

Approved: April 2, 2003 *Carl Dean 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 12, 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

HCR 5012 - Creating the Broadband High-Speed Internet Access Task Force

Chairman Holmes opened the hearing on **HCR 5012**. He stated that all testimony would be written only.

Written testimony in support of **HCR 5012** was provided by Janet Buchanan, Chief of Telecommunications for the Kansas Corporation Commission (Attachment 1); Ednie Pogge, Chair of the Topeka AARP, (Attachment 2); Mike ^{MURRAY} ~~Sprint~~, Director of Governmental & Public Affairs for Sprint, (Attachment 3); Neal Larsen, Regional Executive of Law & Public Policy for MCI Worldcom, (Attachment 4); Mike Reecht, Government Affairs Consultant on behalf of AT&T, (Attachment 5); Kansans for Competitive Choices in Telecommunications (Attachment 6); and Kansas Rural Independent Telephone Companies (Attachment 7).

Written testimony filed in opposition to **HCR 5012** was submitted by Randy Tomlin, President SBC-Kansas, (Attachment 8).

Representative Krehbiel distributed a news article titled "A Broadband Hookup in Every Home," (Attachment 9). Also distributed to the committee was a copy of the recently introduced legislation in Oklahoma creating a task force on broadband high-speed internet access (Attachment 10).

Chairman Holmes closed the hearing on **HCR 5012**.

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

Debate on **HB 2019** continued.

Representative Sloan distributed a balloon amendment (Attachment 11). Representative Sloan moved to amend page 3 lines 4 and 5 by deleting the words 'and underlying facilities that' and replacing them with 'exclusively used to.' Representative Reitz seconded the motion and the motion carried. Representative Sloan moved to adopt Insert #5. Representative Reitz seconded the motion. The motion carried. Representative Sloan moved to adopt Insert #1B. Representative Reitz seconded the motion and the motion failed. Representative Sloan moved to adopt Insert #4. Representative P. Long seconded the motion. The motion failed. Representative Sloan moved to adopt Insert #2. Representative Reitz seconded the motion and the motion carried. Representative Sloan moved to adopt Insert #3. Representative Reitz seconded the motion. The motion carried. Representative Sloan moved to adopt Insert #1. Representative Svaty seconded the motion and the motion failed.

Representative Carter moved to amend the adopted Insert #3 to remove the reference the UNE (last mile pole to home). Representative P. Long seconded the motion. The motion failed.

The debate on **HB 2019** remains open.

The meeting adjourned at 11:00 a.m.

The next meeting will be Thursday, February 13, 2003 at 9:00 a.m.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 12, 2003

NAME	REPRESENTING
Debbie Snow	CWA
Steve Montgomery	MCI Worldcom
ALAN COBB	KECT
Brent Getty	CURB
Mike Murray	Sprint
Bob Jayroe	SBC
Paul Hulse	SBC
Tim Pickering	SBC
Tom Gleason	Independent Telecom Group
Shirley Allen	SITA
Susan Mahony	SBC
Bruce Joyce	SBC
Judy Shaw	Worldnet LLC
JANET BUCHANAN	KCC
TOM DAY	KCC
ROBERT LARSON	KCC
Mary Peters	Sprint
Louise Boyd	Sprint
Patricia Scott	Sprint
Randy Tomew	SBC

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 12, 2003

NAME	REPRESENTING
Jim Gantner	SBC
Gracie Pogge	AARP
Scott Kenefake	Aedario Consulting
Kathy Demmon	Dixius
Cecilia Muelle	Coy
Edwardo Rodriguez	SBC
Mike Preece	AT&T
Wanneta Browne	AT&T
Les Deppaschmidt	SBC
Wayne Franklin	SBC
Chris Larson	SBC
Nelson Krueger	Everest Connections
Tom Day	KCC
Anne Spiess	K.T.I.A. - KS Tele.com, Ind. Assn.



