, interLATA toll service, the Commission negotiated an interconnection agreement that is available to any competitor. This has helped to speed up the negotiation process for competitors and allows them to enter the market more quickly. The Commission determined rates for unbundled network elements, wholesale discounts and collocation over SWBT’s facilities. These determinations allow a competitor to enter the market with some assurance of the rates it will be required to pay for use of SWBT’s facilities. The Commission may address these same issues for Sprint/United facilities in the near future. However, most competitors were interested in entering SWBT’s territory first. The Commission has worked to reduce barriers to entry by making subsidies explicit through the KUSF, permitting a Fresh Look opportunity for customers to terminate long-term contracts with incumbent carriers prior to the termination date in the contract, without penalty, to take service from a competitive provider, and addressing reciprocal compensation. While taking action to ensure that competitors can enter the Kansas telecommunications market, the Commission has also worked to preserve universal service. The Commission has

evaluated the KUSF to make sure that cost based support will be available to consumers in high cost areas of the state. Additionally, the Commission is considering whether changes could be made to the Lifeline program to reach more of those consumers who may need assistance with payment of their phone bills.

The KTA provides for various levels of regulation as the transition to competition occurs. Incumbent local exchange carriers are permitted to choose to remain under traditional rate of return regulation or move to price cap regulation. If a carrier chooses price cap regulation, it may avail itself of provisions in the KTA for price deregulation of services upon Commission approval. According to K.S.A. 66-2005(p),

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

To date, only SWBT and Sprint/United have chosen to embrace price cap regulation. The rural independent local exchange carriers have opted to remain under traditional rate of return regulation.

B. FCC Data

The FCC collects data regarding local telephone service competition. The latest information became available on February 27, 2002 through an FCC published report.¹⁶ The report reflects data available as of June 30, 2001. If a carrier has at least 10,000 access lines in service in a state, it must file data for that state. A carrier with fewer than 10,000 access lines is not required to report, thus data for Kansas may be understated. For competitive carriers, the FCC reports lines that are resold, lines provided through use of unbundled network elements leased from other carriers and the competitive carrier's own facilities.

¹⁶ Common Carrier Bureau of the FCC, "Local Telephone Competition: Status as of June 30, 2001," February 2002.

At Table 6 of this report, the FCC provides data regarding the number of access lines served by local exchange carriers as of June 30, 2001. For Kansas, the FCC reports that incumbent local exchange carriers serve 1,441,940 access lines while competitive local exchange carriers serve 121,294 access lines.¹⁷ The competitive carriers serve 8% of the access lines.¹⁸ This compares to competitive carriers serving 9% of the access lines nationwide. Table 7 provides a summary of the competitive carriers' share of access lines over time. The FCC reports the following¹⁹:

	December 1999	June 2000	December 2000	June 2001
Kansas	Not Available*	5%	7%	8%
Nationwide	4%	6%	8%	9%

* To maintain confidentiality, the FCC withheld this data.

Of the lines served by competitive carriers in Kansas, the FCC reports that 21% of those lines are provided for residential or small business customers.²⁰ Nationwide, 45% of the access lines served by competitive carriers are either residential or small business customers.²¹ It appears from this data that competitive carriers are predominately serving larger business customers.

The FCC also reports the percentage of zip codes in each state that have access to various numbers of competitive carriers. As of June 30, 2001, the FCC reports:²²

	0	1-3	4	5	6	7 or more
Kansas	64%	34%	2%	0	0	0
Nationwide	40%	34%	6%	4%	3%	12%

Wireless telephone service has become more popular in recent years. While the FCC does not have data regarding the number of consumers that have chosen to utilize

¹⁷ Ibid, Table 6.

¹⁸ Ibid, Table 6.

¹⁹ Ibid, Table 7.

²⁰ Ibid, Table 9.

²¹ Ibid, Table 9.

