

Approved: April 2, 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 February 11, 2003 in Room 526-S of the Capitol.

All members were present.

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: None

Others attending: See Attached List

Several items were distributed to the committee: The Hutchinson News - Power lines could bring Web access from Chairman Holmes (Attachment 1); listing of fines imposed by the FCC from Representative Morrison (Attachment 2); letter from Sprint to Representative Krehbiel (Attachment 3); and a Topeka Capitol-Journal article on broadband from Representative Sloan (Attachment 4).

Representative Neighbor moved to introduce a resolution creating the Broadband High-Speed Internet Access Task Force. Representative Kuether seconded the motion. The motion carried.

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

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

Representative Myers distributed a balloon amendment (Attachment 5). Representative Myers moved to adopt the amendments. Representative P. Long seconded the motion. Upon request, the motion was divided into three parts. On Part One to change page 3, line 7 from 150 to 200, motion carried. On Part Two to add new language on page 3 at line 15, motion carried. On Part Three to strike language on page 3 part of line 20 and the first word on line 21 and add additional language at the end of line 21, motion carried.

Representative Kuether distributed three amendments (Attachment 6), (Attachment 7), and (Attachment 8). Representative Kuether moved to adopt the first amendment, which would strike all of Section 2 and replace with proposed language. Representative Sloan seconded the motion, the motion failed. Representative Kuether moved to adopt the second amendment, which would add a new Section 3. Representative Carter seconded the motion, the motion failed. Representative Kuether moved to adopt the third amendment, which would add a new subsection (d) to page 3 Section 2. Representative Carter seconded the motion. The motion carried.

Representative Sloan distributed a proposed substitute bill (Attachment 9). Representative Sloan moved to adopt the substitute. Representative Reitz seconded the motion. The motion failed. Representative Sloan requested his 'yes' vote be recorded.

The debate on **HB 2019** will remain open.

The meeting adjourned at 10:58 a.m.

The next meeting will be Wednesday, February 12, 2003 at 9:00 a.m.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 11, 2003

NAME	REPRESENTING
JANET BUCHANAN	KCC
George <del>Bar</del> Barbee	RTNL
Nelson Krueger	Everest Connections
ALAN COBB	KCC
Coleen Mullen	Cox
Kathy Damon	Pixius
RAUDY JOURNAL	SBC
Nellie Snow	CNA
Brett Joyce	SBC
John Pinegar	state independ telephone assn.
Carolyn Austin	Sprint
Mary Peters	Sprint
Steve Montgomery	MCI Worldcom
Bob Taylor	SBC
Tim Pickering	SBC
David Spivey	curb
Burt Larson	KCC
Shirley Allen	SITA
Jim Gantner	SBC
Patrice Scott	Sprint

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 11, 2003

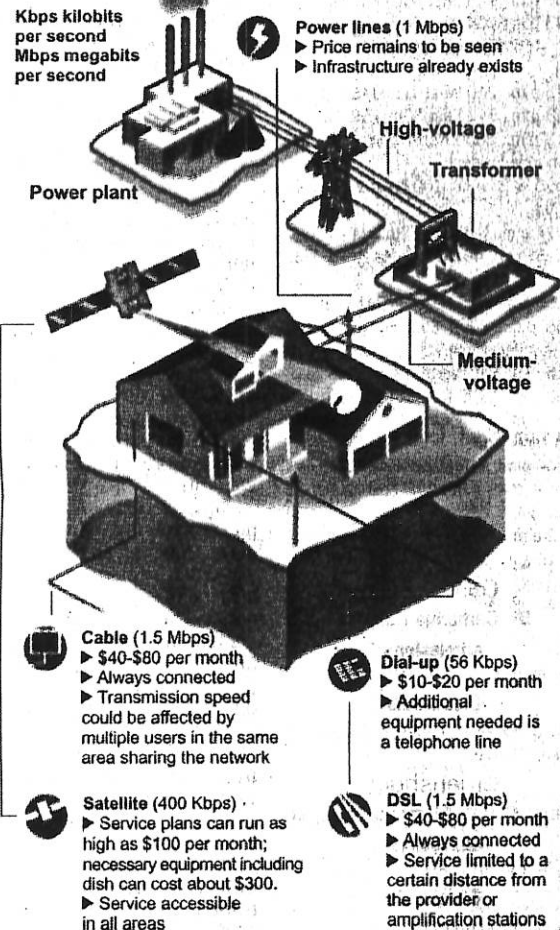
NAME	REPRESENTING
John Federico	KCTA
Cory Dubolt	SBC
Anne Spiess	KTIA - ks. Telecom Ind. Assn
Tom Guarn	ITA
Mike Murray	Sprint
Mica Beecht	ATT
Andy Shaw	

## The Web on a power trip

A plan to provide Internet service through power lines could make broadband more accessible.

### How it would work

Information traveling from the Internet to the user would first travel on either fiber-optic or telephone lines. The final leg of its journey would be along medium and low voltage power lines. A computer would connect to the Web using a special modem that plugs into an ordinary electrical outlet.



SOURCES: Power Line Communications Association; service providers

AP

# Power lines could bring Web access

By **JIM SUHR**

AP Business Writer

**ST. LOUIS** - Coming to a home or office near you could be an electric Internet: high-speed Web access via ubiquitous power lines, of all things, making every electrical outlet an always-on Web connection.

If it sounds shocking, consider this: St. Louis-based Ameren Corp. and some other utilities already are testing the technology many consider increasingly viable.

Such plug-and-play applications, if proven safe, have the blessings of federal regulators looking to bolster broadband competition and thereby lower consumer prices, along the way bridging the digital divide in broadband-overlooked rural areas.

Because virtually every building has a power plug, it "could simply blow the doors off the provision of broadband," Federal Communications Commission chairman Michael Powell said last month.

For competition's sake, "absolutely, we would applaud it," says Edmond Thomas, chief of the FCC's Office of Engineering and Technology.

"We're going to have an absolute stampede to move on this. This is a natural," said Alan Shark of the Power Line Communications Association, which includes some Internet companies and 11 utility companies powering about 30 million homes. "It'll change the way we do business on the Internet."

While existing providers of broadband through cable TV lines or phone wires consider the technology intriguing, they stress that talk of it has been around for years, with nothing to show for it.

**'It'll change the way we do business on the Internet'**

- Alan Shark of the Power Line Communications Association

If anything, companies such as St. Louis-based Charter Communications Inc. believe they have the edge. They are known commodities and can bundle high-speed Internet with video, and in some cases, telephony.

If ever deployed, power-line broadband "certainly is competition, but we feel our product would stand up well," Charter spokesman David Andersen said for the nation's third-largest cable company, with 6.7 million customers in 40 states.

Because power lines are more prevalent in homes than are cable TV or even telephone lines, a utility's vast new communications infrastructure could be born overnight - notably in rural areas, where broadband access has lagged.

There, the scarcity of potential subscribers hasn't justified the high cost of laying cable or building satellite towers. A December 2001 report by the FCC-created National Exchange Carrier Association estimated it would cost about \$10.9 billion to wire all of rural America.

Still, many in the nation's outlying areas haven't justified spending \$40 or \$50 a month for broadband when it's even available, about twice the cost of popular dial-up services.

So along comes Ameren. Serving about 1.5 million electric customers in Missouri and Illinois, Ameren is studying whether its portfolio could include broadband over its

medium-voltage distribution systems - and, more importantly, if it'd be profitable.

Keith Brightfield, heading that project for Ameren, says it's too early to say when, if ever, the company could deploy the technology, and the utility makes no claims it can deliver broadband cheaper than current providers. "Our goal is to be competitive" without losing focus on Ameren's bread-and-butter energy business, he said.

Companies have found that turning power lines - made for efficient electricity distribution - into a stable, high-speed system of data transmission is tricky. Network interference and such things as transformers and surge arrestors have hindered broadband delivery.

But over the past few years, Shark says, many of those hurdles have been cleared with technology exhaustively tested.

It works like this: the data, either by fiber-optic or telephone lines, skips disruptive high-voltage lines and is injected into the grid downstream, onto medium-voltage wires. The data then enters the home via the regular current to individual power outlets.

Because signals can only make it so far before breaking apart, special electronic devices on the line catch packets of data, then reamplify and repackage them before shooting them out again.

Other technologies use

more elaborate techniques that detour the signal around transformers.

Either way, Shark says, the signal makes its way to neighborhoods and customers who could access broadband wirelessly through strategically placed utility poles or have it zipped directly into their homes via power lines.

Still, there's no shortage of skepticism.

"I think they're a long ways from proving it, let's leave it there," the Electric Power Research Institute's Larry Carmichael. "The tests to date have been too small as far as looking at the financial and technical viability. It's still at the very early stage of development."

Regardless, the nonprofit Douglas Electric Cooperative, with more than 9,000 customers over an Oregon service territory the size of Delaware, calls the electric Internet revolutionary. The technology would complement the co-op's high-speed, fiber-optic cabling, which is too pricey to extend to its rural customers, said Mark Doty, Douglas' operations superintendent.

The co-op hopes to field test the technology as early as this summer - nice timing for member Bart Exparza, who is fed up with his slow dial-up connection at his home deep in Oregon's tree-lined, broadband-neglected mountainous countryside.

"Imagine the cartoon of a guy standing on top of his computer, pulling his hair out. That's me," the self-employed electrical contractor frets. "I just roll my eyes and think, 'Golly gee.'"

In short, he says, power-line broadband would be "cool."

**Who We Are**  
**The Issues**  
**Resources**  
**Take Action**

## BellSouth Fines

### Take Action

Help Voices for Choices achieve its goals by writing a letter to your legislature and local newspaper editor.

RBOC FINES AND PENALTIES - BellSouth						
Assessed	Carrier	How Much	Where	Why	Source	Date
Apr-99	BellSouth	\$699,920	MS	Overdue service requests	The Sun Herald - Biloxi	8/20/1999
Nov-00	BellSouth	\$750,000	US	Settlement of FCC investigation into competitive interconnection agreements.	Telephony	11/27/2000
Mar-01	BellSouth	\$3,600,000	GA	Failure to meet performance standards	The Atlanta Journal and Constitution	08/16/01
Apr-01	BellSouth	\$3,300,000	GA	Failure to meet performance standards	The Atlanta Journal and Constitution	08/16/01
Jun-01	BellSouth	\$7,200,000	GA	Failure to meet performance standards	The Atlanta Journal and Constitution	08/16/01
Jul-01	BellSouth	\$4,500,000	GA	Failure to meet performance standards	Associated Press	7/19/2001
Jul-01	BellSouth	\$525,000	FL	Customer Service Violations	Palm Beach Post	7/10/2001
Apr-02	BellSouth	\$169,200	TN	Unlawful price discrimination	The Tennessean-Nashville	4/18/2002
	<b>Total</b>	<b>\$20,744,120</b>				



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*HOUSE UTILITIES*

DATE: 2-11-03

ATTACHMENT 2

Who We Are  
The Issues  
Resources  
Take Action

## Qwest Fines

### Take Action

Help Voices for Choices achieve its goals by writing a letter to your legislature and local newspaper editor.

