

Approved: March 7, 2003 Carl D. Holmes
Date

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:04 a.m. on January 22, 2003 in Room 526-S of the Capitol.

All members were present except: Representative Peggy Long

Committee staff present: Mary Galligan, Legislative Research
Dennis Hodgins, Legislative Research
Mary Torrence, Revisor of Statutes
Jo Cook, Administrative Assistant

Conferees appearing before the committee: Randy Tomlin, SBC-Kansas
Bob Jayroe, SBC-Kansas
Ray Dixon, Highlands Livestock Service

Others attending: See Attached List

Chairman Holmes asked for bill introductions. Representative Sloan moved to introduce a committee bill amending the No-Call Act clarifying who can purchase the do-not-call list. Representative Dreher seconded the motion. The motion carried.

HB 2019 - State Corporation Commission prohibited from regulating high speed Internet access/broadband service

Chairman Holmes opened the hearing on **HB 2019**.

Randy Tomlin, President of SBC-Kansas, appeared in support of **HB 2019** (Attachment 1). Mr. Tomlin explained that this proposed legislation would spur investment, help the economy, and would not cost the state any money. He stated that this change was needed to provide equal and fair treatment to all providers of broadband service, allowing the marketplace to shape the future. Mr. Tomlin said the bill would not be harmful to competitors and that other states have passed similar legislation with no harm to competitors. He also stated the bill would do nothing to change how the state regulates local voice service.

Bob Jayroe, consultant for SBC-Kansas, spoke in favor of **HB 2019** (Attachment 2). Mr. Jayroe provided a diagram detailing the SBC Direct Service Line (DSL) Broadband architecture used by the company. He also explained the options available to Certified Local Exchange Carriers (CLEC) wanting to compete in the broadband arena.

Roy Dixon, owner of Highlands Livestock Services, addressed the committee in support of **HB 2019** (Attachment 3). Mr. Dixon stated that consumers and businesses needed the entitlement to choose who can best serve them and that competition is the key to providing broadband service to rural Kansas. He told the committee that companies that provide broadband should all be regulated the same.

Chairman Holmes asked that the changes requested in the bill be explained to the committee. Mr. Tomlin outlined those changes.

Mr. Tomlin, Mr. Jayroe, and Mr. Dixon responded to questions from the committee.

The meeting adjourned at 10:55 a.m.

The next meeting will be Thursday, January 23, 2003 at 9:00 a.m.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: January 22, 2003

NAME	REPRESENTING
Wilson L. Krueger	Everest Connections
Janet Buchanan	KCC
Debra Schmidt	WorldNetUc
Andy Shaw	Worldnet Llc
Bob Jayroc	SBC
Wanneta Browne	AT&T
Mike Recht	AT&T
Wade Haggood	Sprint
Michael Murray	Sprint
Jim Gartner	SBC
Nancy Pollock	SBC
Randy Tomlin	SBC
Tim Peterson	SBC
Edwendo Robercano	SBC
Key E. ...	SBC
Don Gaches	GBBA
Anne Spiess	K.T.I.A. - Ks. Telecommunications Industry Assn
Catherine Veach	Pioneer Communications
Shirley Allen	SITTA
Brent Gatty	CURB

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: January 22, 2003

NAME	REPRESENTING
MIKE LURA	CURB
Debbie Snow	CWA
Robert M. Blumock	PVID
Jon Day	KCC
Kath Tamron	Pixius Communication
ADAN COBB	KCCT
Steve Montgomery	MCIWorldcom
Bret LAWSON	KCC
John Federico	KCTA
Marc Farrar	Time Warner Cable

Testimony In Support of HB 2019
Randy Tomlin, President, SBC--Kansas
House Utilities Committee
Jan. 22, 2003
(One Page Summary)

Economic Benefits--This bill will spur investment, helping the economy, and it won't cost the state a dime. In fact it will improve the state's revenues, by increasing taxable telecommunications spending.

Fair Regulation--Regulation of broadband should be fair and equal--no provider should be burdened with more regulation than any other provider.

