

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Scott Emler at 9:30 A.M. on February 9, 2005 in Room 526-S of the Capitol.

Committee members absent:

Committee staff present: Athena Andaya, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes' Office
Diana Lee, Revisor of Statutes' Office
Ann McMorris, Committee Secretary

Conferees appearing before the committee: John Federico, Kansas Cable Telecommunications Assn.
Gary Shorman, Eagle Communications, Hays
Patrick Knorr, Sunflower, Lawrence
Coleen Jennison, Cox Communications, Wichita

Others attending: See attached list

Presentations by Cable Companies

John Federico, Kansas Cable Telecommunications Association, Topeka (Attachment 1)

Gary Shorman, president KCTA and president, Eagle Communications, Hays (Attachment 2)

Patrick Knorr, Sunflower Communications, Lawrence (Attachment 3)

Coleen Jennison, Director of Government Affairs, Cox Communications, Wichita (Attachment 4)

Questions from the committee on the regulating of X-rated movies on home screens and the effect of new technologies on 911 calls.

Approval of Minutes

Moved by Senator Reitz, seconded by Senator Apple, to approve the minutes of the Senate Utilities Committee meetings held on February 3, 2005 and February 8, 2005. Motion carried.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 4

Presented by

KANSAS CABLE TELECOMMUNICATIONS ASSOCIATION (KCTA)

John J. Federico, J.D., Executive Secretary

Before the Senate Utilities Committee on February 9, 2005

Thank you, Mr. Chairman. My name is John Federico, executive director of the Kansas Cable Telecommunications Association, and we appreciate the opportunity to speak with you and educate you about our industry.

We have with us today three individuals, Mr. Gary Shorman, president of the KCTA and president of Eagle Communications in Hays; Patrick Knorr, president of Sunflower Broad Band, in Lawrence; and Colleen Jennison, president of Government Affairs, Cox Communications, Wichita.

Briefly, if you reference the handout, the cable industry is not an insignificant industry in Kansas. We serve approximately 250 cities and communities and we will pay over \$50 million to cities and counties in franchise fees, we employ nearly 2,000 Kansas residents, will invest approximately \$50 million in system improvements, will provide free cable television to nearly 1,200 schools and 400 schools will have free high speed internet access. One of the points, I wish to make is there are two very important distinctions between the cable industry and the rest of the telecommunications industry. (1) Funding - when cable improves their product and rolls out into new communities they are doing it 100% with private capital - there are no taxpayer subsidies nor government subsidies. This is important in that it affects your business plan. Since rolling out into new communities is done with private funds, their business plan must be scrutinized so they know they are going to get a return on investment with no guarantee. (2) With respect to regulation, we continue to hear feedback from legislators that we are not regulated. That perplexes us because, granted when we deliver video and broad band, we are not regulated by the Kansas Corporation Commission but we are regulated on the federal level by the FCC and we are regulated by way of separate independent franchise agreements with the communities we serve.

We are no means opposed to regulation or favor heavy regulation of any industry, we do feel very strongly though that purposeful regulation sometimes is not a bad thing. It is just one of the concerns we have on the talk of deregulation as our industry begins to offer a new telephony option to Kansas consumers. Competition we can all agree is a good thing, but there needs to be competitors left to offer that competition.

I would now introduce Mr. Shorman who will speak to successes and challenges of delivering our product out in rural Western Kansas.

SENATE UTILITIES COMMITTEE
FEBRUARY 9, 2005
ATTACHMENT 1-1

What Impact Does The Cable Industry Have On Our Kansas Economy?

1-2

In 2005 The Cable Television Industry of Kansas...

- **Will Serve Approximately 250 Cities and Communities.**
- **Will Pay Over \$15,000,000 to Cities and Counties in Franchise Fees.**
- **Will Employ Nearly 2,000 Kansas Residents.**
- **Will Invest Approximately \$50,000,000 In System Improvements.**
- **Will Provide Free Cable Television to Nearly 1,200 Schools.**
- **Will Provide Nearly 400 Schools with Free High Speed Internet.**



"Connecting Kansas To The World!"