RBOC FINES AND PENALTIES - Qwest, USWest						
Assessed	Carrier	How Much	Where	Why	Source	Date
Jan-00	Qwest	\$12,700,000	CO	US West refund to consumers - failure to fix phone outages, install new service in timely manner	The Denver Post	1/19/2000
Feb-00	Qwest	\$1,500,000	AZ	Poor service quality	The Tucson Citizen	2/2/2000
Sep-00	Qwest	\$5,990,000	MN	Failure to meet customer service standards.	St. Paul Pioneer Press	9/20/2000
Oct-00	Qwest	\$788,000,000	NM	5 yr. spending commitment to settle rate case	Albuquerque Journal; AP	10/28/2000
Oct-00	Qwest	\$6,200,000	UT	Settlement in UT 3rd District Court for making customers wait days, weeks & sometimes months to get telephone service installed in their homes and offices	Albuquerque Journal	10/28/2000
Oct-00	Qwest	\$43,500,000	CO	Settlement of customer suit for service quality issues.	AP Online	10/7/2000
Jan-01	Qwest	\$489,000	AZ	Poor service quality	The Arizona Republic	1/18/2001
Jan-01	Qwest	\$6,000,000	NM	Credits & refunds to customers who suffered delays in getting phone service	Albuquerque Journal	1/18/2001
Apr-01	Qwest	\$725,000	OR	Service quality (orders not filled on time)	Rocky Mountain News	5/4/2001
May-01	Qwest	\$11,200,000	CO	Poor Service Quality	TR Daily	5/2/2001
Feb-02	Qwest	\$575,000	OR	Company will refund consumers for misleading sales practices and will pay money into a state consumer protection and education fund.	Oregonian	2/13/2002
Mar-02	Qwest	\$255,000	OR	Service quality shortfalls in 2001	CommDaily	3/26/2002
May-02	Qwest	\$900,000	MN	Violated an interconnection agreement with AT&T	Grand Forks Herald	5/15/2002
June-02	Qwest	\$104,000	AZ	Pending for failure to file 30 agreements with CLECs that changed their interconnection agreements with Qwest	Comm Daily	6/19/2002

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July-02	Qwest	\$3,250,000	FL	Slamming	Rocky Mountain News	7/18/2002
July-02	Qwest	\$96,000	US	Entered consent decree with FCC regarding Qwest's failure to update its website listing of premises that have exhausted collocation space.	FCC Enforcement Bureau Order	7/24/2002
Aug-02	Qwest	\$8,000	DE	Improperly dropped 16 customers' interLATA service in July 2001	TR's State Newswire	8/08/2002
Nov-02	Qwest	\$800,000	WA	Cramming settlement	Communications Daily	11/20/2002
	<b>Total</b>	<b>\$882,292,000</b>				



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Who We Are  
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## SBC Fines

### Take Action

Help Voices for Choices achieve its goals by writing a letter to your legislature and local newspaper editor.

RBOC FINES AND PENALTIES - SBC, Pacific Bell, Ameritech						
Assessed	Carrier	How Much	Where	Why	Source	Date
Sep-96	Ameritech	\$73,000	OH	12 months of fines for failing to restore service after weather-related problems	The Plain Dealer Cleveland, OH	9/20/1996
Feb-97	Ameritech	\$840,000	OH	"Inadvertent failure to accurately report" its service results under the state's minimum phone standards from 6/95-6/96: \$300,000 fine + forgo up to \$540,000 in earnings as a penalty	The Plain Dealer Cleveland, OH; Columbus Dispatch	2/12/1997
1998	Ameritech	\$615,000	WI	Lack of good service to approx. 43,000 customers in 1995	Wisconsin State Journal	4/17/1998
Aug-98	Pacific Bell	\$1,500,000	CA	Allegedly misused confidential billing information (fine is response to 1996 lawsuit filed by MCI, AT&T and Sprint)	San Diego Business Journal	9/14/1998
Sep-98	Pacific Bell	\$309,000	CA	Provided substandard ISDN service to customers and submitted false reports of customer satisfaction to state regulators.	San Jose Mercury News	9/18/1998
1999	Pacific Bell	\$44,000,000	CA	Company had engaged in overly aggressive and deceptive marketing practices (\$24M to customer education fund \$20M in fines)	Los Angeles Times	12/23/1999
Sep-99	SBC	\$845,000	TX	Anti-competitive treatment of Covad & Rhythms (withholding documents during arbitration)	San Antonio Express-News; Network World	9/11/1999
Jan-00	SBC	\$472,600	TX	CLEC problems in TX	Associated Press	4/19/2000
Feb-00	SBC	\$407,000	TX	CLEC problems in TX	Associated Press	4/19/2000
May-00	SBC	\$27,000,000	CA	Failure to deliver equipment & space to Covad in a timely manner.	San Francisco Business Times	2/2/2001
Jul-00	SBC	\$708,950	IL	Failure to meet wholesale service standards	ePrairie.com	8/21/2001



Jul-00	SBC	\$8,750,000	OH	Fines / credits levied for poor service & violation of PUCO orders	Dayton Daily News	9/22/2001
Jul-00	SBC	\$155,500	OH	Failure to meet wholesale service standards	Public Utilities Commission of Ohio	
Jul-00	SBC	\$800,000	OH	Company violated state telephone standards 122,531 times between 8/98 and 7/99.	Akron Beacon Journal	1/18/2001
Aug-00	SBC	\$932,400	IL	Failure to meet wholesale service standards	ePrairie.com	8/21/2001
Aug-00	SBC	\$295,000	OH	Failure to meet wholesale service standards	Public Utilities Commission of Ohio	
Sep-00	SBC	\$1,410,370	IL	Failure to meet wholesale service standards	ePrairie.com	8/21/2001
Sep-00	SBC	\$813,525	OH	Failure to meet wholesale service standards	Public Utilities Commission of Ohio	
Oct-00	SBC	\$13,750,000	WI	Refund (credits) for poor service quality	Capital Times (Madison, WI)	2/15/2001
Oct-00	SBC	\$1,757,890	IL	Failure to meet wholesale service standards	ePrairie.com	8/21/2001
Oct-00	SBC	\$743,126	OH	Failure to meet wholesale service standards	Public Utilities Commission of Ohio	
Oct-00	SBC	\$1,750,000	WI	Rate reduction penalty for failure to meet service quality standards	Capital Times (Madison, WI); WI PSC Docket 6720-TI-ITF	2/15/2001
Nov-00	SBC	\$1,416,223	IL	Failure to meet wholesale service standards	ePrairie.com	8/21/2001
Nov-00	SBC	\$722,800	OH	Failure to meet wholesale service standards	Public Utilities Commission of Ohio	
Dec-00	SBC	\$19,000,000	MI	Settlement reached in Dec. for service quality problems (\$13 M) plus voluntary credits (\$5.4 M)	Crain's Detroit Business	4/9/2001
Dec-00	SBC	\$1,498,707	IL	Failure to meet wholesale service standards	ePrairie.com	8/21/2001
Dec-00	SBC	\$760,975	OH	Failure to meet wholesale service standards	Public Utilities Commission of Ohio	
Dec-00	SBC	\$6,151,100	US	Failing to meet SBC/Ameritech merger conditions.	Communications Daily; FCC Docket 98-141	4/9/2001
Jan-01	SBC	\$30,000,000	IL	Failure to restore phone service w/ 24 hrs to at least 95% of customers. Standard part of SBC/Ameritech merger agreement.	South Bend Tribune	1/24/2001
Jan-01	SBC	\$2,891,525	IL	Failure to meet wholesale service standards	ePrairie.com	8/21/2001

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Jan-01	SBC	\$1,224,657	OH	Failure to meet wholesale service standards	Public Utilities Commission of Ohio	
Jan-01	SBC	\$6,400,000	US	Failure to meet merger commitments.	Communications Daily	4/9/2001
Jan-01	SBC	\$675,000	IN	Pending damages to a computer consultant for faulty phone service. Ameritech has already been found guilty in the case.	The Indianapolis Star	1/23/2001
Feb-01	SBC	\$6,085,950	US	Failure to meet merger commitments	Communications Daily	4/9/2001
Feb-01	SBC	\$500	WI	Failure to meet wholesale service standards	Wisconsin Public Service Commission	
Feb-01	SBC	\$3,151,154	IL	Failure to meet wholesale service standards	ePrairie.com	8/21/2001
Feb-01	SBC	\$33,512	MI	Failure to meet wholesale service standards	Michigan Public Service Commission	
Feb-01	SBC	\$828,387	OH	Failure to meet wholesale service standards	Public Utilities Commission of Ohio	
Mar-01	SBC	\$3,077,406	IL	Failure to meet wholesale service standards	ePrairie.com	8/21/2001
Mar-01	SBC	\$1,079,363	OH	Failure to meet wholesale service standards	Public Utilities Commission of Ohio	
Mar-01	SBC	\$4,585,580	US	Failure to meet merger commitments.	Communications Daily, FCC Docket 98-141	4/9/2001
Mar-01	SBC	\$88,000	US	Failure to report performance data (detailed monthly reports reflecting its performance responding to requests for facilities and services from rivals and end-user customers)	FCC Press Release	5/29/2001
Mar-01	SBC	\$77,500	MI	Failure to meet wholesale service standards	Michigan Public Service Commission	
Apr-01	SBC	\$3,600,630	IL	Failure to meet wholesale service standards	ePrairie.com	8/21/2001
Apr-01	SBC	\$1,171,875	OH	Failure to meet wholesale service standards	Public Utilities Commission of Ohio	
Apr-01	SBC	\$79,000	MI	Failure to meet wholesale service standards	Michigan Public Service Commission	
Apr-01	SBC	\$17,500	WI	Failure to meet wholesale service standards	Wisconsin Public Service Commission	
May-01	SBC	\$3,764,719	IL	Failure to meet wholesale service standards	ePrairie.com	8/21/2001
May-01	SBC	\$1,141,739	OH	Failure to meet wholesale service standards	Public Utilities Commission of Ohio	

May-01	SBC	\$1,006	WI	Failure to meet wholesale service standards	Wisconsin Public Service Commission	
May-01	SBC	\$90,087	MI	Failure to meet wholesale service standards	Michigan Public Service Commission	
May-01	SBC	\$3,872,175	US	Failure to meet merger commitments	Reuters; FCC Docket 98-141	5/31/2001
May-01	SBC	\$94,500	US	Failure to identify COs w/o collocation space.	FCC Press Release	5/24/2001
May-01	SBC	\$120,000,000	IL	Refunds to business customer due to improperly classifying services as competitive NOTE: ICC case with no final order yet. Legislature ?settled? case for \$120 million	Illinois Commerce Commission	
Jun-01	SBC	\$2,200,000	IL	Failure to meet wholesale service standards	ePrairie.com	8/21/2001
Jun-01	SBC	\$5,250	IN	Failure to meet wholesale service standards	Indiana Utility Regulatory Commission	
Jun-01	SBC	\$60,000	MI	Failure to meet wholesale service standards	Michigan Public Service Commission	
Jun-01	SBC	\$921,000	OH	Failure to meet wholesale service standards	Public Utilities Commission of Ohio	
Jul-01	SBC	\$1,488,556	IL	Failure to meet wholesale service standards	Illinois Commerce Commission	
Jul-01	SBC	\$4,750	IN	Failure to meet wholesale service standards	Indiana Utility Regulatory Commission	
Jul-01	SBC	\$37,000	MI	Failure to meet wholesale service standards	Michigan Public Service Commission	
Jul-01	SBC	\$114,893	OH	Failure to meet wholesale service standards	Public Utilities Commission of Ohio	
Jul-01	SBC	\$3,223,235	US	Failure to meet merger commitments	Reuters; FCC Docket 98-141	7/27/2001
Aug-01	SBC	\$549,550	IL	Failure to meet wholesale service standards	Illinois Commerce Commission	
Aug-01	SBC	\$3,800,000	US	Failure to meet wholesale service standards	Reuters	8/24/2001
Sep-01	SBC	\$2,540,487	US	Failure to meet wholesale service standards	Reuters; FCC Docket 98-141	9/26/2001
Sep-01	SBC	\$25,600,000	CA	Deceptive and overly aggressive marketing of phone services	San Jose Mercury News	9/21/2001
Sep-01	SBC	\$501,491	IL	Failure to meet wholesale standards	ePrairie.com	12/20/2001
Oct-01	SBC	\$2,976,873	US	Failure to meet wholesale service standards	Fort Worth Star-Telegram; FCC Docket 98-141	10/27/2001