Kansas Corporation Commission

Kathleen Sebelius, Governor John Wine, Chair Cynthia L. Claus, Commissioner Brian J. Moline, Commissioner

Testimony of
Janet Buchanan, Chief of Telecommunications
Kansas Corporation Commission

Before the House Utilities Committee
Regarding House Concurrent Resolution Creating
The Broadband High-Speed Internet Access Task Force
February 11, 2003

Chairman Holmes and Members of the Committee:

Thank you for allowing me to submit written comments on behalf of the Kansas Corporation Commission to express the Commission's views regarding the Concurrent Resolution Creating the Broadband High-Speed Internet Access (BBHSIA) Task Force. The Commission supports the creation of a BBHSIA task force. The issues surrounding broadband deployment, both supply side and demand side, are complex and require careful study. The issues proposed for task force study should provide useful information to the legislature for developing broadband policies. The Commission has just a few comments on specific provisions of the resolution

At the third "resolve" part (b), the resolution requires a statewide inventory of existing telecommunications and BBHSIA infrastructure. Presently, the Commission receives telecommunications infrastructure information from jurisdictional telecommunications public utilities under confidential seal. Carriers believe that information regarding the location of infrastructure, such as fiber routes, is a trade secret and request that confidentiality be maintained. The task force may have some difficulty obtaining detailed information in a public format.

At the seventh "resolve", the resolution requires the Commission to open one or more generic investigations regarding several issues. The Commission notes for the Committee that it does not have retail regulatory authority over the provisioning of digital subscriber line service, cable modem service, wireless broadband service or satellite broadband service. Currently, the Commission does have wholesale regulatory authority over the unbundled network elements that must be made available by incumbent local exchange carriers to competitors. Thus, it will be difficult for the Commission to formally investigate the level of competition for broadband services. Regarding part (c) of this resolve, the Commission requests that the language be clarified as to whether the Commission must determine whether the current definition of universal service at K.S.A. 66-1,187(p) has been achieved or if the Commission is to develop a new definition of universal service considering BBHSIA services.

Thank you for the opportunity to submit comments regarding this Resolution.

HOUSE UTILITIES

DATE: 2-12-03



February 12, 2003

Good morning Chairman Holmes and Members of the House Utilities Committee. My name is Dr. Ernie Pogge and I am the Chair of the AARP Kansas Topeka Area Satellite Group. AARP Kansas represents the views of our more than 348,000 members in the state of Kansas.

Thank you for this opportunity to voice our *support* for the Broadband resolution offered by Representative Neighbors on 2/11/2003 and also continue to express our *opposition* to House Bill 2019.

We appreciate the work that you and the committee have done to date on this issue. However, we believe that this issue is of such importance to the Kansas consumer that the creation of a task force to study this issue could only provide additional protections for consumers and to the State of Kansas.

AARP continues to oppose HB 2019 as amended by the House Utilities Committee on 2/11/03. These amendments did nothing to alleviate any of our concerns about deregulation and oversight by Kansas Corporation Commission.

AARP strongly believes that the KCC has a key role in ensuring that rates and services from the utilities in our state are just and reasonable and of high quality. We object to legislation that is likely to remove the KCC's authority over SWB.

While this bill may be in the best interest of SWB, it is certainly not in the best interest of the consumers of Kansas.

We respectfully ask that you support and pass the resolution to create a task force to study the broadband issue in Kansas. We would also ask that you oppose HB 2019.

Thank you
Dr. Ernie Pogge



Michael R. Murray
Director
Governmental and Public Affairs

Midwest Operations
800 Southwest Jackson, Suite 1108
Topeka, KS 66612-1242
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February 12, 2003

TO: Members of the House Utilities Committee
FROM: Mike Murray, Sprint
RE: HCR 5012 by Rep. Neighbor

Sprint fully supports HCR 5012 which would create the Broadband High-Speed Internet Access Task Force.

There has been long and tedious debate on this issue. Much of the information which has been presented has been conflicting. There are many side-bar issues and many unknown effects of passage of HB 2019. The issue is fraught with the potential for unintended consequences.

The Federal Communications Commission is currently reviewing its policies about unbundled network elements and the authority of state commissions to make such determinations beyond those made by the FCC. These decisions are imminent.

It is time for everyone to sit back and take a deep breath. There need be no rush to judgment on this important matter. A study of the issue would likely result in a well thought out public policy resulting in widespread deployment of broadband where the concerns of consumers and providers alike are fairly and equitably addressed.

We respectfully ask that you vote AYE on HCR 5012 by Representative Neighbor.