²² Ibid, Table 13.

wireless service as their only phone service, there are consumers who make such a choice. Most analysts would agree that wireless service has probably led to a decrease in the number of secondary lines provided to customers by wireline carriers. The FCC does provide data regarding the number of wireless telephone subscribers. The data for Kansas is as follows:²³

<u>December 1999</u>	<u>June 2000</u>	<u>December 2000</u>	<u>June 2001</u>
669,472	724,024	801,293	901,225

Finally, the FCC finds that, nationally, about 1% of all access lines in service as of June 30, 2001 were provided by a competitive local exchange carrier utilizing coaxial cable.²⁴ The FCC also found that less than 1% of all access lines were provided by a competitive carrier utilizing fixed wireless technology.²⁵

C. KCC Data

The Commission collects much data through the Annual Report submitted by both the incumbent local exchange carriers and the competitive local exchange carriers. Data gathered from these reports is the basis for much of the information provided herein. Staff also sent data requests to carriers asking for additional information. Sixty of the 157 competitive local exchange carriers, SWBT, Sprint/United all provided responses to requests for information. Because most of the competitors in Kansas are currently serving customers in SWBT territory, the information reported here will focus on SWBT as the incumbent provider. The Commission notes that this is summary data and does not provide a full picture of the level of competition within Kansas. The Commission has opened Docket Number 02-GIMT-555-GIT in which it is considering what data should be provided in order for the Commission to make price deregulation determinations. The outcome of that docket will then provide a basis for evaluating future applications for price deregulation. It will also provide a foundation from which Staff and industry

²³ Ibid, Table 10.

²⁴ Ibid, page 2.

²⁵ Ibid, page 2.

representatives can work to provide more complete reports on the status of competition in the future.

All carriers provide line count information in their Annual Report. Because the Annual Report for 2001 is not submitted until May 2002, Staff requested 2001 line count data from the competitive local exchange carriers and from SWBT. From the Annual Report for 2000, Staff found 29 competitive local exchange carriers reporting access lines. In response to Staff's data request, there are 34 competitive carriers reporting access lines for 2001. Below you will find total line count, business line count, and residential line count data for SWBT and the competitive carriers. The competitive local exchange carriers' share of the total access lines for each category is also provided.

Total Line Count

	1997	1998	1999	2000	2001
SWBT	1,299,259	1,393,261	1,430,332	1,389,742	1,231,828
CLECs	Not Available	75,636	105,995	154,484	138,844
CLEC %		5.15%	6.90%	10.00%	10.13%

Note CLEC = Competitive Local Exchange Carrier
SWBT Data is the publicly available ARMIS data for all years except 2001.

Business Line Count

	1997	1998	1999	2000	2001
SWBT	412,152	474,542	489,352	452,805	Confidential
CLECs	Not Available	41,145	72,032	117,676	**
CLEC %		7.99%	12.83%	20.63%	16.28%

Note CLEC = Competitive Local Exchange Carrier
SWBT Data is the publicly available ARMIS data for all years except 2001.

** Data omitted to preserve confidentiality of SWBT numbers

Residential Line Count

	1997	1998	1999	2000	2001
SWBT	887,966	919,246	940,980	936,937	Confidential
CLECs	Not Available	34,491	33,963	36,808	**
CLEC %		3.62%	3.48%	3.78%	6.75%

Note CLEC = Competitive Local Exchange Carrier
SWBT Data is the publicly available ARMIS data for all years except 2001.

** Data omitted to preserve confidentiality of SWBT numbers

From this data it is apparent that competitive local exchange carriers increased their number of total access lines until 2001. In 2001, competitive carriers experienced a

decline in business access lines and an increase in residential lines leading to an overall loss in access lines. It appears that of the customers served by competitive carriers, business customers are the greater percentage.

CLEC Access Lines by End-user Type

	1998	1999	2000	2001
% Residential	45.60%	32.04%	23.83%	42.95%
% Business	54.40%	67.96%	76.17%	57.05%

Better information regarding the level of competition in Kansas can be obtained if the data from competitive local exchange carriers are further broken out by whether the competitive carrier lines are provided through resale or through unbundled network elements or over a competitor's own facilities. Industry analysts do not believe that competition can be sustained merely through the resale of the incumbent's facilities. Competitors who provide service through resale of SWBT's facilities are not able to distinguish the product/service they provide from SWBT's service. It is exactly the same service. The only differences between the competitor's offering and SWBT's would be through the customer service provided and other items of that nature. Resale, because it is simply the offering of the incumbent's service/product under another carriers name, does not encourage the industry to strive to provide new products and services. Thus, it is important to examine the number of facilities based competitive carrier access lines, that is, lines provided over unbundled network elements or a competitor's own facilities. Staff has such data for 2000 and 2001.