Needed change--Equal treatment of providers is not the case today in the broadband market. There are many high-speed Internet technologies available to consumers today: cable modems, satellite, DSL (Bell Companies' product), fixed wireless. But, only one of those providers is regulated by the KCC. DSL--the technology used by the Bell Companies to provide high-speed access to the Internet. Even though cable modem providers serve about 70 percent of the high-speed Internet service market, both nationally and here in Kansas, their high speed internet networks and services are completely unregulated by the Kansas Corporation Commission. And on the day HB 2019 was introduced, the KCC ordered significant new state regulation of SBC's broadband network that exceeds federal regulation and will exacerbate this unfair situation.

Let the marketplace decide--Competition, not regulation, should shape the future of this area of the telecommunications industry and the economic relationships between providers and users.

Broadband parity works--Broadband parity has been tried and it's a success. This legislation passed in Oklahoma, competition has not been harmed, and consumers were the big winners. In Oklahoma, millions in additional investment is being made by SBC to make DSL technology available to more consumers. DSL will be rolled out in 37 towns -- not the metro areas, but rural and smaller communities -- for the first time.

No harm to competitors--This bill will not harm Bell's competitors. This bill does nothing to change what federal laws and rules require Bell Companies to provide to competitive carriers. States cannot change federal law.

No effect on voice--This bill does nothing to change how states regulate local voice service--no change in regulation, no change in rates, no change in resale or UNE requirements--no change period.

In conclusion--Support HB2019:

- This legislation is good for the Kansas economy.
- It would treat all broadband competitors equally.
- It would not increase regulation for any competitor, nor would it harm any competitor.
- Broadband parity works for the benefit of consumers -- bringing them new services, technology and more competition.

HOUSE UTILITIES

DATE: 1-22-03

ATTACHMENT 1

Testimony In Support of HB 2019
Randy Tomlin, President, SBC--Kansas
House Utilities Committee
Jan. 22, 2003

Thank you, Mr. Chairman. I really appreciate the opportunity to be here today to talk about HB 2019 and urge you to support this important legislation for the benefit of Kansas consumers.

Let me suggest to you what I think are the major benefits of this legislation:

- Economic development for Kansas
- Fair and equal regulation
- More competition
- More broadband--high speed Internet--for more Kansans
- More telecom choices and better values for Kansas consumers

And all the benefits above won't cost the state a dime.

FIRST:

This legislation recognizes the importance of broadband to the economies of our state and communities. I know that you'll be hearing about this from other witnesses, so I'll not dwell on this fact.

But I would note that no better evidence of this can be found than in the list of Chambers of Commerce across the state which have endorsed the proposition that "...broadband--high-speed Internet access--is increasingly necessary to the development of large and small businesses alike, in both urban and rural Kansas."

And as you all know, ALEC (American Legislative Exchange Council), NCSL (National Conference of State Legislatures), Kansas Inc., the U. S. Chamber of Commerce and others have recognized this important economic fact.

You will be hearing from Debbie Snow, a fellow SBC employee and legislative liaison for the Communications Workers of America who will testify to the positive impact this bill can have for jobs and our economy.

This bill will spur investment, helping the economy, and it won't cost the state of Kansas a dime. In fact it will improve the state's revenues, by increasing taxable telecommunications spending.

SECOND:

Regulation of broadband should be fair and equal--or to put it like ALEC has, "*No provider should be burdened with more regulation than any other provider.*"

- ALEC is not alone in voicing this principle
- The US Chamber of Commerce recently (Nov. 14) adopted a similar broadband policy.

- The Kansas Policy Research Institute, in a recently released paper, concluded that Kansas broadband policy should be changed:

"Consumers, constitutional principles, and the economic advantages of growth, innovation, and entrepreneurial freedom would all be best served by stopping broadband regulation in its tracks. Last spring the Oklahoma Legislature overwhelmingly approved a simple measure to accomplish this in their state....Kansas should follow suit in order to regulate broadband to no greater degree than what federal law compels."

- And finally, earlier this year, NCSL adopted a resolution urging equitable treatment of all broadband providers. The resolution called for, and once again I quote, "an even playing field between competitors of similar services delivered through different mediums."

THIRD:

Equal treatment of providers is not the case today in the broadband market.