HOUSE UTILITIES

DATE: 2-12-03

ATTACHMENT 3



Neal R. Larsen
Regional Executive

Law & Public Policy
701 Brazos, Suite 600
Austin, TX 78701
512 495 6721
Fax 512 495 6706

February 11, 2003

The Honorable Carl Holmes, Chairman
Committee Members
House Utilities Committee
300 S. W. Tenth Avenue
State Capitol Building
Topeka, KS 66612

Dear Chairman Holmes and Committee Members:

On behalf of the more than 1,000 Kansas MCI WorldCom employees, I would like to express our strong support for the proposed resolution before the House Utilities Committee to create a Broadband High-Speed Internet Access Task Force.

Although MCI WCOM remains strongly opposed to H.B. 2019, as I previously testified, we believe there is a great deal of merit to the formation of a task force to thoroughly explore all of the issues and the options for deploying broadband as widely as possible throughout Kansas. The answer to widespread availability of high-speed Internet access services is certainly something other than deregulating SBC, and must include incentives and the opportunities for a large number of competitive providers to vigorously pursue these markets. Such a study would prove beneficial to both the preservation of competition in telecommunications and to Kansas consumers.

If you have any questions or if I can provide you with additional information, please do not hesitate to contact me.

Sincerely,

Neal R. Larsen
Regional Executive, Law and Public Policy

HOUSE UTILITIES

DATE: 2-12-03

ATTACHMENT 4

SMOOT & ASSOCIATES
800 SW JACKSON, SUITE 808
TOPEKA, KANSAS 66612
(785) 233-0016
(785) 234-3687 (fax)

MIKE REECHT
GOVERNMENT AFFAIRS CONSULTANT

12756 GRANADA LANE
LEAWOOD, KANSAS 66206
(913) 897-3232

**Testimony on Behalf of AT&T
Before the House Utilities Committee
Regarding HCR 5012**

February 12, 2002

My name is Mike Reecht and I present testimony today on behalf of AT&T in support of HCR 5012 which would create a Broadband High-speed Internet Access Task Force.

Many hours have been spent by committee members on the very complex and technical issue of Broadband. Members have heard conflicting information on the subject. The creation of a Task Force will allow for exhaustive examination of all the issues surrounding Broadband in Kansas. Not only will it allow deployment issues to be addressed, but will also allow time to develop a comprehensive statewide Broadband policy that will be consumer friendly and competitively neutral.

The FCC is on the brink of providing clarity as to what role the State Commissions should play in rolling out competitive options for consumers in both the voice and broadband markets. The establishment of the Task Force will allow the Legislature to consider the decision of the FCC and ensure the continued oversight of competition in Kansas by the state agency responsible for that implementation.

Additional time will also allow all concerned to learn from the experiment going on in Oklahoma. Recent reports from Oklahoma reveal that some are questioning what the state really got by passage of the bill. Indeed a bill has been introduced in Oklahoma creating a Broadband Task Force to study rural deployment issues. Why do they need a task force if the bill solves all the concerns?

Good public policy is established when it is based upon fact. The Task Force should be given sufficient time to develop the information required to establish a Broadband Policy for Kansas. The resolution proposes that the Task Force review the following:

- the definition of the term "Broadband High-speed Internet Access;"
- where Broadband has been deployed by various providers;
- the needs of end users for Broadband High-speed Internet Access;
- an examination of the programs that will stimulate demand;
- an examination of the incentive programs that will spur Broadband deployment; and
- an examination of the supply alternatives that are best suited for Kansans.

AT&T agrees with the issues outlined for review and urges Committee members to vote yes for HCR 5012.

HOUSE UTILITIES
DATE: 2-12-03
ATTACHMENT 5



The member companies of Kansans for Competitive Choices in Telecommunications ("KCCT") support HCR 5012 for the following reasons:

- Allows time to develop a comprehensive Kansas Broadband Policy which will:
 - Examine the existing deployment of Broadband.
 - Examine supply alternatives for rural Kansas that will best serve that area.
 - Examine demand for Broadband – including public/private partnership.
 - Insure a competitively neutral deployment strategy for both suppliers and technology.
 - Examine tax incentive programs targeted to any supplier of Broadband.
 - Examine programs that will stimulate demand.
- Allows FCC decision on voice/data to be incorporated into a Kansas Broadband Policy.
- Allows time to examine the impact of the legislation passed in Oklahoma-- (jobs, investment, deployment, competitive behavior, impact on competition).
- Allows time to examine impact of SBC proposed legislation on local voice service.