For More Information, Contact:

Your local cable operator or
Kansas Cable Telecommunications Association (KCTA)
John J. Federico, J.D., Executive Secretary
815 SW Topeka Blvd., Second Floor
Topeka, KS 66612
(785) 290-0018

Presented by
GARY SHORMAN, PRESIDENT
KANSAS CABLE TELECOMMUNICATIONS ASSOCIATION (KCTA)
and EAGLE COMMUNICATIONS, HAYS

Before the Senate Utilities Committee on February 9, 2005

Mr. Chairman and Members of the Committee. My name is Gary Shorman, president of the Kansas Cable Telecommunications Association, and president of Eagle Communications, Hays.

I want to give you a short background on Eagle Communications. Our company started in 1948 as KAYS/AM radio, started by Bob Smith and Ross Beach, and eventually we have built cable systems and radio stations throughout western Kansas, Nebraska and Missouri. In Nebraska, we are North Platte, Alliance and Chadry; in Kansas we are in Hays, Great Bend, Hutchinson and Salina; in Missouri we are in St. Joseph.

One of the interesting thing about our company is that the employees own controlling interest in Eagle Communications. In 1998 Bob Smith who was the individual owner and he went through the process of creating a new company so that all our employees (200 of them) have a controlling interest. Needless to say, each one of those 200 employees is very concerned about the future of technology and are ready to move forward. Eagle currently operates six cable systems in Western Kansas - they range from Russell, Hays, Ellis, Wakeeney, and out to Goodland and Hoxie. I passed out a map which shows our locations.

Today's cable is about choice, whether you are in Hoxie, Hays or Wichita. Back in 1965 when we first started our systems, the cable card had five channels and was \$4.95 a month. At that time there wasn't much choice. Basic cable now has many choices are shown in our brochure which has been provided you. It also includes digital cable. High definition TV is brand new. It's a great product and will give you access to a lot of cable and other products. PayPer View living is another one. Cable Box allows high definition and lets you record whatever you are watching. The box I am demonstrating has two different tuners, so you can watch one channel and record another. Video on Demand (VOD) is another exciting product.

Competition for video products is strong and fierce. On Friday, Feb. 4, the FCC released its 11th annual assessment of status of competition in the market for the delivery of video programs. The report concludes that consumers have more video choices today than ever before.

Cable broad band business and service is probably the best value out there for internet right now. Eagle broad band and Eagle business services now serves hospitals, medical facilities, schools, city governments, businesses, libraries and thousands of internet customers in western Kansas. 100 % of our cable customers can receive a broad band product. For our rural customers, we offer a wireless broad band.

SENATE UTILITIES COMMITTEE
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In the financing arena, small cable operators are the underdogs. To some extent, we finance what we do the old fashioned way - we go to the bank and we try to figure out how to get our money back by selling service to a customer. We have no guarantees and no rate protection anywhere. Larger cable companies have access to public stock markets and other corporate styles of finance but they, too, have no guaranteed rate of return. It is truly pure risk capital at work. Many of our broad band competitors and their affiliate companies report numerous sources of capital and revenue and government grants and other guaranteed loans. KCC documents will show that financing outside revenue comes from Kansas Universal Service Funds, and RUS. The rural telephone bank and rural telephone finance corporation along with others all provide revenue and guaranteed loans for some of our competitors.

The business climate is one of the main reasons that the work you do in Topeka for us is so very important. For us, as employee owners, our risk capital and our livelihood, is at stake with every policy and regulation change that you make. We hope you use a thoughtful and thorough process in reviewing any policy changes that may be proposed. As bills come across your desks through this committee, we ask that you avoid piece-mealing those things together.

Technology will continue to change. They are important to the future of Kansas.