There are many high-speed Internet technologies available to consumers today:

- Cable modems
- Satellite
- DSL
- Wireless broadband

Of all of the consumer choices for broadband, only one of those technologies is regulated by the KCC... DSL--the technology used by SBC to provide high-speed access to the Internet:

- Even though cable modem providers serve about 70 percent of the high-speed Internet service market, both nationally and here in Kansas, their high speed internet networks and services are not regulated by the Kansas Corporation Commission.
- Satellite service is not regulated by the KCC
- Wireless broadband is not regulated by the KCC
- Again, there are currently four technologies, but only SBC's is heavily regulated.

On the same day this bill was introduced the KCC ordered significant new state regulation of SBC's broadband network that exceeds federal regulation, and will exacerbate this unfair situation. And the KCC stated in its order that more regulation of SBC's network is to come later this year.

FOURTH:

The fact that broadband is highly competitive brings us to another key economic principle – since consumers have choices, then competition, not regulation, should

shape the future of this area of the telecommunications industry and the economic relationships between providers and users.

- As the U. S. chamber stated in its broadband policy released in November:

"...government should seek regulatory predictability and parity, and should refrain, to the maximum extent possible, from regulating broadband services so as to provide certainty in the market place, and foster investment in broadband technology and infrastructure."

- And, the U.S. Internet Industry Association views such policy change as a new vision for Kansas--
 - one where technology competes on an equal basis,
 - where regulators concern themselves with keeping networks competitive, and
 - where ISPs and their customers are free to use the power of commercial contracts to operate their businesses.

FIFTH:

Broadband parity has been tried and it's a success.

As we discuss this legislation, I ask that you remember one thing: It's easy to talk about what might happen ... what could happen ... if this were enacted into state law. But the reality is, this legislation *has* passed in a state, competition has not been harmed, and consumers were the big winners.

Here's what did happen (in Oklahoma):

- Millions in additional investment by SBC to make DSL technology available to more consumers.
- DSL will be rolled out in 37 towns – not the metro areas, but rural and smaller communities – for the first time.

So clearly, consumers are the winners.

For my next two points, I'd like to take a few minutes to discuss what I expect opponents of this bill to say. They said it at NCSL in Denver, they said it at ALEC in Washington, D.C., they said it in Oklahoma and they will say it here next week.

SIXTH:

They say this legislation would kill competition.

The reality is that this bill does nothing to change the federal laws and rules that require Bell Companies to provide access to competitive carriers.

Bell Companies would remain subject to all FCC rules governing competition.

SEVENTH:

They say this legislation is a way to deregulate local exchange (voice) service.

The truth is, this bill does nothing to change how states regulate local exchange (voice) service.

- No change in regulation.
- No change in rates.
- No change in resale or UNE requirements.
- No change period.

Again, this bill does nothing to change voice regulation ... and if you think about it, how could a state bill supersede federal laws and regulations? The answer is--*it can't*.

IN CONCLUSION

- HB2019 is good for the Kansas economy.
- It would treat all broadband competitors equally.
- It would not increase regulation for any competitor, nor would it harm any competitor.
- Broadband parity works for the benefit of consumers – bringing them new services, technology and more competition.

Testimony before House Utilities Committee

Thank you Mr. Chairman and members of the committee for allowing me to testify today.

My name is Bob Jayroe. I am here as a consultant for SBC. I retired from SBC in May, 2001, after more than 30 years in various Network Operations positions at SBC.

I am here today in support of HB 2019. Critics of HB 2019 have said CLEC's (Competitive Local Exchange Companies) would be harmed by this bill because it would change the law so that SBC would not be required to allow access to its network. This is simply not the case. The reality is HB 2019 does nothing to change Federal Laws and Rules that allow CLEC's access to SBC's network. Competitors that use parts of SBC's network to provide service would have exactly the same access to SBC's network after HB 2019 passes as they do today.

In order to illustrate, attached is a diagram which depicts the SBC DSL Broadband architecture. Included as well are the components for voice services.