HOUSE UTILITIES

DATE: 2-12-03

ATTACHMENT 6

Blue Home phone Company

Bluestem Telephone Company
Dodge City

Columbus Telephone Company

Council Grove Telephone Company

Craw-Kan Telephone Coop., Inc.
Girard

Cunningham Telephone Company, Inc.
Glen Elder

Elkhart Telephone Company, Inc.

Golden Belt Telephone Assn., Inc.
Rush Center

Gorham Telephone Company

H&B Communications, Inc.
Holyrood

Haviland Telephone Company, Inc.

Home Telephone Company, Inc.
Galva

JBN Telephone Company, Inc.
Wetmore

KanOkla Telephone Assn., Inc.
Caldwell

LaHarpe Telephone Company, Inc.

Madison Telephone Company, Inc.

MoKan Dial, Inc.
Louisburg

Moundridge Telephone Company, Inc.

Mutual Telephone Company
Little River

Peoples Mutual Telephone Company
LaCygne

Pioneer Telephone Assn., Inc.
Ulysses

Rainbow Telephone Coop. Assn., Inc.
Everest

Rural Telephone Service Company, Inc.
Lenora

S & A Telephone Company, Inc.
Allen

S & T Telephone Coop. Assn.
Brewster

South Central Telephone Assn., Inc.
Medicine Lodge

Southern Kansas Telephone Co., Inc.
Clearwater

Sunflower Telephone Company, Inc.
Dodge City

Totah Telephone Company, Inc.
Ochelata, OK

Tri-County Telephone Assn., Inc.
Council Grove

Twin Valley Telephone, Inc.
Miltonvale

United Telephone Association, Inc.
Dodge City

Wamego Telephone Company, Inc.

The Wheat State Telephone Co., Inc.
Udall

Wilson Telephone Company, Inc.

Zenda Telephone Company, Inc.



KANSAS
RURAL INDEPENDENT
Telephone Companies

Investment that works for all Kansans

The Kansas Rural Independent Telephone Companies have great concerns about the effect of a two-year study of broadband deployment.

Since before the adoption of the Kansas Telecommunications Act, rural telephone companies have been investing in facilities needed to bring broadband availability to their customers. There is no dispute that rural telephone companies have led the way in this effort, following the directions of the Act's statement of public policy.

Comparable availability of services in rural and urban areas must be a reality, not just a statement of general policy. As we noted in our testimony on House Bill 2019, high speed capability opens the door to special and vital opportunities for rural Kansans.

A two-year review of policy would impose new uncertainty on rural companies' plans for further deployment. The existence of such a task force with such a broad charge would impair and impede current deployment plans.

While Kansas studies priorities and re-evaluates demand, other states will be moving ahead to gain a substantial economic advantage. Investment will go where it is welcome, not where it is "under consideration."

The issues in House Bill 2019 now before you have been studied and argued extensively. That bill should now be approved or rejected, not consigned to long-term limbo with resulting regulatory uncertainty. **The Kansas Rural Independent Telephone Companies ask that the proposed House Concurrent Resolution be rejected.**

HOUSE UTILITIES

DATE: 2-12-03

ATTACHMENT 7

Testimony of Randy Tomlin, President SBC--Kansas
House Concurrent Resolution Creating a Broadband High-Speed Internet Access Task Force
House Utilities Committee
February 12, 2002

Thank you Chairman Holmes and members of the Committee. SBC appreciates the opportunity to offer its views on the proposed Concurrent Resolution to create a Broadband High-Speed Internet Access Task Force. We oppose this suggestion because it will delay the goal we all share – to see Kansas communities benefit from more broadband as soon as possible.

✓ **The Resolution will harm Kansas consumers by delaying new investment in broadband.**

The Resolution would result in additional study of this issue, bringing recommendations to the Legislature sometime in the future. In the meantime, the citizens of Kansas would be left waiting as citizens of Oklahoma, where similar legislation passed last year, continue to watch facilities being built with the capital investment the law made possible. SBC is supporting HB2019 because we want to invest more in Kansas now, bringing the jobs and economic prosperity that will result from more broadband deployment. The proponents of HB2019 all made the point that broadband is crucial to the economic future of Kansas. Businesses, communities, educational institutions and individuals want more broadband now.