Oct-01	SBC	\$443,000	MI	Failure to meet wholesale service standards	TRs State NewsWire	12/26/2001
Oct-01	SBC	\$3,200	IN	Failure to meet wholesale service standards	TRs State NewsWire	12/26/2001
Oct-01	SBC	\$5,000,000	OH	Bill credits for poor service / high pressure marketing tactics	Dayton Daily News	10/12/2001
Oct-01	SBC	\$2,500,000	WI	Wholesale/retail penalties; stayed by court pending determination of how penalty funds will be used - amount being held in escrow	CommDaily	12/28/2001
Oct-01	SBC	\$75,000	OH	Failure to meet wholesale service standards	TRs State NewsWire	12/26/2001
Oct-01	SBC	\$480,613	IL	Failure to meet wholesale service standards	Chicago Tribune	12/21/2001
Oct-01	SBC	\$2,520,000	US	Submission of inaccurate Sec. 271 information in its Kansas and Oklahoma application (pending)	Reuters	10/16/2001
Nov-01	SBC	\$3,510,421	US	Failure to meet requirements regarding the treatment of rivals using the company's network.	Bloomberg	11/28/2001
Nov-01	SBC	\$100,000	US	Failure to provide sworn written response to the FCC Enforcement Bureau in its investigation of possible anti-competitive behavior (pending)	CommDaily	11/5/2001
Nov-01	SBC	\$501,491	IL	Failure to meet wholesale service requirements for the July-September period.	ePrairie.com	12/20/2001
Nov-01	SBC	\$374,556	IL	Failure to meet wholesale service standards	SBC.com	
Nov-01	SBC	\$468	IN	Failure to meet wholesale service standards	SBC.com	
Nov-01	SBC	\$339,279	MI	Failure to meet wholesale service standards	SBC.com	
Nov-01	SBC	\$208,401	OH	Failure to meet wholesale service standards	SBC.com	
Nov-01	SBC	\$15,552	WI	Failure to meet wholesale service standards	SBC.com	
Dec-01	SBC	\$480,613	IL	Failure to meet wholesale performance requirements	ePrairie.com	12/20/2001

Dec-01	SBC	\$1,946,024	US	Failure to meet wholesale performance measures	Reuters	12/26/2001
Dec-01	SBC	\$25,335	WI	Failure to meet wholesale performance requirements	SBC.com	
Dec-01	SBC	\$236,023	OH	Failure to meet wholesale performance requirements	SBC.com	
Dec-01	SBC	\$527,018	MI	Failure to meet wholesale performance requirements	SBC.com	
Dec-01	SBC	\$31,560	IN	Failure to meet wholesale performance requirements	SBC.com	
Dec-01	SBC	\$286,660	IL	Failure to meet wholesale performance requirements	ePrairie.com	12/20/2001
Jan-02	SBC	\$6,000,000	US	Failure to provide access to shared transport facilities in Ameritech territory (pending FCC decision)	FCC Press Release	1/18/2002
Jan-02	SBC	\$15,300	WI	Failure to meet wholesale service standards	TRInsight	3/26/2002
Jan-02	SBC	\$15,700	IN	Failure to meet wholesale service standards	TRInsight	3/26/2002
Jan-02	SBC	\$51,000	OH	Failure to meet wholesale service standards	TRInsight	3/26/2002
Jan-02	SBC	\$323,800	MI	Failure to meet wholesale service standards	TRInsight	3/26/2002
Jan-02	SBC	\$470,700	IL	Failure to meet wholesale service standards	TRInsight	3/26/2002
Jan-02	SBC	\$224,000,000	IL	Credits of \$50/residential phone line for "net merger savings" from SBC/Ameritech merger	Chicago Tribune	1/18/2002
Jan-02	SBC	\$3,750,000	MI	Court of appeals upheld 1999 fine against SBC for failing to fulfill WorldCom's orders for unbundled local transport	TR Daily, State of Michigan Court of Appeals Decision No. 226242 and No. 229912	1/24/2002
Jan-02	SBC	\$2,900,000	US	Failure to meet wholesale performance measures	Communications Daily	1/31/2002
Feb-02	SBC	\$292,000	IL	"Remedy payments" to state and CLECs for failing to meet merger commitments (shared transport)	TRInsight	2/20/2002

Feb-02	SBC	\$350,000,000	CA	State PUC released results of an audit for the time period of 1997-1999 finding that Pac Bell should refund customers \$350M (pending)	Associated Press	2/21/2002
Feb-02	SBC	\$84,000	US	Failure to identify COs w/o collocation space. (Reduced from original fine of \$94,500 imposed 5/01)	FCC Press Release	2/25/2002
Feb-02	SBC	\$30,000	MI	Customer Service Violations	Detroit Free Press	2/26/2002
Feb-02	SBC	\$3,400,000	US	Failure to meet wholesale service standards	St. Louis Post-Dispatch	2/27/2002
Feb-02	SBC	\$15,127	WI	Failure to meet wholesale service standards	SBC.com	4/23/2002
Feb-02	SBC	\$32,606	OH	Failure to meet wholesale service standards	SBC.com	4/23/2002
Feb-02	SBC	\$174,055	MI	Failure to meet wholesale service standards	SBC.com	4/23/2002
Feb-02	SBC	\$30,120	IN	Failure to meet wholesale service standards	SBC.com	4/23/2002
Feb-02	SBC	\$264,356	IL	Failure to meet wholesale service standards	ePrairie.com	4/22/2002
Mar-02	SBC	\$1,700,000	US	Failure to meet wholesale service standards	Chicago Sun-Times	4/4/2002
Apr-02	SBC	\$100,000	US	Violated an Enforcement Bureau order directing the company to provide sworn verification of the truth and accuracy of its answers to a Bureau letter of inquiry.	FCC Press Release	4/15/2002
Apr-02	SBC	\$109,033	IL	Failure to meet wholesale service standards	ePrairie.com	6/24/2002
Apr-02	SBC	\$1,950,000	US	Failure to meet wholesale service standards that were part of SBC/Ameritech merger requirements	ePrairie.com	5/6/2002
May-02	SBC	\$1,010,000	US	Failure to meet wholesale services standards as part of SBC/Ameritech merger requirements	Bloomberg	5/28/2002
May-02	SBC	\$3,600,000	US	Filed inaccurate information in 271 applications for four states	Wall Street Journal	5/29/2002
June-02	SBC	\$1,160,000	US	Failure to meet wholesale service standards	Bloomberg	6/25/2002

June-02	SBC	\$8,500,000	OH	SBC did not provide acceptable levels of customer service.	PUCO	6/25/2002
June-02	SBC	\$965,355	IL	Failure to meet wholesale service standards	Comm Daily	8/26/2002
June-02	SBC	\$75,036	IN	Failure to meet wholesale service standards	Comm Daily	8/26/2002
June-02	SBC	\$699,239	MI	Failure to meet wholesale service standards	Comm Daily	8/26/2002
June-02	SBC	\$3,700,000	MI	Failure to meet wholesale service standards	Comm Daily	8/26/2002
June-02	SBC	\$113,640	OH	Failure to meet wholesale service standards	Comm Daily	8/26/2002
June-02	SBC	\$11,300,000	OH	Failure to meet wholesale service standards	Comm Daily	8/26/2002
June-02	SBC	\$4,200,000	WI	Failure to meet wholesale service standards	Comm Daily	8/26/2002
July-02	SBC	\$27,000,000	CA	Pending fine for billing thousands of customers for high-speed internet service they never requested	Wall Street Journal	7/08/2002
July-02	SBC	\$2,931,325	WI	Failure to meet wholesale service standards for 5/02 (stayed usder PSC plan)	ePrairie.com	7/23/2002
July-02	SBC	\$234,357	OH	Failure to meet wholesale service standards for 5/02	ePrairie.com	7/23/2002
July-02	SBC	\$492,066	MI	Failure to meet wholesale service standards for 5/02	ePrairie.com	7/23/2002
July-02	SBC	\$5,500	IN	Failure to meet wholesale service standards for 5/02	ePrairie.com	7/23/2002
July-02	SBC	\$316,097	IL	Failure to meet wholesale service standards for 5/02	ePrairie.com	7/23/2002
Aug-02	SBC	\$787,048	US	Failure to meet performance standards	FCC	9/04/2002
Aug-02	SBC	\$956,355	IL	Failure to meet wholesale service standards for June 2002	Chicago Tribune	8/23/2002
Sept-02	SBC	\$65,142	WI	Failure to meet wholesale service standards for 7/02 (stayed)	Communications Daily	9/24/2002
Sept-02	SBC	\$94,953	IN	Failure to meet wholesale service standards for 7/02	Communications Daily	9/24/2002
Sept-02	SBC	\$1,480,000	OH	Failure to meet wholesale service standards for 7/02	Communications Daily	9/24/2002

Sept-02	SBC	\$1,730,000	MI	Failure to meet wholesale service standards for 7/02	Communications Daily	9/24/2002
Sept-02	SBC	\$1,720,000	IL	Failure to meet wholesale service standards for 7/02	Communications Daily	9/24/2002
Oct-02	SBC	\$27,000,000	CA	CAPUC ALJ approved settlement covering thousands of DSL billing error complaints filed by end users over the last three years. Settlement will become final at the end of October	Communications Daily	10/2/2002
Oct-02	SBC	\$6,000,000	US	Failed to offer rivals in five Ameritech states terms similar to those offered in Texas for shared transport	Reuters	10/9/2002
Oct-02	SBC	\$1,472,781	US	Failure to meet wholesale performance requirements (June-Aug. 2002)	FCC Ex Parte CC 98-141	10/25/2002
Nov-02	SBC	\$1,489,563	IL	Failure to meet wholesale performance requirements (Aug.-Sept. 2002)	SBC.com	11/20/2002
Nov-02	SBC	\$41,029	IN	Failure to meet wholesale performance requirements (Aug.-Sept. 2002)	SBC.com	11/20/2002
Nov-02	SBC	\$774,111	MI	Failure to meet wholesale performance requirements (Aug.-Sept. 2002)	SBC.com	11/20/2002
Nov-02	SBC	\$202,528	OH	Failure to meet wholesale performance requirements (Aug.-Sept. 2002)	SBC.com	11/20/2002
Nov-02	SBC	\$4,179,125	WI	Failure to meet wholesale performance requirements (Aug.-Sept. 2002)	SBC.com	11/20/2002
Dec-02	SBC	\$170,460	OH	Failure to meet wholesale performance requirements (Sept. - Nov. 2002)	SBC.com	12/21/2002
Dec-02	SBC	\$3,188	IN	Failure to meet wholesale performance requirements (Sept. - Nov. 2002)	SBC.com	12/21/2002
Dec-02	SBC	\$293,136	MI	Failure to meet wholesale performance requirements (Sept. - Nov. 2002)	SBC.com	12/21/2002



Dec-02	SBC	\$4,095,100	IL	Failure to meet wholesale performance requirements (Sept. - Nov. 2002)	SBC.com	12/21/2002
Jan-03	SBC	\$107,695	OH	Failure to meet wholesale performance requirements (Oct. - Dec. 2002)	SBC.com	1/21/2003
Jan-03	SBC	\$389,652	MI	Failure to meet wholesale performance requirements (Oct. - Dec. 2002)	SBC.com	1/21/2003
Jan-03	SBC	\$17,542	IN	Failure to meet wholesale performance requirements (Oct. - Dec. 2002)	SBC.com	1/21/2003
Jan-03	SBC	\$1,787,441	IL	Failure to meet wholesale performance requirements (Oct. - Dec. 2002)	SBC.com	1/21/2003
<b>Total</b>		<b>\$1,111,905,491</b>				



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Who We Are  
The Issues  
Resources  
Take Action

## Verizon Fines

### Take Action

How Voices for Choices achieves its goals by writing a letter to your legislature and local newspaper editor.