There are two architectures that SBC uses to provide DSL to customers. The first is for customers that live within approximately 3 miles from a central office and are served by copper cable pairs. This is the residence on the bottom right hand of the diagram. The second is for customers that reside more than 3 miles from the Central Office. SBC has deployed an overlay network sometimes referred to as Project Pronto to reach these customers. This architecture is for the residence at the top right of the diagram.

Please note the red X's on the chart are the locations CLEC's can access SBC's network today. Nothing in HB 2019 changes these access points. New Section 2 (b) of HB2019 addresses this concern specifically.

What options do CLECs have that want to compete in the DSL Broadband arena?

1. CLECs can choose to build their own network
2. CLECs can purchase Unbundled Network Elements (Loops and Sub Loops) from SBC and combine with their own equipment to provide a service.
3. CLECs can purchase an end to end Broadband service at wholesale rates from SBC and resell the service.

Will these options change if HB2019 is passed? No.

Does passage of HB 2019 change or eliminate the way CLEC's access SBC's network?

Nothing in HB 2019 changes CLEC's access to SBC's network. Therefore, the access we described on the chart today will not change if HB 2019 is passed.

This concludes my remarks today. I am available for any questions you may have.

HOUSE UTILITIES

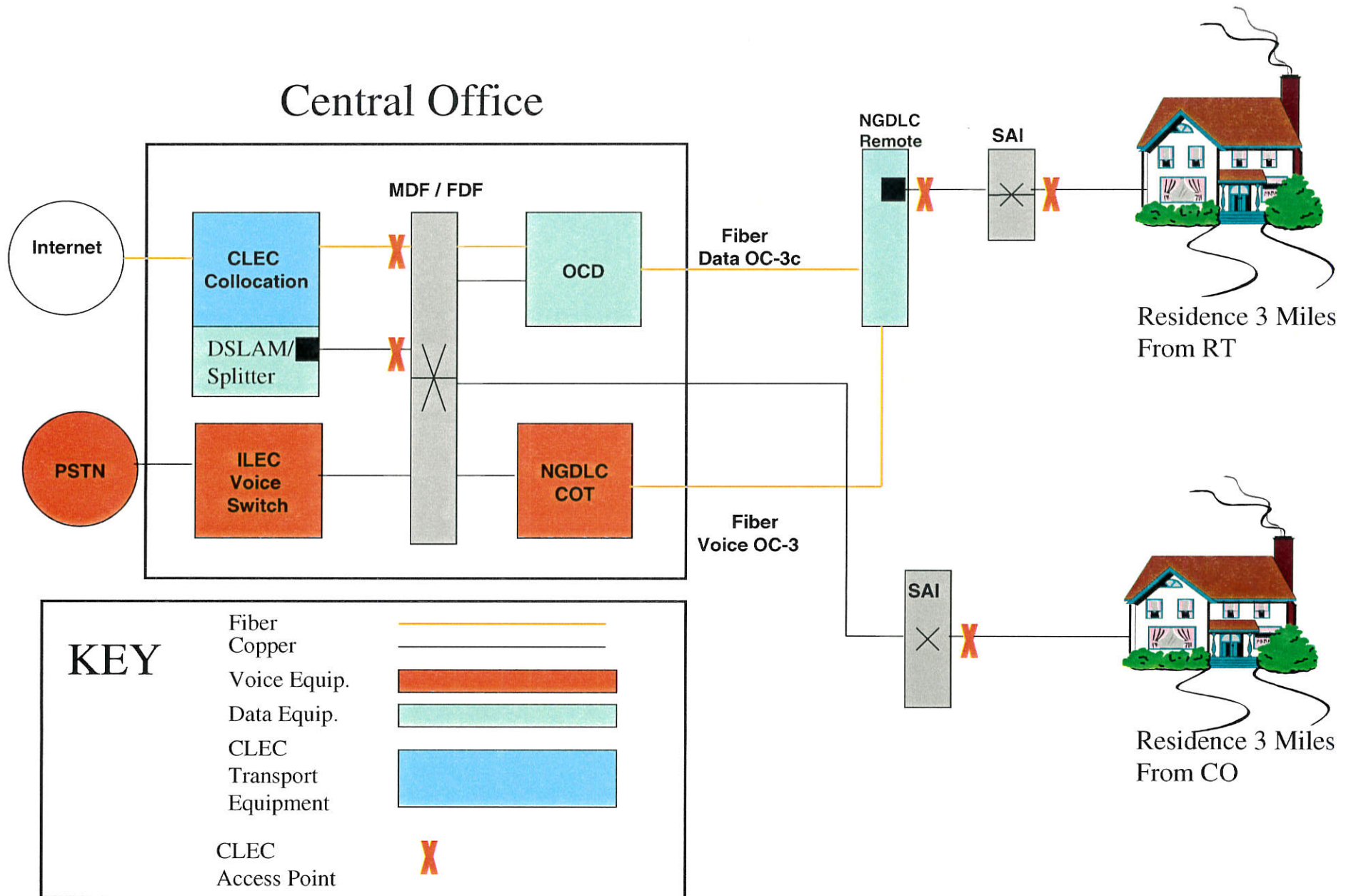
DATE: 1-22-03

ATTACHMENT 2

2-2
A

SBC DSL Broadband Architecture

Central Office



Highlands Livestock Service

Roy E. Dixon

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**Livestock Nutrition/Formulated Rations/Feed/Livestock and
Operations Management**

January 22, 2003

HB 2019 Committee on Utilities

Good morning. I would like to thank the House Committee on Utilities for the opportunity to speak today in support of HB 2019.

I am Roy Dixon, owner of Highlands Livestock Services, based out of Brewster, Kansas. My business sets up nutrition, health, marketing, business, and management programs for livestock producers. The primary territory I cover is western Kansas, eastern Colorado, and the panhandle region.

Quality telecommunications is a very crucial part of my business. I utilize the Internet DSL system extensively through out the day and night in making crucial marketing and business decisions for the producers I represent. I use DSL to connect to my DTN for market analysis and professional news affecting my consulting business. The DTN/AgDayta system I use, requires a high speed, quality, broadband system. It is a must for my industry in agricultural consulting as well as other industries.