Facilities Based Total Lines

	2000	2001
	89,195	85,266
CLEC % of Total Lines	6.03%	6.47%
SWBT % of Total Lines	93.97%	93.53%

Facilities Based Business Lines

	2000	2001
	82,271	57,063
CLEC % of Total Lines	15.38%	12.29%
SWBT % of Total Lines	84.62%	87.71%

Facilities Based Residential Lines

	<u>2000</u>	<u>2001</u>
	6,924	28,203
CLEC % of Total Lines	0.73%	3.31%
SWBT % of Total Lines	99.27%	96.69%

Staff asserts that the data would provide a more meaningful picture of competition if further disaggregated to the exchange level. However, Staff is not yet ready to present this data. Further, Staff suggests that an even clearer picture of the level of competition will be provided if data are disaggregated by specific product type. While it is possible to gather this data, and carriers have done so for prior proceedings, it requires all carriers to collect data that are not readily available. Thus, Staff has not requested this data at this time. Staff can report that as of December 31, 2001 there were nine SWBT exchanges in which no residential access lines were provided by a facilities based competitive local exchange carrier. This accounts for 0.37% of the total number of SWBT residential access lines. There were ten SWBT exchanges in which no business access lines were provided by a facilities based competitive local exchange carrier. This accounts for 0.22% of the total number of SWBT business access lines. There are many exchanges in which there are very few competitive local exchange carriers providing service.

It does appear from the data that competitive carriers are shifting from offering services through resale to the offering of services through the use of unbundled network elements or through their own facilities. In 2000, facilities based competitive local exchange carriers provided residential service on 6924 access lines. In 2001, facilities based competitive carriers provided residential service on 28,203 access lines. While there was a slight increase in the number of residential access lines provided through resale, the increase in facilities based provision has out paced it.

Data regarding the amount of revenue generated in the state were also collected from the carriers' Annual Report. To maintain confidentiality, the data provided are for all incumbent local exchange carriers in aggregate and for all competitive local exchange carriers in aggregate. The revenue per access line is also reported for incumbent local

exchange carriers in aggregate and for all competitive local exchange carriers in aggregate.

Gross Intra-State Revenue

	1997	1998	1999	2000
Incumbents	\$805,663,912	\$828,006,938	\$886,230,084	\$847,572,117
CLECs	\$1,631,944	\$32,660,077	\$63,964,714	\$53,349,806
CLEC % of Total	0.20%	3.79%	6.73%	5.92%

Revenue Per Access Line

	1997	1998	1999	2000
Incumbents	\$509	\$509	\$522	\$511
CLECs	Not Available	\$432	\$603	\$365

While the Commission has worked hard to open the Kansas telecommunications market for competition, it appears that it is still too early in the transition process to conclude that competition has taken root.

Data Services
2000 Annual Report
 (from Schedule 23)

Company Name	Provide ISDN	Available To % of Customers	Provide xDSL	Available To % of Customers	* Capable of Providing Broadband to Schools and Libraries	Available to % of Exchanges
SWBT	Yes	100%	Yes	56%*	Yes	No Response
Sprint/United	Yes	100%	No		Yes	86%
Bluestem	Yes	100%	No		Yes	100%
Blue Valley	No		No		Yes	100%
Cass County	No		No		No	
Columbus	No		No		Yes	100%
Council Grove	No		No		Yes	100%
Craw-Kan	Yes	100%	Yes	< 1%	Yes	100%
Cunningham	No		No		No Response	
Elkhart	No		Yes	10%	Yes	100%
Golden Belt	No		No		Yes	No Response
Gorham	No		No		Yes	No Response
H & B Communications	No		Yes	100%	No	
Haviland	No		Yes	No Response	Yes	No Response
Home	No		No		Yes	20%
JBN	No		No		Yes	47%
KanOkla	Yes	No Response	Yes	70%	Yes	100%
LaHarpe	No		No		No	
Madison	No		No		No	
MoKan	No		No		Yes	100%
Moundridge	No		Yes	No Response	Yes	No Response
Mutual	No		No		No	
Peoples	No		No		No	
Pioneer	Yes	100%	Yes	100%	Yes	100%
Rainbow	No		No		No	
Rural	Yes	100%	Yes	100%	Yes	100%
S & A	No		No		Yes	100%
S & T	Yes	1%	No		Yes	100%
South Central	Yes	No Response	No		Yes	No Response
South Central of Kiowa	No		No		Yes	No Response
Southern Kansas	No		Yes	33%	Yes	100%
Sunflower	Yes	100%	Yes	30%	Yes	100%
Totah	No		No		Yes	100%
Tri County	Yes	No Response	No		Yes	No Response
Twin Valley	No		Yes	100%	Yes	100%
United Association	Yes	75%	Yes	75%	Yes	100%
Wamego	Yes	100%	Yes	100%	No Response	
Wheat State	No		No		Yes	No Response
Wilson	No		No		Yes	100%
Zenda	No		No		Yes	100%

