

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 14, 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

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

The debate continued on **HB 2019**. The committee worked from the previously requested proposed substitute that included all of the adopted amendments (Attachment 1). Mary Torrence, Revisor of Statutes, detailed the changes made by the adopted amendments.

Representative Myers distributed a proposed amendment (Attachment 2). Representative Myers moved to adopt the amendment that added language to page 4, line 21. Representative P. Long seconded the motion. The motion failed.

Representative Kuether distributed a proposed amendment (Attachment 3). Representative Kuether moved to adopt the amendment that would strike the language on page 4, line 3 after the work 'elements' and through line 5 before the word 'the' and adding new language. Representative Kassebaum seconded the motion. The motion failed.

Representative Carter distributed a proposed amendment (Attachment 4). Representative Carter moved to adopt the amendment that would add language to page 4, line 22. Representative Krehbiel seconded the motion. Representative Carter withdrew the motion. Representative Carter moved to amend page 4, line 23 after the words 'splitter function' add the words 'on deployed equipment.' Representative Krehbiel seconded the motion. Motion carried.

Representative Dillmore moved to strike the work 'exclusive' on page 3, line 23. The motion died due to lack of a second.

Representative Carter moved to reconsider the inclusion of the new language in new Section 3 (c). Because the motion was not made by a committee member voting on the prevailing side, the motion was not accepted.

Representative Carter distributed a proposed amendment (Attachment 5). Representative Carter moved to include a severability clause into the bill subject to the Revisor's discretion of placement. Representative Myers seconded the motion. The motion carried. Representative Carter distributed another proposed amendment (Attachment 6). Representative Carter moved to adopt the proposed language. The motion died due to a lack of second.

Representative Myers moved to recommended Substitute for HB 2019, as amended, favorably for passage. Representative Dillmore seconded the motion. On a substitute motion, Representative Carter moved to table HB 2019. Representative Neighbor seconded the motion. The motion failed.

The committee recessed to the House floor at 10:25 a.m. The committee reconvened at 11:10 a.m. and the discussion on the motion to pass continued. The motion failed.

The meeting adjourned at 11:29 a.m.

The next meeting will be Tuesday, February 18, 2003 at 9:00 a.m.

HOUSE UTILITIES COMMITTEE GUEST LIST

♥♥♥♥♥ DATE: February 14, 2003 ♥♥♥♥♥

NAME	REPRESENTING
Shirley Allen	SITA
Carolyn Foster	Sprint
Brent Goffin	CURB
Andy Shaw	Worldnet LLC
Bob Jayro	SBC
Debbie Snow	CWA
Susan Mahoney	SBC
Jim Hartner	SBC
Bret Lawson	KCC
Steve Montgomery	MCI Worldcom
Tim Pickering	SBC
Edmundo Rodriguez	SBC
Randy Tomlin	SBC
Brett Jones	SBC
Mike Thozet	SBC
Les Depperschmidt	SBC
Richard Shank	SBC
Chris Carrou	SBC
David Breit	KCC
John Damm	Pixios

HAPPY VALENTINE'S DAY

HOUSE UTILITIES COMMITTEE GUEST LIST

♥♥♥♥♥DATE: February 14, 2003 ♥♥♥♥♥

NAME	REPRESENTING
Patrice Scott	Sprint
Mary Peters	Sprint
Whanita Brown	AT&T
Mike Slicht	AT&T
JANET BUCHANAN	KCC
Tom Gleason	Independent Telecom Group
Anne Spiess	KITA - ks. Telecom. Ind. Assn.
Colen Mullen	COX COMMUNICATIONS
John d. Pinegar	State Independent Telephone Assn.
Mike Murray	Sprint
Tom DAY	KCC
Ken Baron	Hen law Firm
Wayne Franklin	SBC
ALAN COBB	KCC
George Barber	RTMC

HAPPY VALENTINE'S DAY

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PROPOSED Substitute for HOUSE BILL NO. 2019

By Committee on Utilities

AN ACT concerning telecommunications; imposing certain requirements on certain carriers; relating to regulation of broadband and high speed internet access service; authorizing issuance of bonds for certain purposes; 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

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ATTACHMENT 1

1 network and associated technology that provides simultaneous voice and
2 data communications over a single communications channel.

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

4 (h) "Local exchange carrier" means any telecommunications
5 public utility or its successor providing switched telecommunications
6 service within any local exchange service area, as approved by the
7 commission on or before January 1, 1996. However, with respect to the
8 Hill City exchange area, in which multiple carriers were certified by the
9 commission prior to January 1, 1996, the commission's determination,
10 subject to any court appeals, of which authorized carrier shall serve as the
11 carrier of last resort will determine which carrier shall be deemed the
12 local exchange carrier for that exchange.