Consumers and business need the entitlement to choose whom can best serve them. Competition is the key in providing such broadband service to people in rural America as well as our population centers. We need to make sure that the road is clear so that any company that is willing to make the investment can do so on a business like basis, and not have to worry about the government regulating the investment. The marketplace needs to determine who invests--not the government.

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ATTACHMENT 3

We want competition from companies that are willing to invest their capital in our future--putting their hardware in place to serve us. This is just one area that would enhance the vital economic development we need now for Kansas.

More broadband means more jobs and increased local and state tax revenue. We need this for Kansas.

New jobs can have a significant positive impact on a community's economy. I saw one example, which showed that creating 25 positions that pay \$30,000 a year could have a ripple effect of more than \$2 million, locally.

High-speed data services allow companies anywhere in the state to grow through better management of inventory, production and delivery.

New rules will allow telecommunications companies to deploy broadband faster and on a wider scale.

Under today's rules, state regulators can require such companies as SBC to turn its broadband network over to its competitors, even though those competitors invested nothing to build it. **Creating a system where one competitor can ride the investment of another will not work as a business model.** I know I don't like working hard, spending my money, and creating something for someone else to take my efforts away.

We need the encouragement of broadband investment to bring high-speed Internet to the Kansas communities where it isn't available now. Where available, provide fair, competitive choices for the consumer.

Companies that provide broadband should all be regulated the same.

Regulation should be applied equally to all competitors in any arena of business. That aids in building a sound economy. Regulations on DSL increase the cost of the services and limits where it can be deployed. This results in the consumer paying more for such service because of regulations stifling completion.

Fair rules will spark investment because a more equal playing field encourages companies to bring technology to Kansas. We are in need of encouraging companies to develop in our state. **Our future depends on it!**

Quality of life for all Kansans will improve when high-speed data delivery is available to more hospitals, schools, and local governments at competitive rates.

Quality communications is a necessity in any relationship. So it is in any business relationship.

We need Economic Development, Robust Communications Systems, companies that want to make the investments and spend capital dollars here in Kansas. We need fair competition. Healthy competition is good in any business and generates revenue for the state.

I ask the State of Kansas to move towards a ruling that will provide a fair, open playing field in the telecommunications industry.

Thank you.