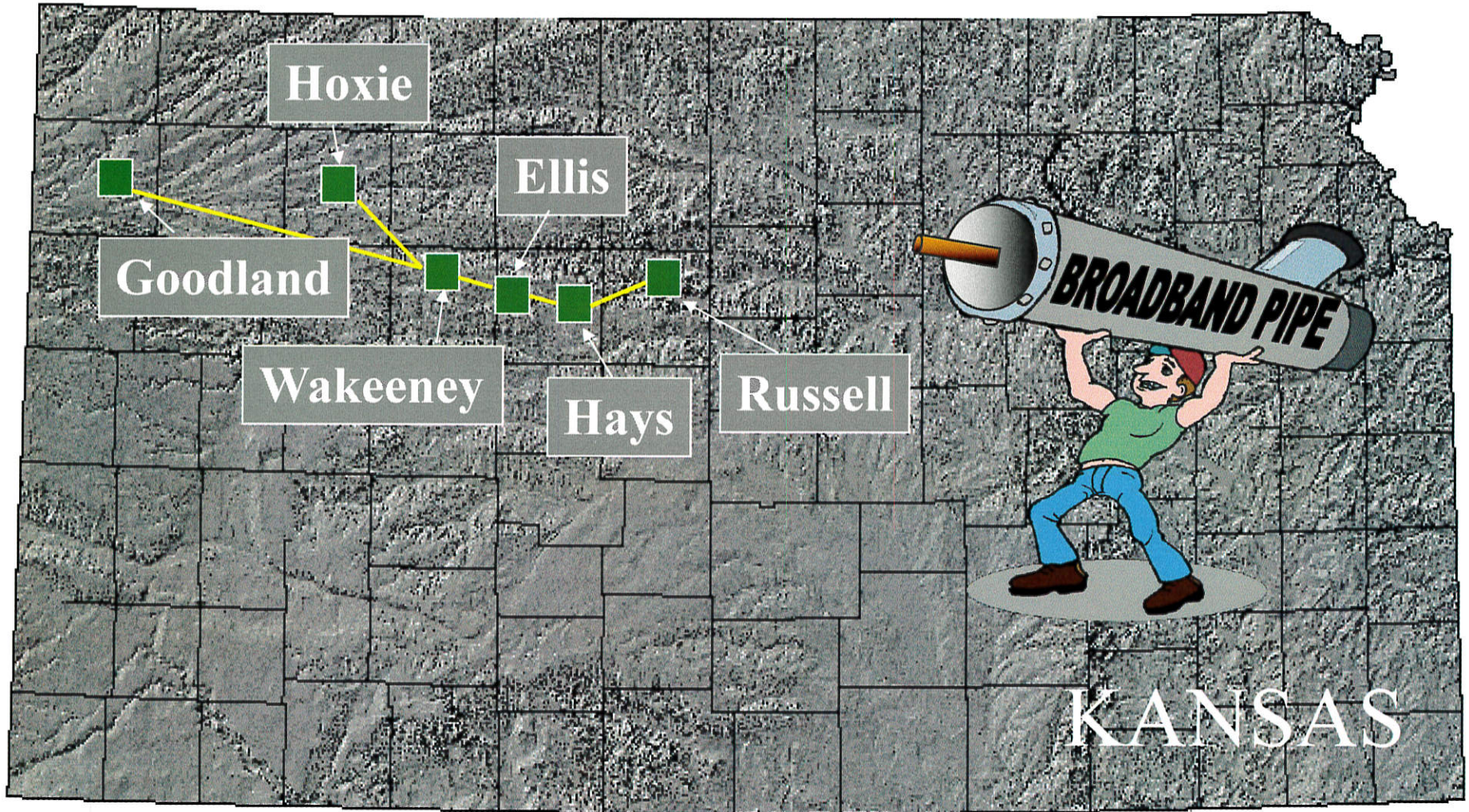
Thanks so much for your time and I now introduce Patrick Knorr.