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

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

19 (k) "Operating area" means:

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

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

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

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

34 (n) "Telecommunications public utility" means any public utility,
35 as defined in K.S.A. 66-104, and amendments thereto, which owns,
36 controls, operates or manages any equipment, plant or generating
37 machinery, or any part thereof, for the transmission of telephone

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1 messages, as defined in K.S.A. 66-104, and amendments thereto, or the
2 provision of telecommunications services in or throughout any part of
3 Kansas.

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

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

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

22 (r) "High speed internet access service" means those services
23 exclusively used to provide upstream, from customer to provider, or
24 downstream, from provider to customer, transmission to or from the
25 internet in excess of 200 kilobits per second, regardless of the technology
26 or medium used, including, but not limited to, wireless, copper wire, fiber
27 optic cable or coaxial cable, to provide such service.

28 New Sec. 2. (a) Notwithstanding any ruling or order to the
29 contrary, the state corporation commission shall not, by entering any
30 order, adopting any rule or otherwise taking any agency action, impose
31 any regulation upon a provider of high speed internet access service or
32 broadband service in the provider's provision of such service, regardless
33 of technology or medium used to provide such service. Nothing in this
34 subsection shall affect the state corporation commission's authority over
35 the rates, terms and conditions of any intrastate tariffed
36 telecommunications service as may otherwise be authorized under state
37 law.

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1 (b) A local exchange carrier subject to the provisions of 47
 2 U.S.C., section 251(c), shall be required to provide unbundled access to
 3 network elements, including, but not limited to, loops, subloops and
 4 collocation space within the facilities of the incumbent local exchange
 5 carrier, to the extent specifically required under regulations issued by the
 6 federal communications commission with rates for such access to
 7 network elements and collocation space to be determined by the state
 8 corporation commission as authorized and delegated under the
 9 regulations of the federal communications commission

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

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

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

21 (b) An incumbent local exchange carrier (ILEC) not subject to
 22 rate of return regulation, or an affiliate of such ILEC, shall provide, upon
 23 request, the splitter function, or technological equivalent or successor
 24 technology, on a nondiscriminatory basis to allow competitive local
 25 exchange carriers (CLEC's) access to the high and low frequency portions
 26 of the loop in any central office or remote facility.

27 (c) The commission shall provide that no ILEC is required to
 28 provide any CLEC, or its successor, access to unbundled network
 29 elements (UNE) at regulated prices for more than five years after July 1,
 30 2005. The commission shall adopt rules and regulations to prevent
 31 CLEC's from circumventing this requirement by reincorporating or
 32 otherwise reforming, or by selling customers to an affiliate or other
 33 related company of the CLEC. ILEC's shall provide CLEC's access to
 34 UNE's at nondiscriminatory rates.

35 Sec. 4. K.S.A. 74-8905 is hereby amended to read as follows:
 36 74-8905. (a) The authority may issue bonds, either for a specific activity
 37 or on a pooled basis for a series of related or unrelated activities or

1 projects duly authorized by a political subdivision or group of political
2 subdivisions of the state in amounts determined by the authority for the
3 purpose of financing projects of statewide as well as local importance as
4 defined pursuant to K.S.A. ~~12-1744~~ 74-8902, and amendments thereto,
5 capital improvement facilities, educational facilities, health care facilities
6 and housing developments. Nothing in this act shall be construed to
7 authorize the authority to issue bonds or use the proceeds thereof to:

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

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

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

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

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

1 agency. The revenues of any state agency which are pledged as security
2 for any bonds of such state agency which are refunded by refunding
3 bonds of the authority may be pledged to the authority as security for the
4 refunding bonds.

5 (c) The authority may issue bonds for the purpose of financing
6 industrial enterprises, agricultural business enterprises, educational
7 facilities, health care facilities and housing developments, or any
8 combination of such facilities, or any interest in facilities, including
9 without limitation leasehold interests in and mortgages on such facilities.
10 No less than 30 days prior to the issuance of any bonds authorized under
11 this act with respect to any project or activity which is to be undertaken
12 for the direct benefit of any person or entity which is not a state agency
13 or a political subdivision, written notice of the intention of the authority
14 to provide financing and issue bonds therefor shall be given by the
15 president of the authority to the governing body of the city in which the
16 project or activity is to be located. If the project or activity is not
17 proposed to be located within a city, such notice shall be given to the
18 governing body of the county. No bonds for the financing of the project
19 or activity shall be issued by the authority for a one-year period if, within
20 15 days after the giving of such notice, the governing body of the
21 political subdivision in which the project or activity is proposed to be
22 located shall have adopted an ordinance or resolution stating express
23 disapproval of the project or activity and shall have notified the president
24 of the authority of such disapproval.