RBOC FINES AND PENALTIES - Verizon, Nynex, GTE						
Assessed	Carrier	How Much	Where	Why	Source	Date
1996	Verizon	\$6,000,000	MA	Service problems	Wall Street Journal	09/16/1996
1996	Verizon	\$135,000	ME	Service shortfalls	Wall Street Journal	09/16/1996
Nov-96	Nynex	\$62,300,000	NY	Poor service quality	Wall Street Journal; Newsday	11/07/1996
May-97	Nynex	\$354,000	NY	Customer rebates for service problems in Manhattan	Syracuse Herald-Journal	05/01/1997
Jun-99	Verizon	\$800,000	MA	For not providing competitors the same level of service as it does its own retail customers (1/1/98 - 6/30/99).	Wall Street Journal	10/27/1999
2000	Verizon	\$2,700,000	US	Treasury payment for GTE competition offenses (collocation).	America's Network	01/01/2001
Mar-00	Verizon	\$13,000,000	US	Problems processing CLEC orders in NY.	Communications Daily	03/10/2000
Aug-00	Verizon	\$250,000	PA	Deceptive lobbying practices	National Assoc. of Attorneys General Consumer Protection Report	09/01/2000
Oct-00	Verizon	\$200,000,000	VA	Refund to consumers for 6 yrs of overcharges	The Virginian-Pilot	10/13/2000
Oct-00	Verizon	\$250,000	US	Voluntary payment to US Treasury for possible violation regarding long distance verification and record retention. Verizon entered Consent Decree with FCC.	FCC Press Release	10/17/2000
Mar-01	Verizon	\$5,600,000	NY	Failure to meet service quality standards.	AP State & Local Wire	03/29/2001
Aug-01	Verizon	\$1,522,334	US	Failure to meet wholesale service standards	Reuters; FCC Docket 98-184	08/08/2001
Sep-01	Verizon	\$1,526,717	US	Failure to meet wholesale service standards	Reuters; FCC Docket 98-184	09/25/2001
Sep-01	Verizon	\$77,000	US	Payment to US Treasury. Verizon may have violated FCC's collocation rules. Entered Consent Decree.	FCC Press Release	09/14/2001
Oct-01	Verizon	\$937,572	US	Failure to meet wholesale service standards	Fort Worth Star-Telegram	10/27/2001

Nov-01	Verizon	\$841,294	US	Failure to meet wholesale performance requirements for period of Jul-Sep.	FCC Ex Parte CC 98-184	11/29/2001
Dec-01	Verizon	\$931,386	US	Failure to meet wholesale performance benchmarks for period of Aug.-Oct.	FCC Ex Parte CC 98-184	12/28/2001
Jan-02	Verizon	\$177,000	PA	Withheld the PUC code of conduct from its front-line employees for 2 years	The Patriot News	01/2520/02
Jan-02	Verizon	\$2,000,000	FL	Failed to comply with FL PSC's service standards between 1996 and 1999	Tampa Tribune	01/03/2002
Jan-02	Verizon	\$1,000	PA	Sent disparaging letter to former customer	The Patriot News	01/25/2002
Jan-02	Verizon	\$27,000	PA	Three instances of failing to immediately lift a "freeze" on changes in customers local phone service providers.	The Patriot News	01/22/2002
Jan-02	Verizon	\$961,419	US	Failure to meet wholesale service standards	Reuters	01/30/2002
Feb-02	Verizon	\$462,669	US	Failure to meet wholesale service standards	Los Angeles Times	2/27/2002
Mar-02	Verizon	\$922,667	US	Failure to meet wholesale performance requirements (Nov.-Dec. 2000 and Jan. 2001)	FCC Ex Parte CC 98-184	3/29/2002
Apr-02	Verizon	\$844,818	US	Failure to meet wholesale performance requirements (Dec. 2001-Feb. 2002)	FCC Ex Parte CC 98-184	4/30/2002
May-02	Verizon	\$860,948	US	Failure to meet wholesale performance requirements (Jan.-Mar. 2002)	FCC Ex Parte CC 98-184	5/31/2002
June-02	Verizon	\$386,733	US	Failure to meet wholesale service standards	Bloomberg	6/25/2002
July-02	Verizon	\$695,860	US	Failure to meet wholesale performance requirements (Mar. - May 2002)	FCC Ex Parte CC 98-184	7/30/2002
Aug-02	Verizon	\$665,404	US	Failure to meet wholesale performance requirements (April - June 2002)	FCC Ex Parte CC 98-184	8/30/2002
Aug-02	Verizon	\$260,000	US	Agreed to pay money to end an investigation into whether it violated conditions of its merger with GTE	Dow Jones	8/20/2002
Oct-02	Verizon	\$429,455	US	Failure to meet wholesale performance requirements (June - Aug. 2002)	FCC Ex Parte CC 98-184	10/25/2002
Oct-02	Verizon	\$811,658	US	Failure to meet wholesale performance requirements (May-July 2002)	FCC Ex Parte CC 98-184	10/1/2002

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Nov-02	Verizon	\$232,519	US	Failure to meet wholesale performance requirements (August-September 2002)	FCC Ex Parte CC 98-141	11/25/2002
Dec-02	Verizon	\$214,732	US	Failure to meet wholesale performance requirements (Aug. - Oct. 2002))	FCC Ex Parte CC 98-184	12/31/2002
<b>Total</b>		<b>\$307,179,185</b>				



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**Michael R. Murray**  
Director  
Governmental and Public Affairs

**Midwest Operations**  
800 Southwest Jackson, Suite 1108  
Topeka, KS 66612-1242  
Voice 785 232 3826  
Fax 785 234 6420

February 5, 2003

The Honorable Carl Krehbiel  
Room 110-South  
State Capitol Building  
Topeka, Kansas 66612

Dear Rep. Krehbiel:

You asked about Sprint's job losses over the past couple of years. Sprint has laid off a total of right at 17,000 employees and contractors. According to Sprint's Human Resources Department 1,691 of those job reductions have been in Kansas.

It should be noted once again that Sprint's job losses have had nothing to do with the prices we are required to charge competitors seeking access to our network through unbundled network elements. You will recall that in the Kansas City Star article SBC was linking its 11,000 layoffs to "outmoded regulation" and further linked the layoffs by saying it was forced to offer competitors access to its networks at deep discounts.

As I said in my testimony, "Several factors have come together causing Sprint to reduce its workforce—the downturn in the US economy, the dotcoms which were all blow and no go, and companies which were cooking their books. The markets have punished the entire telecommunications industry."

I hope this adequately responds to your question of last Friday.

Most sincerely,

Michael R. Murray

Cc: House Utilities Committee

*HOUSE UTILITIES*

DATE: 2-11-03

ATTACHMENT 3

# Cost-Cutting WorldCom Considers More Layoffs

Washington Post

WorldCom may announce as early as today plans to lay off up to 6,000 workers to cut costs and help the company emerge from bankruptcy protection later this year. A spokesman declined to comment yesterday on the layoffs, saying the company is no longer making any plans to cut costs as revenue declines. Like many other long-distance phone companies, WorldCom's new chief executive, Michael Capellas, is seeking ways to cut costs as revenue declines and more interest payments on \$40 billion in debt and it is losing nearly \$200 million a month. WorldCom's long-distance phone companies in recent years, WorldCom has faced declining prices and more competition. Capellas has come up with a 100-day plan that set a goal of reducing costs by 4 percent. The company has until mid-April to file its restructuring plan with a federal bankruptcy court in New York, which is overseeing its case. Capellas has said that he is on track to meet the deadline.

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**AT&T to cut 3,500, take \$1.5b in charges**

No news on where layoffs will occur

By Peter J. Howe, Globe Staff, 1/7/2003

AT&T Corp. yesterday said a planned **layoff** of 3,500 employees, about 5 percent of its work force, and a writedown for investments in Latin America will produce \$1.5 billion in accounting charges.

AT&T spokesman Jeff Roberts said that "it is way too premature" to say how many of the layoffs might occur in Massachusetts and elsewhere in New England. About 1,000 of AT&T's 72,000 employees are based in the Bay State. New Jersey is AT&T's largest hub, with 16,000 employees based there.

Roberts also said there are no indications yet of whether Massachusetts AT&T operations might face more or less than the 5 percent work force reduction. "Not all decisions have been made" about where and how to cut jobs, Roberts said. AT&T said more than half of the job cuts will occur among management.

AT&T late last year spun off its AT&T Broadband cable unit to Philadelphia-based Comcast Corp. AT&T Broadband, which will adopt the Comcast name some time this spring, is the dominant cable TV provider in Massachusetts and also provides high-speed Internet access.

AT&T announced a partnership yesterday with California-based Covad Communications to provide digital subscriber line high-speed Net access under the AT&T brand in Greater Boston and more than 90 other US markets. AT&T bought the remnants of failed DSL provider NorthPoint Communications two years ago but never rolled out a large DSL service of its own.

Covad has been managing AT&T-branded DSL service in limited areas of the United States to customers of AT&T's WorldNet dial-up Net service. The new arrangement will expand to cover the 40 million US homes and businesses in 96 metropolitan areas served by Covad. AT&T has been selling its own DSL service over its network in some parts of California, Texas, and New York.

"Broadband Internet access is a key element in the portfolio of services we want to offer consumers," said AT&T Consumer senior vice president Kevin Crull. "Collaborating with Covad greatly expands our options and geographic reach. It accelerates our progress, while allowing us to control spending as we achieve scale."

The deal also gives AT&T warrants to buy 3 million shares of Covad common stock, or 1.3 percent of its outstanding shares. The AT&T-Covad alliance extends to September 2005. The companies gave no details of what rates they will charge and how revenues and profits will be split.

With prices for long-distance calls plunging and competition from Baby Bells, wireless carriers, and Internet messaging booming, AT&T's total revenues dropped 8.3 percent in the third quarter to \$12 billion and are expected to continue to fall. AT&T has 50 million residential customers and 4 million business customers.

AT&T said the \$240 million charge for layoffs will cut its earnings per share by 20 cents in the fourth quarter of 2002. Another \$200 million charge for writing down the value of AT&T DSL assets will create an asset-impairment charge of about 15 cents per share, the company said.

Also, as previously announced, AT&T will take a separate asset-impairment charge of \$1.1 billion, or \$1.40 per share, for its past investments in its now-struggling Latin America operations.

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# NEWS

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This is an unofficial announcement of Commission Action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC. 516 F 2d 385 (D.C. Circ 1974)

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**FOR IMMEDIATE RELEASE**  
March 27, 2000

**NEWS MEDIA CONTACT:**  
John Winston (202) 418-7450

## **Sprint and Enforcement Bureau Enter Consent Decree Regarding Slamming of Consumers; Sprint to Pay \$250,000**

Washington, D.C. - Today, the Enforcement Bureau of the Federal Communications Commission released an Order adopting a Consent Decree between the Bureau and Sprint Communications Company, LP (Sprint) that terminates a Bureau investigation into slamming of consumers by Sprint agents. Slamming is the illegal practice of switching consumers' preferred long distance or other telephone carrier without their consent. Sprint voluntarily brought the slamming to the attention of the Commission and state regulatory authorities and began promptly taking voluntary remedial actions.

Under the terms of the Consent Decree, Sprint will make a voluntary contribution to the United States Treasury of \$250,000. Sprint has also taken or agreed to take the following steps: (1) return all affected customers to their pre-selected carrier; (2) credit affected customers for charges they incurred; (3) provide a free \$10 calling card to all affected customers; (4) obtain termination of the telemarketing agents directly involved and removal from Sprint accounts of their supervisors; and (5) implement a strengthened slamming prevention, detection and disciplinary program.

The Consent Decree follows three other slamming enforcement actions by the Commission since early February: (1) a \$1.36 million forfeiture imposed on Amer-I-Net Services Corporation; (2) a \$2 million forfeiture imposed on Long Distance Direct, Inc.; and (3) a \$1 million forfeiture imposed on Brittan Communications International, Inc. In the last six weeks, the Commission and the Enforcement Bureau have taken slamming enforcement actions involving payments to the Treasury totalling over \$4.5 million.

File No. EB-00-TC-002

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# NEWS

Federal Communications Commission  
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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

---

FOR IMMEDIATE RELEASE  
June 6, 2000

NEWS MEDIA CONTACT:  
John Winston (202) 418-7450

## **FCC ACTION NETS HIGHEST SLAMMING PAYMENT EVER MCI WORLDCOM TO PAY \$3.5 MILLION**

### **Latest Action Brings Slamming Total To Over \$8.5 Million Since February**

Washington, D.C. - Today the Federal Communications Commission (Commission) released an order adopting a Consent Decree between the Commission and MCI WorldCom Communications, Inc. (MCI WorldCom) that terminates a Commission investigation into unauthorized conversion (slamming) of consumers' preferred carriers by MCI WorldCom. In the agreement, MCI WorldCom agrees to restructure significantly its telemarketing and other business practices to protect consumers against slamming.