* SWBT information provided in a letter to the Commission

6.16

Table 6
End-User Switched Access Lines Served
by Reporting Local Exchange Carriers
(As of June 30, 2001)

State	ILECs	CLECs	Total	CLEC Share
Alabama	2,413,440	121,059	2,534,499	5 %
Alaska	474,215	*	*	*
Arizona	3,062,586	231,777	3,294,363	7
Arkansas	1,412,863	*	*	*
California	23,103,077	1,668,232	24,771,309	7
Colorado	2,805,532	325,983	3,131,515	10
Connecticut	2,363,687	164,379	2,528,066	7
Delaware	567,381	0	567,381	0
District of Columbia	887,590	124,630	1,012,220	12
Florida	11,211,674	864,892	12,076,566	7
Georgia	4,905,002	515,730	5,420,732	10
Hawaii	739,979	*	*	*
Idaho	732,814	*	*	*
Illinois	7,558,613	1,113,112	8,671,725	13
Indiana	3,576,710	180,221	3,756,931	5
Iowa	1,379,872	164,637	1,544,509	11
Kansas	1,441,940	121,294	1,563,234	8
Kentucky	2,170,191	*	*	*
Louisiana	2,505,961	108,820	2,614,781	4
Maine	801,649	*	*	*
Maryland	3,599,027	211,499	3,810,526	6
Massachusetts	4,131,520	576,442	4,707,962	12
Michigan	6,027,730	583,653	6,611,383	9
Minnesota	2,861,684	353,246	3,214,930	11
Mississippi	1,356,136	51,496	1,407,632	4
Missouri	3,446,252	224,442	3,670,694	6
Montana	527,989	*	*	*
Nebraska	931,979	*	*	*
Nevada	1,366,124	144,453	1,510,577	10
New Hampshire	775,864	67,315	843,179	8
New Jersey	6,707,243	300,594	7,007,837	4
New Mexico	977,439	*	*	*
New York	10,689,293	3,138,133	13,827,426	23
North Carolina	4,664,775	323,594	4,988,369	6
North Dakota	312,573	*	*	*
Ohio	6,876,434	280,088	7,156,522	4
Oklahoma	1,923,027	125,912	2,048,939	6
Oregon	2,079,221	118,425	2,197,646	5
Pennsylvania	7,818,599	1,122,623	8,941,222	13
Puerto Rico	1,300,665	*	*	*
Rhode Island	604,128	69,237	673,365	10
South Carolina	2,239,383	90,241	2,329,624	4
South Dakota	338,834	*	*	*
Tennessee	3,352,224	272,211	3,624,435	8
Texas	11,496,247	1,891,131	13,387,378	14
Utah	1,149,667	145,603	1,295,270	11
Vermont	399,084	*	*	*
Virgin Islands	70,426	0	70,426	0
Virginia	4,203,412	402,528	4,605,940	9
Washington	3,751,683	229,693	3,981,376	6
West Virginia	980,575	*	*	*
Wisconsin	3,151,854	322,735	3,474,589	9
Wyoming	259,839	*	*	*
Nationwide	174,485,706	17,274,728	191,760,434	9 %

Note: Carriers with under 10,000 lines in a state were not required to report.

* Data withheld to maintain firm confidentiality.

6-17