25 (d) The authority may issue bonds for the purpose of establishing
26 and funding one or more series of venture capital funds in such principal
27 amounts, at such interest rates, in such maturities, with such security, and
28 upon such other terms and in such manner as is approved by resolution
29 of the authority. The proceeds of such bonds not placed in a venture
30 capital fund or used to pay or reimburse organizational, offering and
31 administrative expenses and fees necessary to the issuance and sale of
32 such bonds shall be invested and reinvested in such securities and other
33 instruments as shall be provided in the resolution under which such bonds
34 are issued. Moneys in a venture capital fund shall be used to make
35 venture capital investments in new, expanding or developing businesses,
36 including, but not limited to, equity and debt securities, warrants, options
37 and other rights to acquire such securities, subject to the provisions of the



1 resolution of the authority. The authority shall establish an investment
2 policy with respect to the investment of the funds in a venture capital
3 fund not inconsistent with the purposes of this act. The authority shall
4 enter into an agreement with a management company experienced in
5 venture capital investments to manage and administer each venture
6 capital fund upon terms not inconsistent with the purposes of this act and
7 such investment policy. The authority may establish an advisory board to
8 provide advice and consulting assistance to the authority and the
9 management company with respect to the management and
10 administration of each venture capital fund and the establishment of its
11 investment policy. All fees and expenses incurred in the management and
12 administration of a venture capital fund not paid or reimbursed out of the
13 proceeds of the bonds issued by the authority shall be paid or reimbursed
14 out of such venture capital fund.

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

20 (f) After receiving and approving the feasibility study required
21 pursuant to K.S.A. 74-8936, and amendments thereto, the authority may
22 issue bonds in one or more series for the purpose of financing a
23 multi-sport athletic project in accordance with K.S.A. 74-8936 through
24 74-8938, and amendments thereto. If the project is to be constructed in
25 phases, a similar feasibility study shall be performed prior to issuing
26 bonds for the purpose of financing each subsequent phase.

27 (g) The authority may issue bonds for the purpose of financing
28 resort facilities, as defined in subsection (a) of K.S.A. 32-867, and
29 amendments thereto, in an amount or amounts not to exceed \$30,000,000
30 for any one resort. The bonds and the interest thereon shall be payable
31 solely from revenues of the resort and shall not be deemed to be an
32 obligation or indebtedness of the state within the meaning of section 6 of
33 article 11 of the constitution of the state of Kansas. The authority may
34 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
37 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) (1) 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). Such financing shall be available on a technologically neutral basis and shall not be used for facilities where there is an existing provider of high speed internet access service.

(2) As used in this subsection (i), "high speed digital service" means service which provides upstream, from customer to provider, and downstream, from provider to customer, transmission of digital signals at a rate of at least 200 kilobits per second.

(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.

(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. 5. K.S.A. 66-1,187 and 74-8905 are hereby repealed.

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1 Sec. 6. This act shall take effect and be in force from and after its
2 publication in the statute book.
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(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 regulations issued by the federal communications commission with rates for such access to network elements and collocation space to be determined by the state corporation commission as authorized and delegated under the regulations of 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.

(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.

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) ~~An~~ incumbent local exchange carrier (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.

(c) 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.

Sec. 4. 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

To the extent specifically required under regulations issued by the Federal Communications Commission, an

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ATTACHMENT 2

(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 regulations issued by]~~ the federal communications commission with rates for such access to network elements ~~[and collocation space]~~ to be determined by the state corporation commission as authorized and delegated under the regulations of 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.

(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.

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) An incumbent local exchange carrier (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.

(c) 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.

Sec. 4. 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

identified by the state corporation commission or

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ATTACHMENT 3

Amendment to Sloan Insert #2

An ILEC not subject to rate of return regulation, or an affiliate of such ILEC, shall provide access to the then existing equipment, 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.

page 4
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Amendment to Sloan 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.~~

page 4
new
Sec 3(c)

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ATTACHMENT 4

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect any other provision or application of the act which can be given effect without the invalid provision or application.

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ATTACHMENT 5

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ATTACHMENT 6

uant 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.

exclusively used to

If the definition of High speed internet access service remains as amended

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.

The provisions of this sub section shall not be applicable to non-rural telephone company operating areas defined as metropolitan statistical areas by the U. S. Office of Management and Budget.

(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.

inserts attached

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.