Under the terms of the Consent Decree, MCI will make a voluntary contribution to the United States Treasury in the amount of \$3,500,000. MCI WorldCom has also agreed to take major actions to deter slamming, including, among others: 1) to implement a significantly revised slamming prevention program which will include financial disincentives and strict disciplinary provisions for its employees and agents found to be engaged in slamming; 2) to establish a new credit policy which will require the issuance of credits to those consumers who claim to have been slammed; 3) to establish an Executive Review Panel to conduct quarterly reviews of quality control; and, 4) to report to the Commission on the progress of its anti- slamming program and its record of compliance with the Consent Decree.

The Consent Decree follows five other recent slamming enforcement actions by the Commission since February 2000: 1) a \$1.36 million forfeiture imposed on Amer-I-Net Services Corporation; 2) a \$2 million forfeiture imposed on Long Distance Direct, Inc.; 3) a \$1 million forfeiture imposed on Brittan Communications International, Inc.; 4) a Consent Decree entered into between the Enforcement Bureau and Sprint Communications Company, LP, resulting in a voluntary contribution to the U.S. Treasury of \$250,000; and 5) a Consent Decree entered into between the Enforcement Bureau and Excel Telecommunications Company, Inc., resulting in a voluntary contribution to the U.S. Treasury of \$400,000. In addition, the Commission recently released an order that further strengthens its slamming rules to take the profit out of slamming and create additional industry-wide disincentives

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against slamming. That order also supports increased joint cooperative efforts between the Commission and the states to tackle slamming issues.

Action by the Commission, June 6, 2000, by Order FCC No. 00-205. Chairman Kennard, Commrs. Ness, Powell, Tristani; Commr. Furchtgott-Roth concurring in part, dissenting in part and issuing a separate statement.

- FCC -

Enforcement Bureau Contacts: Katherine Power at (202) 418-0919 and John Winston at (202) 418-7450.

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**FOR IMMEDIATE RELEASE**  
April 17, 2001

**NEWS MEDIA CONTACT:**  
John Winston (202) 418-7450

## **FCC IMPOSES \$520,000 SLAMMING FINE AGAINST AT&T**

Washington, D.C. - Today the Federal Communications Commission (Commission) released an Order imposing a \$520,000 fine against AT&T Communications, Inc. (AT&T) for violations of the Communications Act and the Commission's rules against slamming.

Today's order resolves a Notice of Apparent Liability (NAL) issued by the Commission against AT&T on December 21, 2000. In its response to the NAL, AT&T did not deny that it submitted unauthorized change orders for six of the consumer telephone lines, but argued that the Commission should reduce or rescind the fine for these violations. In regard to the remaining eight alleged violations, AT&T argued in its response that no slamming violations had actually occurred.

In today's action, the Commission found that AT&T slammed 11 of the 14 customer telephone lines referenced in the NAL. With respect to the remaining three allegations, the Commission found that the available evidence indicated that those consumers did, in fact, authorize switching their carriers.

Action by the Commission, April 12, 2001, by Order of Forfeiture FCC 01-128, Chairman Powell, Commissioners Ness and Tristani. Commissioner Furchtgott-Roth concurring in part and dissenting in part, and issuing a separate statement.

File No. EB-00-TC-006

Enforcement Bureau Contacts: John Winston at (202) 418-7450 or Catherine Seidel at (202) 418-7320.

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## Sprint's leadership crisis grows amid exec shuffle Questionable tax shelters revealed; 2nd lawsuit filed

By Kevin Maney and Jon Swartz  
USA TODAY

Turmoil beset yet another major telecommunications company Wednesday, but this time investors reacted with more of a yawn than a scream.

Sprint, which had billed itself as one of the last clean players in a sullied industry, mired itself deeper into a leadership crisis Wednesday. The board is forcing out its top two executives because they used tax shelters that the IRS considers questionable, *The Wall Street Journal* reported. Investors had believed CEO William Esrey was leaving because he is fighting cancer, and that President Ronald LeMay was leaving because he was passed over for the CEO job.

At the same time, a court fight intensified over Sprint's chosen successor, Gary Forsee, who is now vice chairman of BellSouth. BellSouth won a temporary restraining order Friday preventing Forsee from joining Sprint. And Cingular Wireless, which competes against Sprint and is 40% owned by BellSouth, on Wednesday also filed suit to stop Forsee, who signed an agreement not to work for a competitor for 18 months after leaving BellSouth.

A decision is likely to take at least a week, say people close to the case. The restraining order remains in effect.

Also Wednesday, Sprint reported heartening earnings. The No. 4 long-distance carrier based on market share had net income of \$39 million in the fourth quarter, compared with a loss of \$1.2 billion a year ago.

The reaction to all this: Sprint shares closed Wednesday at \$12.52, up 16 cents. Unlike past telecom scandals, which clobbered stocks throughout the industry, telecom stocks were unaffected this time. The Dow Jones telecom index dropped 0.5%.

"At some point, you reach the point of diminishing shock value," says Susan Kalla, stock analyst at Friedman Billings & Ramsey.

"What does this say about the sense of the current leadership at Sprint -- that with no leader we're better off?" says Jeffrey Sonnenfeld, who runs Yale University's CEO Leadership Institute. He adds that investors may be hoping that the vacuum will hasten Sprint's sale to another company.

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aggressive cost cutting. The business is barely growing. Revenue for the fourth quarter was \$6.53 billion, a sliver over the \$6.52 billion in revenue a year earlier.

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# THE WALL STREET JOURNAL. O N L I N E

February 5, 2003 11:59 p.m. EST

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02/03/03
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### COMPANIES

	Dow Jones, Reuters
Sprint Corp. (FON Group) (FON)	
PRICE	12.23
CHANGE	-0.29
U.S. dollars	1:09 p.m.

\* At Market Close

## Sprint Forced Out Executives Over Questionable Tax Shelter

By REBECCA BLUMENSTEIN, JOANN S. LUBLIN and SHAWN YOUNG  
Staff Reporters of THE WALL STREET JOURNAL

*(See Corrections & Amplifications item below<sup>0</sup>.)*

Sprint Corp.'s two top executives were forced out as part of an unfolding boardroom dispute over

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their use of a questionable type of tax shelter that is under scrutiny by the Internal Revenue Service, according to people familiar with the situation.

The pending departure of William Esrey, Sprint's chairman and chief executive, and Ronald LeMay, its president and chief operating officer, was disclosed last week. Investors generally believed that Mr. Esrey, 63 years old, was leaving because he had been diagnosed with lymphatic cancer. In fact, his departure was unrelated to his medical condition.



William Esrey

The two men, who had run Sprint since the mid-1980s, used the tax shelter to defer taxes on tens of millions of dollars resulting from their exercise of stock options in 1999 and 2000, the people familiar with the situation said. The tax shelters, which also were used by several other top executives at Sprint who haven't yet been named, were recommended and set up by Sprint's auditor, Ernst & Young LLP, according to these people. Ernst & Young also provides tax-planning advice to top Sprint executives and was potentially offering the same advice to hundreds of other executives at other companies. The Sprint executives are now facing potentially heavy financial losses and tax challenges by the IRS.

There isn't any indication that Messrs. LeMay and Esrey did anything illegal. And since their use of the shelter was blessed by Sprint's own auditors, it's still unclear just why the board concluded this was grounds for their being forced out.

Sprint's board had been weighing the matter for months, the people said. After consulting with legal and tax experts, the directors reluctantly decided they couldn't name Mr. LeMay to succeed Mr. Esrey, as had been widely expected, because of the potential for IRS action against them. Sprint's shares have fallen sharply since the options were exercised but the tax liability falls on the paper profits the men received at the time they exercised the options.

Sprint's predicament has thrown the company into a leadership crisis. The Overland Park, Kan., telecommunications concern has chosen Gary Forsee, vice chairman of **BellSouth** Corp., to succeed Mr. Esrey. But Mr. Forsee is currently in a legal battle with BellSouth to release him from a noncompete agreement in his contract. The matter is scheduled for a hearing in Superior Court in Fulton County in Atlanta Wednesday. Sprint is also under pressure to reassure investors as it releases its fourth-quarter results Wednesday.

**Takeover Candidate?**

Sprint, like the rest of the telecom industry, has been suffering from slow growth and falling prices. The leadership void creates the possibility that it could become a takeover candidate. Many industry experts believe Sprint needs to merge with another company in order to remain viable because it is losing ground in wireless and has recently slipped in long-distance to fourth place from third, based on number of customers. In New York Stock Exchange 4 p.m. composite trading Tuesday, Sprint shares fell 14 cents to \$12.36. At its peak in November 1999 the stock was trading at \$75.50.

Mr. LeMay and some other Sprint executives have told Ernst & Young that "they gave lousy advice" about the tax shelter, one person close to the situation said.

These executives believe "the accountants put themselves in a conflict of



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interest situation" because Ernst & Young was both Sprint's auditor as well as its executives' tax-planning adviser, this person said.

A spokesman for Sprint declined to comment on the situation. Sprint has acknowledged that Mr. Esrey is planning to leave the company and that Mr. Forsee is the chosen successor to Mr. Esrey. Messrs. Esrey and LeMay couldn't be reached for comment.

An Ernst & Young spokesman said it was company policy not to comment on its clients.

#### **Tax Deferral Method**

The tax shelter used by the executives is a type that big accounting firms were peddling to corporate executives during the bull market of the late 1990s. The so-called tax deferral method seeks to offset the big tax bill that comes due on profits from the exercise of options. The technique recommended by Ernst & Young involved setting up a separate investment that enables the executive to exercise his stock options without paying the taxes that would normally be due that year.

The exact vehicle used by the Sprint executives isn't clear. But in Ernst & Young promotional materials, a strategy known as "ECS" promises to delay the income-tax bill from the exercise of options for up to 30 years by putting the options in a limited partnership that could involve family members. In return, the executive would get an unsecured promise to pay the money back, but not a note. Under IRS rules, if the transaction was a real business deal, known as "arm's length," then there would be no tax bill when the options were exercised by the partnership. In addition, the partnership could sell the shares and diversify its holdings to cut the executive's risk.

People familiar with such strategies say they are heavily used and that they generate large fees for the accounting firms that sold them.

John Schmehl, a tax partner at Bilworth Paxson LLP, a Philadelphia law firm, questioned whether the strategy would hold up under IRS scrutiny because the transaction between the executive and the partnership he created may not be at arm's length. This was because no one would reasonably sell a partnership a valuable asset without getting a note or some other guarantee that they would get paid back, he said. "If it was not arm's length, my conclusion was it would be taxable upon exercise of the option" which would eliminate any benefits of the plan, Mr. Schmehl said.

The shelter transaction, at the same time, would benefit Sprint because it made it unnecessary for executives to sell shares to pay their tax bill, sales which are generally viewed by investors as a lack of faith in the company. People close to the situation say Messrs. LeMay and Esrey never sold any Sprint shares, though they made millions of dollars in paper profits by exercising stock options.

Ernst & Young serves as the auditor to some of the nation's largest phone companies, including **Verizon Communications Inc.**

Sprint's board became concerned about the company's top leadership several months ago, after it learned about the IRS investigation of such tax shelters, one person familiar with the situation said.

Sprint outside director Irvine O. Hockaday Jr., retired president and CEO of Hallmark Cards Inc., led the push to find a new outside leader because "he couldn't tolerate having a new CEO who would be besmirched" by a pending IRS probe, this person said. Mr. Hockaday is also a member of the board of **Dow Jones & Co.**, publisher of The Wall Street Journal.

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At the same time, Sprint directors privately started to sound out Mr. Forsee about possibly taking command.