✓ **It is time for action – this issue has been studied enough.**

The issues that surround broadband deployment in Kansas are not new. Over the summer, the Joint Committee on Economic Development studied the issue and issued its report calling on the Legislature to act to bring more broadband to Kansans. This Committee has devoted two weeks of its time to this issue, and yesterday thoughtfully debated the measure, amending it to address concerns expressed during the testimony. The issue at stake – that addressed by HB2019 – is not complicated. It simply provides regulatory certainty for all broadband providers while protecting voice competition. It encourages investment and removes the regulatory disparity that now exists. Remember that the primary broadband provider, cable, with more than 70 percent of the market already faces no state regulation. Neither do the emerging new technology providers – satellite and wireless. Incumbent telephone companies, like SBC, all have less than 25 percent of the market and face the costly and burdensome state regulation.

✓ **The Resolution will have a “Fiscal Note” at a time when the State is short on money.**

This Resolution comes with a price tag in addition to the foregone economic benefits of acting quickly to bring more broadband to Kansas. A 20-person task force, embarking on a two-year effort with staff and other associated expenses will run up a significant bill. Contrast this with HB2019, which will not cost the state a dime. In fact, the new investment it brings will bring additional revenues to the state and communities by enlarging the tax base.

In conclusion, and as indicated my earlier testimony, SBC, which is investing \$175 million in broadband, will not invest more without the regulatory certainty that HB2019 provides. We want to invest more. Only 24 Kansas communities in our region now have DSL broadband. Many more could have it, and I don't believe they want to wait for more studies. I urge this committee to reject this resolution – act now and get Kansas communities more broadband, more competition and better values ASAP.

HOUSE UTILITIES

DATE: 2-12-03

ATTACHMENT 8



Home Business Culture Technology Politics Wired Mag Animation

Text Size: A A A A

A Broadband Hookup in Every Home By Dustin

Goot

Story location: <http://www.wired.com/news/politics/0,1283,57249,00.html>

02:00 AM Feb. 11, 2003 PT

Has a fast Net connection become as essential a modern utility as electricity and running water? The state of Kentucky thinks so.

Taking an aggressive stance on the issue of the digital divide, the Kentucky Housing Corporation, or KHC, has listed broadband Internet access among the inalienable rights of its low-income housing residents.

As part of an effort to enact universal design standards for public housing, the KHC passed a mandate (PDF) stating that all new housing units funded more than 50 percent by the KHC must be equipped with access to high-speed Internet service.

"Over time we think (everyone) is going to have a computer and a printer, just like you have a refrigerator and a range," said KHC Chief Executive Officer Lynn Luallen.

Public housing authorities in Nebraska, Oregon and Wisconsin have also pushed developers to wire for broadband by giving them preferential access to low-income housing tax credits. However, Kentucky is the first state to actually require the practice.

"I'm very proud of being the first," said Luallen, explaining that he views the Internet as an opportunity for low-income families to "raise their educational level and therefore their income level."

To ensure the policy's impact, Luallen is also working on programs to provide poor families with low-cost computer hardware, subsidized Internet service and a special online portal where they can search for jobs and learn about available health-care and financial resources.

Luallen got the idea to prioritize broadband access from a service and advocacy group called One Economy, which wants to bring broadband access to low-income people nationwide.

HOUSE UTILITIES

DATE: 2-12-03

ATTACHMENT 9

One Economy is preparing to launch a two-year, nationwide campaign with city and state public housing authorities, encouraging them to enact policies that either mandate broadband access or, as in Nebraska, promote it through the Low Income Housing Tax Credits program. The organization estimates that 12 to 15 states will have passed these measures within a year.

Also on One Economy's policy agenda is a bill (PDF) in Congress, sponsored by John Kerry (D-Mass.) and Orrin Hatch (R-Utah), that would require state housing authorities to include broadband access among their criteria for choosing recipients of low-income housing tax credits.

One Economy's Tom Kamber, who is working on broadband projects with several public housing developments in New York City, said that having broadband in the home is even more essential for low-income families than their middle-class counterparts. Low-income families are less likely to have high-speed Internet at work, Kamber said, and they need the Internet to get access to more productive social networks.