EAGLE COMMUNICATIONS

Cable & Broadband

2-3





Eagle Standard Channel Guide

EAGLE Cable HAYS/ELLIS

Eagle Basic Package

1	KSNC (NBC)	37	VH1
2	Weather Channel	38	Sci-Fi
4	TV Guide	39	CMT
5	KSAS (FOX)	40	History Channel
6	KSCC (UPN)	41	Comedy Central
8	Local Ad Channel	42	MTV
9	KOOD (PBS)	43	Hallmark Channel
10	KBSH (CBS)	44	Lifetime
11	KAKE (ABC)	45	Travel Channel
12	KWCV (WB)	46	Fit TV
13	Education Channel	47	MSNBC
14	ECTV	48	FX Networks
16	HSN	49	FOX Movie Channel
18	QVC	50	Fox News Channel
19	C-SPAN	51	Home & Garden TV
20	WGN	52	CNN
** 21	HBO	53	Headline News
** 22	CINEMAX	54	TV Land
23	FSN Midwest	55	Disney
24	Spike TV	56	Toon Disney
25	ESPN	57	The Learning Channel
26	ESPN2	58	Animal Planet
27	ESPNNews	59	Cartoon Network
28	ESPN Classics	60	ABC Family
29	EWTN	63	E! Entertainment
30	USA	64	Discovery
31	TNT	65	Food Network
32	TBS	66	Bravo
33	Nickelodeon	67	Info Channel
34	AMC	68	Court TV
35	CNBC	69	National Geographic
36	A&E	70	Sportsman Channel

** Indicates premium service

CABLE SERVICES

Monthly Rate:

Eagle Basic	\$12.95
Eagle Standard	\$37.95
HBO	\$10.95
Cinemax	\$10.95
Professional Installation (one-time charge)	\$24.95
AM (Safety Alert Monitor)	\$2.95

(Additional charges may apply)

Eagle Digital Cable Channel Guide

EAGLE DIGITAL

Discovery Tier

101	Discovery Kids
102	The Science Channel
103	Discovery Home & Leisure
104	Discovery Times Channel
105	Military Channel
106	Discovery Health
107	Fit TV
110	National Geographic
111	History International
113	History Channel

Movies & Arts Tier

201	Independent Film Channel
203	Turner Classic Movies
205	Lifetime Movie Network
207	FOX Movie Channel
210	BBC America
211	Bravo
212	Trio
215	A&E Biography

Commercial Free Music

901	Listening Room	912	Alternative Rock	926	Great Standards
902	Big Band/Swing	913	Hard Rock	927	70's Hits
904	Smooth Jazz	914	Rock 'n' Roll Oldies	928	80's Hits
905	Groove Lounge	917	Urban Beat	929	Hottest Hits
906	Jazz Vocal Blend	919	Classic R&B	930	Soft Hits
907	New Age	920	Reggae	931	Adult Contemporary
908	Modern Country	922	Coffeehouse Rock	932	Lite Classical
909	Traditional Country	923	Dance	934	Contemporary Christian
910	Album Rock	924	Retro Disco	936	Children's
911	Classic Rock	925	Golden Oldies	937	Holidays & Happenings

Variety Tier

221	Nick Toons
222	Nick GAS
223	Noggin
225	Toon Disney
231	Game Show
233	Women's Entertainment
235	Wisdom Television
236	E! Style
246	Inspirational Life
247	Trinity Broadcasting
250	VH1 Classic Rock
251	VH1 Country
253	MTV2
257	Fuse
259	Sci-Fi

Sports and Information Tier

270	ESPN2
271	ESPNNews
272	ESPN Classics
273	Fox Soccer
280	Speed Channel
281	Golf Channel
282	Outdoor Life
283	Outdoor Channel
284	Sportsman Channel
287	HGTV
291	G4tech TV
295	Bloomberg

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Eagle iNDEMAND

701-704
707-722

Movies & Events

{ 715-722 NASCAR IN CAR }

761, 762, 764 --- Playboy, Spice, Hot Net

EAGLE DIGITAL MOVIE PACKAGES

HBO The Works

400	HBO
401	HBO Plus
402	HBO Signature
403	HBO Family
404	HBO Comedy
405	HBO Zone
* 406	HBO HD

(HD digital box required)

Cinemax MultiMax

407	Cinemax
408	More Max
409	Action Max
410	Thriller Max

Starz! SuperPak

500	Starz!
501	Starz! Edge
502	Starz! Cinema
503	Starz! Kids & Family
504	Starz! Comedy
505	Encore
506	Encore Action
507	Encore Love
508	Encore Mystery
509	Encore Drama
510	Encore Western
511	Encore WAM!