At BellSouth, Mr. Forsee, 52, had not yet smoothed out the terms of his exit from BellSouth last week, when the Journal reported that Messrs. Esrey and LeMay were planning to leave and he had been chosen to run the company. It's possible that the clause in Mr. Forsee's contract that bars him from moving to a competitor within 18 months of leaving BellSouth would have been a huge obstacle anyway. But news of the move before Mr. Forsee had a chance to break it to his superior at BellSouth angered that company's executives.

-- Ken Brown and Cassell Bryan-Low contributed to this article.

### Corrections & Amplifications:

Bellsouth Corp.'s independent auditing firm is PricewaterhouseCoopers LLP. This page-one article Wednesday about the departure of two Sprint Corp. executives incorrectly listed BellSouth's auditor as Ernst & Young LLP.

**Write to** Rebecca Blumenstein at [rebecca.blumenstein@wsj.com](mailto:rebecca.blumenstein@wsj.com)<sup>1</sup>, Joann S. Lublin at [joann.lublin@wsj.com](mailto:joann.lublin@wsj.com)<sup>2</sup> and Shawn Young at [shawn.young@wsj.com](mailto:shawn.young@wsj.com)<sup>3</sup>

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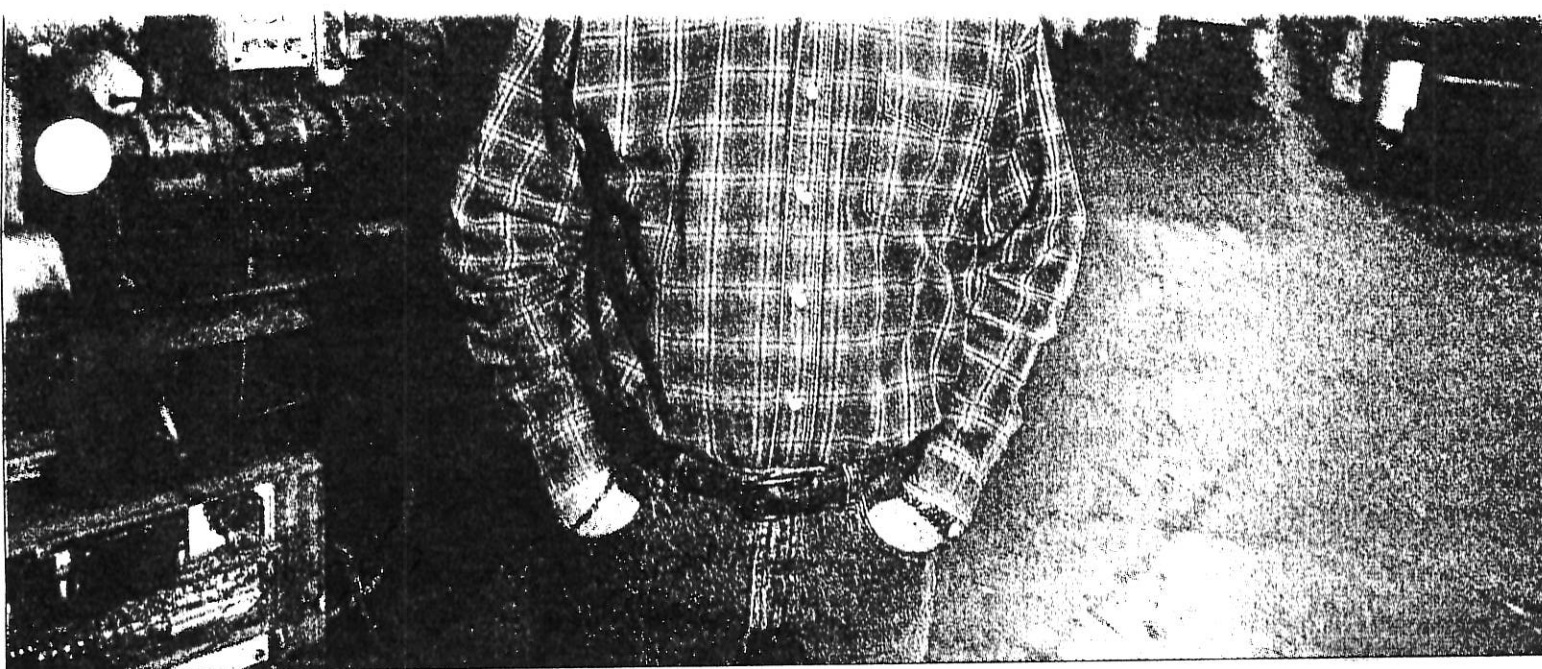
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Photographs by MIKE SHEPHERD/The Capital-Journal

Steve Miller, owner of Print & Finishing Equipment Inc. in Maple Hill, explains that "anything would be better" than the satellite Internet service (top) he uses. He describes the satellite service as unreliable because of weather conditions.



Terry Huss, computer technician at Print & Finishing Equipment Inc., deals with the problems encountered by the satellite Internet service the company uses.

By Chris Moon  
The Capital-Journal

*Tom Sloan*  
*Topeka Cap-Journal*  
*Feb. 9, 2003*

**M**APLE HILL — Terry Huss, a self-taught computer technician at Maple Hill's Print & Finishing Equipment Inc., doesn't know a lot about current broadband Internet legislation.

But without high-speed Web access, he said, the company wouldn't be the same.

"We do a lot of business through the Web site, so it's kind of important," Huss said. "I've spent a lot of time trying to find something because they wanted something here that was fast."

Print & Finishing Equipment refurbishes printing equipment and sells it via the Web to companies all over the world, including Argentina, Japan, Singapore, Malaysia and China.

The company has high-speed Internet access, through a satellite

service, but Huss said it isn't as reliable as he would like. He would prefer high-speed access through a cable television company or a telephone company. However, the local cable company and phone company don't provide high-speed service in this Wabaunsee County town.

According to Steve Miller, owner of Print & Finishing Equipment, the company's local presence is

See **BROADBAND**, page 6A

Sebelius discuss her first month in office and find coverage of the transition.  
[www.cjonline.com](http://www.cjonline.com)

HOUSE UTILITIES

See S

# NAT trade bar over Iraq

By Thomas E. Ricks  
The Washington Post

MUNICH, Germany — NATO allies 1 words over Iraq on Saturday, with Defen Donald Rumsfeld saying that opposition undermining the alliance and French officials criticizing the U.S. approach as ri Rumsfeld told a largely European au conference on international security that has been exhausted, almost."

"A large number of nations have alrea will be with us in a coalition of the willir are stepping up each day. Clearly, m building," he said.

Rumsfeld also warned that the Unite on "a path of ridicule" and that NATO danger of heading the same way. He sai Germany face diplomatic isolation with tion to an attack on Iraq.

German Foreign Minister Joschka Fi speech immediately followed Rumsfe taken aback by the relentlessness of the secretary's criticism. On the question Iraq, Fischer asked several times: "Why in a situation where we should resor now?"

At one point Fischer faced the U.S.

See **ALLIES**, page 7A

## What's next

The Bill 2019 is scheduled for a week in the House Utilities C. The committee has allotted three days, starting Tuesday, to address the bill.

## Online

Listen to discussion about broadband Internet access in small Kansas towns and find coverage of proposed legislation.  
[www.cjonline.com](http://www.cjonline.com)

# Broadband: Company needs high-speed Intern

Continued from page 1A

minimal — just nine employees in a 30,000-square-foot building on the edge of Maple Hill. Most people outside the town don't even know the company is here.

"The Web is where it's at," Miller said. "They pick up our keywords. Terry's got us coming up quick on the search engines."

## Broadband battle

Miller's words point out an issue that is central to Randy Tomlin's profession.

The president of SBC-Kansas, formerly Southwestern Bell, is lobbying hard for legislation that would free the telephone giant from having to open its broadband network to its competitors.

Broadband connections are faster than the standard telephone dial-up that most consumers use and allow people to download large data files quickly or play video on their computers. Telephone, cable, wireless and satellite companies offer the service.

The broadband legislation, House Bill 2019, is key to stirring economic development in the state, Tomlin says. Rural Kansas communities and business owners need high-speed Internet to thrive, he said, and SBC won't invest in extensive broadband deployment until its investment is protected from competitors.

Opponents, led by a coalition of other telecommunications companies, say the bill would strip the state's ability to protect consumers and competitors of SBC. Mike Reecht, a lobbyist for AT&T, said the state should create a strategy to deploy broadband to every community in Kansas, "not just towns Bell selects."

Reecht pointed out that SBC hasn't committed to deploying broadband to

specific communities should the bill pass. Tomlin said economic conditions change too rapidly for a company to guarantee service.

But, he said, SBC is deploying broadband to 37 new communities in Oklahoma, where a similar broadband bill passed last year. One of those was Cherokee, a town of 1,600 people in northern Oklahoma.

However, the prospects of SBC reaching Maple Hill — which had 469 people at last count, according to city clerk Sandra Lemon — don't look good.

"It makes good sense for us to do it in Cherokee with 1,600 people," Tomlin said. "If you get down to 469 people, does it make it affordable? That begins to really push the envelope. There's no question about that."

## Sorting it out

The bill is facing a vote this week in the House Utilities Committee.

The issue is complex. Committee members were given a crash course from the Kansas Corporation Commission on the ins and outs of the telecommunications industry. Then the lobbying began in earnest.

Rep. Annie Kuether, D-Topeka, the committee's ranking Democrat, said, "You've got a committee that really is up in the air."

"Let me put it this way," she said, "Sorting is still going on, considering that every time we turn around lobbyists are back in our office with a different slant or a different point of view for us to consider. You have a lot of people that think they really know where they are one day and the next day they go, 'Oh, now wait a minute, I hadn't thought about that.'"

## Better than dial-up

While lobbyists continue their

efforts to sway votes in the Statehouse, life in Maple Hill goes on without much awareness of the pending legislation.

At Print & Finishing Equipment, Miller just needed fast Internet service for his online Web operation. All he found in Maple Hill was satellite service.

SBC provides telephone service for most of the businesses and residents in town but only provides broadband in the state's larger communities. Miller said he didn't know of any smaller telecommunications providers who could provide that service.

Galaxy Cablevision, the town's only cable provider, doesn't offer broadband service in Maple Hill. The Sikeston, Mo.-based company provides cable service in 48 small towns in Kansas. It contracts with another company to provide broadband in its two largest towns, Sabetha and Seneca, said Galaxy state manager Justin Taylor.

"The biggest issue is the size of the town," said Taylor, who added there would have to be enough customers in a community for a company to justify broadband deployment.

So Huss went with satellite. It is patchy, he said, but it is better than the alternative dial-up. He said he would still like better service and didn't care whether it was cable or a telephone company's digital subscriber line, also known as DSL.

"If they came out here tomorrow and said we now have cable service out here, we'd drop all that in a heartbeat and take cable," Huss said.

Price really isn't an issue with Huss. The company pays \$69 a month for satellite service, "but we'd spend more than we're spending now — maybe \$300 a month (for better service)," he said.

## 'Christmas spe

At the other end of M... Sandie Houk said she k... the broadband bill. The... ager for Hier Insurance... married to a former So... Bell employee.

"I'm not going to jump... she said of the broadband

The insurance compan... up Internet service. She w... have broadband if it was... She transmits data over... about the agency's crop p... corporate office in Omaha

At Maple Hill Insurance... Nina Imthum said she c... much use for broadband.

"We're just a small ag... said. "It would be nice, I'r... it's not like I'm sitting in... waiting and waiting for... up."

Lemon, the city clerk, c... on the Web very often. Th... many viruses going arou... get municipal water and... ing systems.

But a lot of people in... took advantage of the "s... specials" on satellite servi... want small-town life, she... we also want the city vic

Chris Moon can be reach... at (785) 295-1231 or cmoon@cj

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2/11/03

**HOUSE BILL No. 2019**

By Committee on Utilities

1-14

AN ACT concerning telecommunications: relating to regulation of broadband and high speed internet access service: amending K.S.A. 66-1,187 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 66-1,187 is hereby amended to read as follows: 66-1,187. As used in this act:

(a) "Broadband" means the transmission of digital signals at rates equal to or greater than 1.5 megabits per second.