According to a Department of Commerce study, among households making less than \$15,000 per year, 23 percent use the Internet for job searches, compared with 14.6 percent for households making over \$75,000. The Internet is also used in 37.1 percent of low-income households to complete school assignments, versus 24.6 percent of wealthier households.

New York is one of several cities beginning to experiment with broadband services for low-income families. One of Kamber's current initiatives is a program that would offer, at one of the city's recently wired communities, access to an online tutoring product that has been proven to raise students' scores by one letter grade.

In Chicago the housing authority is just now breaking ground on a "model" development that will include broadband connectivity through a fiber and wireless infrastructure. Furthermore, the agency's chief information officer, Walter Smith, said that bridging the gap in broadband access is one of the mayor's priorities.

Asked what he thought of Kentucky's move to mandate broadband access, Smith said, "It's a sensible policy ... we're building homes for the 21st century."



STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

SENATE BILL 382

By: Coffee

AS INTRODUCED

An Act relating to rural broadband high-speed internet service; creating task force; stating membership; providing for report by certain date; providing for termination; providing for noncodification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. There is hereby created the Rural Broadband High-speed Internet Access task force to study the unique challenges of delivering internet access to rural areas of this state.

B. The task force shall be composed as follows:

1. The Chair of the Senate Energy, Environmental Resources and Communications Committee;

2. Two members of the Oklahoma State Senate appointed by the President Pro Tempore of the Senate;

3. The Chair of the House Energy and Utility Regulation Committee; and

4. Two members of the Oklahoma House of Representatives appointed by the Speaker of the House of Representatives.

C. Members of the task force shall be appointed no later than July 1, 2003.

D. The task force shall complete their duties and make a report to the President Pro Tempore of the Senate and Speaker of the House of Representatives no later than December 1, 2003.

49-1-1016

MJM

1/27/2003 3:11:16 PM

HOUSE UTILITIES

DATE: 2-12-03

ATTACHMENT 10

Sloan

HOUSE BILL No. 2019

By Committee on Utilities

1-14

9 AN ACT concerning telecommunications; relating to regulation of
10 broadband and high speed internet access service; amending K.S.A.
11 66-1,187 and repealing the existing section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 66-1,187 is hereby amended to read as follows: 66-
15 1,187. As used in this act:

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

18 (b) "CLASS services" means custom local area signaling services,
19 which include automatic callback, automatic recall, calling number iden-
20 tification, selective call rejection, selective call acceptance, selective call
21 forwarding, distinctive ringing and customer originated trace.

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

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

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

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

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

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

HOUSE UTILITIES

DATE: 2-12-03

ATTACHMENT 11

- 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-

11-2

11-3

1 nt to K.S.A. 72-1101 *et seq.*, and amendments thereto; hospitals as
2 ed 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-~~ exclusively used to*
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. inserts attached

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.

Insert #1, Alternative A

New Sec. 3. (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 residents of incorporated cities 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.

Insert #1, Alternative B

New Sec. 3. (a) As used in this section, terms have the meanings provided by K.S.A. 66-1,187, and amendments thereto.

(b) The commission shall conduct a survey to determine the percentage of customers within each exchange within an ILEC's certificated territory who desire high speed internet access service or broadband service. If the commission determines that 5% or more of such customers within an exchange desire such service, the ILEC, not later than January 1, 2006, shall make available digital subscriber line service, or technologically equivalent service, to all customers who are within such exchange within the carrier's certificated territory and who do not have

11-4

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.

Insert #2

(_) An ILEC not subject to rate of return regulation, or an affiliate of such ILEC, shall provide, upon request, the splitter function, or technological equivalent or successor technology, 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.

Insert #3

(_) The commission shall provide that no ILEC is required to provide any CLEC, or its successor, access to unbundled network elements (UNE) at regulated prices for more than five years after July 1, 2005. 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 rates.

Insert #4

(_) The commission shall adopt rules which assure that a customer's choice of a provider of telephone service or a

provider of broadband or high speed internet access service is not contingent on such provider's being the customer's provider of both services.

Insert #5

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

11-6

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

11-7

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.

(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.

11-8

(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

11-9

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

11-11

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). Such financing shall be available on a technologically neutral basis and shall not be used for facilities where there is an existing service provider.

(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.

11-12