(b) "CLASS services" means custom local area signaling services, which include automatic callback, automatic recall, calling number identification, selective call rejection, selective call acceptance, selective call forwarding, distinctive ringing and customer originated trace.

(c) "Commission" means the state corporation commission.

(d) "Dialing parity" means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications carrier of the customer's designation from among two or more telecommunications carriers, including such local exchange carrier.

(e) "Federal act" means the federal telecommunications act of 1996, P.L. 104-104 (amending the communications act of 1934, 47 U.S.C. 151, *et seq.*)

(f) "ISDN" means integrated services digital network which is a network and associated technology that provides simultaneous voice and data communications over a single communications channel.

(g) "LATA" has the meaning ascribed to it in the federal act.

(h) "Local exchange carrier" means any telecommunications public utility or its successor providing switched telecommunications service within any local exchange service area, as approved by the commission on or before January 1, 1996. However, with respect to the Hill City exchange area, in which multiple carriers were certified by the commission prior to January 1, 1996, the commission's determination, subject to any court appeals, of which authorized carrier shall serve as the carrier

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1 of last resort will determine which carrier shall be deemed the local  
2 exchange carrier for that exchange.

3 (i) "Number portability" has the meaning ascribed to it in the federal  
4 act.

5 (j) "1 intraLATA dialing parity" means the ability of a local exchange  
6 service customer to specify the telecommunications or local exchange  
7 carrier that will carry the intraLATA long distance messages when that  
8 customer dials either "1" or "0" plus a 10-digit number.

9 (k) "Operating area" means:

10 (1) In the case of a rural telephone company, operating area or service  
11 area means such company's study area or areas as approved by the federal  
12 communications commission:

13 (2) in the case of a local exchange carrier, other than a rural telephone  
14 company, operating area or service area means such carrier's local  
15 exchange service area or areas as approved by the commission.

16 (l) "Rural telephone company" has the meaning ascribed to it in the  
17 federal act, excluding any local exchange carrier which together with all  
18 of its affiliates has 20,000 or more access lines in the state.

19 (m) "Telecommunications carrier" means a corporation, company,  
20 individual, association of persons, their trustees, lessees or receivers that  
21 provides a telecommunications service, including, but not limited to, in-  
22 terexchange carriers and competitive access providers, but not including  
23 local exchange carriers certified before January 1, 1996.

24 (n) "Telecommunications public utility" means any public utility, as  
25 defined in K.S.A. 66-104, and amendments thereto, which owns, controls,  
26 operates or manages any equipment, plant or generating machinery, or  
27 any part thereof, for the transmission of telephone messages, as defined  
28 in K.S.A. 66-104, and amendments thereto, or the provision of telecom-  
29 munications services in or throughout any part of Kansas.

30 (o) "Telecommunications service" means the provision of a service  
31 for the transmission of telephone messages, or two-way video or data  
32 messages.

33 (p) "Universal service" means telecommunications services and fa-  
34 cilities which include: single party, two-way voice grade calling; stored  
35 program controlled switching with vertical service capability; E911 ca-  
36 pability; tone dialing; access to operator services; access to directory as-  
37 sistance; and equal access to long distance services.

38 (q) "Enhanced universal service" means telecommunications serv-  
39 ices, in addition to those included in universal service, which shall include:  
40 Signaling system seven-capability, with CLASS service capability; basic  
41 and primary rate ISDN capability, or the technological equivalent; full-  
42 fiber interconnectivity, or the technological equivalent, between central  
43 offices; and broadband capable facilities to: All schools accredited pur-

5-2

1 suant to K.S.A. 72-1101 *et seq.*, and amendments thereto; hospitals as  
2 defined in K.S.A. 65-425, and amendments thereto; public libraries; and  
3 state and local government facilities which request broadband services.

4 (r) "High speed internet access service" means those services and un-  
5 derlying facilities that provide upstream, from customer to provider, or  
6 downstream, from provider to customer, transmission to or from the in-  
7 ternet in excess of ~~16~~ kilobits per second, regardless of the technology or  
8 medium used, including, but not limited to, wireless, copper wire, fiber  
9 optic cable or coaxial cable, to provide such service.

10 New Sec. 2. (a) Notwithstanding any ruling or order to the contrary,  
11 the state corporation commission shall not, by entering any order, adopt-  
12 ing any rule or otherwise taking any agency action, impose any regulation  
13 upon a provider of high speed internet access service or broadband serv-  
14 ice in the provider's provision of such service, regardless of technology  
15 or medium used to provide such service.

16 (b) A local exchange carrier subject to the provisions of 47 U.S.C.,  
17 section 251(c), shall be required to provide unbundled access to network  
18 elements, including, but not limited to, loops, subloops and collocation  
19 space within the facilities of the incumbent local exchange carrier, to the  
20 extent specifically required under ~~47 C.F.R., section 51.319, or any suc-~~  
21 ~~cessor~~ regulations issued by the federal communications commission,

22 (c) No provisions of this act shall change the legislature's prior find-  
23 ings in K.S.A. 66-2014, and amendments thereto, and the definitions in  
24 this act shall not be used as a basis to determine whether a taxpayer is a  
25 public utility for purposes of K.S.A. 79-5a01, and amendments thereto.

26 Sec. 3. K.S.A. 66-1,187 is hereby repealed.

27 Sec. 4. This act shall take effect and be in force from and after its  
28 publication in the statute book.

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Part 1

Part 2

Nothing in this section shall affect the Kansas Corporation Commission's authority over the rates, terms, and conditions of any intrastate tariffed telecommunications service as may otherwise be authorized under state law.

Part 3

with rates for such access to network elements and collocation space to be determined by the Kansas Corporation Commission as authorized and delegated under Federal Communications Commission regulations.

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Kueth #1

PROPOSED AMENDMENT TO H. B. 2019

Strike all of section 2 and insert:

New Sec. 2. (a) An incumbent local exchange carrier subject to the provisions of 47 U.S.C. 251(c) shall be required to:

(1) Provide unbundled access to network elements, including, but not limited to, loops, subloops and collocation space within the facilities of such carrier, in a manner that is just, reasonable, not unjustly discriminatory and not unduly preferential; and

(2) charge fees for such access that are just, reasonable, not unjustly discriminatory and not unduly preferential.

(b) The commission, in its discretion, may at any time review a fee, term or practice being used by an incumbent local exchange carrier to ascertain whether a violation of subsection (a) has occurred. Upon such review, the commission may initiate a proceeding to determine whether such a violation has occurred. Upon notice and an opportunity for hearing in accordance with the Kansas administrative procedure act, the commission shall have authority to order the remediation of any such violation that the commission finds has occurred.

(c) Any provider of high speed internet access service or broadband service may request the commission to investigate and initiate proceedings to review the fees, terms and practices of an incumbent local exchange carrier with respect to provision of unbundled access to network elements. As a condition to formal commission action, the provider requesting commission action must first file a complaint that includes:

(1) A statement that the complainant has presented the complaint, in writing, to the carrier and included a request for a meeting with such carrier to discuss the matter;

(2) a copy of the document described in subsection (c)(1);

(3) a statement that the requested meeting took place or the carrier refused to meet with the complainant;

(4) detailed factual statement indicating how the fee, term or practice violates subsection (a); and

(5) a statement of the precise remedy being requested that will make the fee, term or practice consistent with the provisions of subsection (a).

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(d) The commission may resolve the complaint by use of an informal procedure established by the commission pursuant to rules and regulations adopted by the commission or the commission may conduct a formal hearing and take evidence as necessary to determine the merits of the complaint. If the commission uses an informal procedure and the complaint is not resolved within 60 days after the complaint is filed, the commission shall conduct a formal hearing on the complaint. The hearing shall be conducted and notice given in accordance with the Kansas administrative procedure act. Upon such hearing, the commission shall have authority to order the remediation of any violations of subsection (a) to the extent necessary for remediation as to the aggrieved party with respect to the particular violation.

(e) In evaluating a fee or term, or in establishing a reasonable fee or term, the commission is not required to engage in cost-of-service ratemaking or any other form of ratemaking. Instead, the commission can employ any form of analysis and remedy that is designed to accomplish the goals of this act while respecting the legitimate property interests of incumbent local exchange carrier.

(f) The commission shall adopt such rules and regulations as the commission determines reasonably necessary to prevent abuse of the complaint procedure provided for by this section. Such rules and regulations shall include provisions to prevent delay of the proceedings that may damage a party's ability to pursue or defend the complaint.



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1 ant to K.S.A. 72-1101 *et seq.*, and amendments thereto; hospitals as  
2 fined in K.S.A. 65-425, and amendments thereto; public libraries; and  
3 state and local government facilities which request broadband services.

4 (r) "High speed internet access service" means those services and un-  
5 derlying facilities that provide upstream, from customer to provider, or  
6 downstream, from provider to customer, transmission to or from the in-  
7 ternet in excess of 150 kilobits per second, regardless of the technology or  
8 medium used, including, but not limited to, wireless, copper wire, fiber  
9 optic cable or coaxial cable, to provide such service.

10 New Sec. 2. (a) Notwithstanding any ruling or order to the contrary,  
11 the state corporation commission shall not, by entering any order, adopt-  
12 ing any rule or otherwise taking any agency action, impose any regulation  
13 upon a provider of high speed internet access service or broadband serv-  
14 ice in the provider's provision of such service, regardless of technology  
15 or medium used to provide such service.

16 (b) A local exchange carrier subject to the provisions of 47 U.S.C.,  
17 section 251(c), shall be required to provide unbundled access to network  
18 elements, including, but not limited to, loops, subloops and collocation  
19 space within the facilities of the incumbent local exchange carrier, to the  
20 extent specifically required under 47 C.F.R., section 51.319, or any suc-  
21 cessor regulations issued by the federal communications commission.

22 (c) No provisions of this act shall change the legislature's prior find-  
23 ings in K.S.A. 66-2014, and amendments thereto, and the definitions in  
24 this act shall not be used as a basis to determine whether a taxpayer is a  
25 public utility for purposes of K.S.A. 79-5a01, and amendments thereto.

26 Sec. 3. K.S.A. 66-1,187 is hereby repealed.

27 Sec. 4. This act shall take effect and be in force from and after its  
28 publication in the statute book.

New Sec. 3. SBC Communications, Inc., shall maintain at least 500 full-  
time jobs in the state of Kansas.

[renumber remaining sections]

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ant to K.S.A. 72-1101 *et seq.*, and amendments thereto; hospitals as defined in K.S.A. 65-425, and amendments thereto; public libraries; and state and local government facilities which request broadband services.

(r) "High speed internet access service" means those services and underlying facilities that provide upstream, from customer to provider, or downstream, from provider to customer, transmission to or from the internet in excess of 150 kilobits per second, regardless of the technology or medium used, including, but not limited to, wireless, copper wire, fiber optic cable or coaxial cable, to provide such service.

New Sec. 2. (a) Notwithstanding any ruling or order to the contrary, the state corporation commission shall not, by entering any order, adopting any rule or otherwise taking any agency action, impose any regulation upon a provider of high speed internet access service or broadband service in the provider's provision of such service, regardless of technology or medium used to provide such service.

(b) A local exchange carrier subject to the provisions of 47 U.S.C., section 251(c), shall be required to provide unbundled access to network elements, including, but not limited to, loops, subloops and collocation space within the facilities of the incumbent local exchange carrier, to the extent specifically required under 47 C.F.R., section 51.319, or any successor regulations issued by the federal communications commission.

(c) No provisions of this act shall change the legislature's prior findings in K.S.A. 66-2014, and amendments thereto, and the definitions in this act shall not be used as a basis to determine whether a taxpayer is a public utility for purposes of K.S.A. 79-5a01, and amendments thereto.

Sec. 3. K.S.A. 66-1,187 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

(d) Nothing in this act shall be construed to affect any obligation to deploy telecommunications facilities and services or to make infrastructure expenditures and investments pursuant to K.S.A. 66-2001 through 66-2015, and amendments thereto, or to affect cost recovery from any source.

## Proposed Substitute for HOUSE BILL NO. 2019

By Committee on Utilities

AN ACT concerning telecommunications; relating to high-speed digital service; amending K.S.A. 66-1,187 and 74-8905 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 66-1,187 is hereby amended to read as follows: 66-1,187. As used in this act:

(a) "Broadband" means the transmission of digital signals at rates equal to or greater than 1.5 megabits per second.

(b) "CLASS services" means custom local area signaling services, which include automatic callback, automatic recall, calling number identification, selective call rejection, selective call acceptance, selective call forwarding, distinctive ringing and customer originated trace.

(c) "Commission" means the state corporation commission.

(d) "Dialing parity" means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications carrier of the customer's designation from among two or more telecommunications carriers, including such local exchange carrier.

(e) "Federal act" means the federal telecommunications act of 1996, P.L. 104-104 (amending the communications act of 1934, 47 U.S.C. 151, et seq.)

(f) "ISDN" means integrated services digital network which is a network and associated technology that provides simultaneous voice and data communications over a single communications channel.

(g) "LATA" has the meaning ascribed to it in the federal act.

(h) "Local exchange carrier" means any telecommunications public utility or its successor providing switched telecommunications service within any local exchange service

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area, as approved by the commission on or before January 1, 1996. However, with respect to the Hill City exchange area, in which multiple carriers were certified by the commission prior to January 1, 1996, the commission's determination, subject to any court appeals, of which authorized carrier shall serve as the carrier of last resort will determine which carrier shall be deemed the local exchange carrier for that exchange.

(i) "Number portability" has the meaning ascribed to it in the federal act.

(j) "1+ intraLATA dialing parity" means the ability of a local exchange service customer to specify the telecommunications or local exchange carrier that will carry the intraLATA long distance messages when that customer dials either "1" or "0" plus a 10-digit number.

(k) "Operating area" means:

(1) In the case of a rural telephone company, operating area or service area means such company's study area or areas as approved by the federal communications commission;

(2) in the case of a local exchange carrier, other than a rural telephone company, operating area or service area means such carrier's local exchange service area or areas as approved by the commission.

(l) "Rural telephone company" has the meaning ascribed to it in the federal act, excluding any local exchange carrier which together with all of its affiliates has 20,000 or more access lines in the state.

(m) "Telecommunications carrier" means a corporation, company, individual, association of persons, their trustees, lessees or receivers that provides a telecommunications service, including, but not limited to, interexchange carriers and competitive access providers, but not including local exchange carriers certified before January 1, 1996.

(n) "Telecommunications public utility" means any public utility, as defined in K.S.A. 66-104, and amendments thereto, which owns, controls, operates or manages any equipment, plant or

generating machinery, or any part thereof, for the transmission of telephone messages, as defined in K.S.A. 66-104, and amendments thereto, or the provision of telecommunications services in or throughout any part of Kansas.

(o) "Telecommunications service" means the provision of a service for the transmission of telephone messages, or two-way video or data messages.

(p) "Universal service" means telecommunications services and facilities which include: single party, two-way voice grade calling; stored program controlled switching with vertical service capability; E911 capability; tone dialing; access to operator services; access to directory assistance; and equal access to long distance services; and access for high-speed digital service.

(q) "Enhanced universal service" means telecommunications services, in addition to those included in universal service, which shall include: Signaling system seven capability, with CLASS service capability; basic and primary rate ISDN capability, or the technological equivalent; full-fiber interconnectivity, or the technological equivalent, between central offices; and broadband capable facilities to: All schools accredited pursuant to K.S.A. 72-1101 et seq., and amendments thereto; hospitals as defined in K.S.A. 65-425, and amendments thereto; public libraries; and state and local government facilities which request broadband services.

(r) "High-speed digital service" means service which transmits digital signals at both upstream and downstream rates of at least 200 kilobits per second.

New Sec. 2. (a) As used in this section, terms have the meanings provided by K.S.A. 66-1,187, and amendments thereto.

(b) Not later than January 1, 2006, each incumbent local exchange carrier (ILEC) shall make available digital subscriber line service, or technologically equivalent service, to all customers who are within the carrier's certificated territory and who do not have an existing provider of such service. Such

service shall be available through facilities owned, leased or contracted for by the ILEC, or through partnerships contracts or other business relationships of the ILEC.

(c) An ILEC not subject to rate of return regulation, or an affiliate of such ILEC, shall provide, upon request, the splitter function on a nondiscriminatory basis to allow competitive local exchange carriers (CLEC's) access to the high and low frequency portions of the loop in any central office or remote facility. The commission shall determine the appropriate price for providing function, taking into account the total element long-run incremental cost and wholesale market factors.

(d) The commission shall provide that no ILEC is required to provide any CLEC, or its successor, access to unbundled network equipment (UNE) at regulated prices for more than five years. The commission shall adopt rules and regulations to prevent CLEC's from circumventing this requirement by reincorporating or otherwise reforming, or by selling customers to an affiliate or other related company of the CLEC. ILEC's shall provide CLEC's access to UNE's at nondiscriminatory, competitive wholesale-based product rates.

Sec. 3. K.S.A. 74-8905 is hereby amended to read as follows: 74-8905. (a) The authority may issue bonds, either for a specific activity or on a pooled basis for a series of related or unrelated activities or projects duly authorized by a political subdivision or group of political subdivisions of the state in amounts determined by the authority for the purpose of financing projects of statewide as well as local importance as defined pursuant to K.S.A. ~~12-1744~~ 74-8902, and amendments thereto, capital improvement facilities, educational facilities, health care facilities and housing developments. Nothing in this act shall be construed to authorize the authority to issue bonds or use the proceeds thereof to:

(1) Purchase, condemn or otherwise acquire a utility plant or distribution system owned or operated by a regulated public utility;

(2) finance any capital improvement facilities, educational facilities or health care facilities which may be financed by the issuance of general obligation or utility revenue bonds of a political subdivision, except that the acquisition by the authority of general obligation or utility revenue bonds issued by political subdivisions with the proceeds of pooled bonds shall not violate the provisions of the foregoing; or

(3) purchase, acquire, construct, reconstruct, improve, equip, furnish, repair, enlarge or remodel property for any swine production facility on agricultural land which is owned, acquired, obtained or leased by a corporation, limited liability company, limited partnership, corporate partnership or trust.

Nothing in this subsection (a) shall prohibit the issuance of bonds by the authority when any statute specifically authorizes the issuance of bonds by the authority or approves any activity or project of a state agency for purposes of authorizing any such issuance of bonds in accordance with this section and provides an exemption from the provisions of this subsection (a).

(b) The authority may issue bonds for activities and projects of state agencies as requested by the secretary of administration. No bonds may be issued pursuant to this act for any activity or project of a state agency unless the activity or project either has been approved by an appropriation or other act of the legislature or has been approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto. When requested to do so by the secretary of administration, the authority may issue bonds for the purpose of refunding, whether at maturity or in advance of maturity, any outstanding bonded indebtedness of any state agency. The revenues of any state agency which are pledged as security for any bonds of such state agency which are refunded by refunding bonds of the authority may be pledged to the authority as security for the refunding bonds.

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(c) The authority may issue bonds for the purpose of financing industrial enterprises, agricultural business enterprises, educational facilities, health care facilities and housing developments, or any combination of such facilities, or any interest in facilities, including without limitation leasehold interests in and mortgages on such facilities. No less than 30 days prior to the issuance of any bonds authorized under this act with respect to any project or activity which is to be undertaken for the direct benefit of any person or entity which is not a state agency or a political subdivision, written notice of the intention of the authority to provide financing and issue bonds therefor shall be given by the president of the authority to the governing body of the city in which the project or activity is to be located. If the project or activity is not proposed to be located within a city, such notice shall be given to the governing body of the county. No bonds for the financing of the project or activity shall be issued by the authority for a one-year period if, within 15 days after the giving of such notice, the governing body of the political subdivision in which the project or activity is proposed to be located shall have adopted an ordinance or resolution stating express disapproval of the project or activity and shall have notified the president of the authority of such disapproval.

(d) The authority may issue bonds for the purpose of establishing and funding one or more series of venture capital funds in such principal amounts, at such interest rates, in such maturities, with such security, and upon such other terms and in such manner as is approved by resolution of the authority. The proceeds of such bonds not placed in a venture capital fund or used to pay or reimburse organizational, offering and administrative expenses and fees necessary to the issuance and sale of such bonds shall be invested and reinvested in such securities and other instruments as shall be provided in the resolution under which such bonds are issued. Moneys in a venture capital fund shall be used to make venture capital investments in



new, expanding or developing businesses, including, but not limited to, equity and debt securities, warrants, options and other rights to acquire such securities, subject to the provisions of the resolution of the authority. The authority shall establish an investment policy with respect to the investment of the funds in a venture capital fund not inconsistent with the purposes of this act. The authority shall enter into an agreement with a management company experienced in venture capital investments to manage and administer each venture capital fund upon terms not inconsistent with the purposes of this act and such investment policy. The authority may establish an advisory board to provide advice and consulting assistance to the authority and the management company with respect to the management and administration of each venture capital fund and the establishment of its investment policy. All fees and expenses incurred in the management and administration of a venture capital fund not paid or reimbursed out of the proceeds of the bonds issued by the authority shall be paid or reimbursed out of such venture capital fund.

(e) The authority may issue bonds in one or more series for the purpose of financing a project of statewide as well as local importance in connection with a redevelopment plan that is approved by the authority in accordance with K.S.A. 74-8921 and 74-8922, and amendments thereto.

(f) After receiving and approving the feasibility study required pursuant to K.S.A. 74-8936, and amendments thereto, the authority may issue bonds in one or more series for the purpose of financing a multi-sport athletic project in accordance with K.S.A. 74-8936 through 74-8938, and amendments thereto. If the project is to be constructed in phases, a similar feasibility study shall be performed prior to issuing bonds for the purpose of financing each subsequent phase.

(g) The authority may issue bonds for the purpose of financing resort facilities, as defined in subsection (a) of K.S.A. 32-867, and amendments thereto, in an amount or amounts

not to exceed \$30,000,000 for any one resort. The bonds and the interest thereon shall be payable solely from revenues of the resort and shall not be deemed to be an obligation or indebtedness of the state within the meaning of section 6 of article 11 of the constitution of the state of Kansas. The authority may contract with a subsidiary corporation formed pursuant to subsection (v) of K.S.A. 74-8904, and amendments thereto, or others to lease or operate such resort. The provisions of K.S.A. 32-867, 32-868, 32-870 through 32-873 and 32-874a through 32-874d, and amendments thereto, shall apply to resorts and bonds issued pursuant to this subsection.

(h) The authority may use the proceeds of any bond issues herein authorized, together with any other available funds, for venture capital investments or for purchasing, leasing, constructing, restoring, renovating, altering or repairing facilities as herein authorized, for making loans, purchasing mortgages or security interests in loan participations and paying all incidental expenses therewith, paying expenses of authorizing and issuing the bonds, paying interest on the bonds until revenues thereof are available in sufficient amounts, purchasing bond insurance or other credit enhancements on the bonds, and funding such reserves as the authority deems necessary and desirable. All moneys received by the authority, other than moneys received by virtue of an appropriation, are hereby specifically declared to be cash funds, restricted in their use and to be used solely as provided herein. No moneys of the authority other than moneys received by appropriation shall be deposited with the state treasurer.

(i) The authority may issue bonds for the purpose of financing facilities for high-speed digital service in cooperation with one or more political subdivisions or with one or more political subdivisions in partnership with the private sector. Bonds issued pursuant to this subsection shall be exempt from the provisions of clause (2) of subsection (a).

(j) Any time the authority is required to publish a

notification pursuant to the tax equity and fiscal responsibility act of 1982, the authority shall further publish such notification in the Kansas register.

~~(j)~~ (k) Any time the authority issues bonds pursuant to this section, the authority shall publish notification of such issuance at least 14 days prior to any bond hearing in the official county newspaper of the county in which the project or activity financed by such bonds are located and in the Kansas register.

Sec. 4. K.S.A. 66-1,187 and 74-8905 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.