Showtime Unlimited

420	Showtime
421	Showtime Too
422	Showtime Showcase
424	Showtime Extreme
425	Showtime Next
426	Showtime Family
427	Showtime Women
428	The Movie Channel
429	TMC Xtra
430	FLIX

DIGITAL SERVICES

Monthly Rate:

HBO The Works	\$10.95
Cinemax MultiMax	\$10.95
Showtime Unlimited	\$10.95
Starz SuperPak	\$10.95
Digital Receiver	\$4.95
Add'l Digital Receiver	\$3.95
1 st Digital Tier	\$3.95
2 nd , 3 rd & 4 th Digital Tier	\$3.00 ea.

Requires Standard Service & Digital Receiver

EAGLE Internet

Monthly Rate:

e-VALUE High Speed Internet	256▲	256▼	\$19.95
e-MAX High Speed Internet	512▲	3MB▼	\$39.95

(Internet price includes \$10.00 discount for Eagle Cable customers that subscribe to Eagle Standard service or greater. Eagle Basic subscribers may receive e-Value Internet service for \$24.95 or e-Max Internet service for \$44.95.)

High-Definition Television

300	Discovery HD
301	ESPN HD
*406	HBO HD

HDTV Programming \$4.95
Digital Converter..... \$360
or Lease for 9.95 p/mo.



(See HBO the Works line-up)

Digital Video Recorders

DVR receiver (HD ready)	\$19.95
To purchase DVR receiver	\$495.00



Prices do not include installation fees. Prices subject to change. Contact Eagle Communications at 625-5910 for most recent pricing.

Hays/Ellis Packaged Viewing Options

Eagle's packaging gives you More for Less with more choice! You can combine your channel preferences into the combination that gives you the best value!

Eagle Basic

\$12.95

Eagle Basic includes 16 channels.

Eagle Standard

\$37.95

Eagle Standard includes 62 channels.

Eagle Standard Plus

\$46.95

Eagle Standard Plus Includes:

- Eagle Standard
- Digital Receiver with Gateway
- (Includes access to 31 Eagle iNDEMAND movie and event channels and 30 digital music channels).
- Your choice of one Digital tier
- (Choose between Discovery, Movies & Arts, Variety and Sports & Information).

Eagle Choice Value Package

\$56.95

Eagle Choice Value Pack Includes:

- Eagle Standard
- Digital Receiver with Gateway
- (Includes access to 31 Eagle iNDEMAND movie and event channels and 30 digital music channels).
- Your choice of one Digital tier
- (Choose between Discovery, Movies & Arts, Variety and Sports & Information).
- Your choice of one of the HBO, Cinemax, or Showtime Premium movie services.

Eagle Double Value Package

\$64.95

Eagle Double Value Pack Includes:

- Eagle Standard
- Digital Receiver with Gateway
- (Includes access to 31 Eagle iNDEMAND movie and event channels and 30 digital music channels).
- Your choice of one Digital tier
- (Choose between Discovery, Movies & Arts, Variety and Sports & Information).
- Your choice of two of the HBO, Cinemax, or Showtime Premium movie services.

Eagle Triple Value Package

\$72.95

Eagle Triple Value Pack Includes:

- Eagle Standard
- Digital Receiver with Gateway
- (Includes access to 31 Eagle iNDEMAND movie and event channels and 30 digital music channels).
- Your choice of two Digital tiers
- (Choose between Discovery, Movies & Arts, Variety and Sports & Information).
- All three of the HBO, Cinemax and Showtime Premium movie services.

Eagle Premium Value Package

\$79.95

Eagle Premium Value Pack Includes:

- Eagle Standard
- Digital Receiver with Gateway
- (Includes access to 31 Eagle iNDEMAND movie and event channels and 30 digital music channels).
- Your choice of two Digital tiers
- (Choose between Discovery, Movies & Arts, Variety and Sports & Information).
- Starz SuperPak
- All three of the HBO, Cinemax and Showtime Premium movie services.

Eagle Maximum Value Package

\$82.95

Eagle Maximum Value Pack Includes:

- Eagle Standard
- Digital Receiver with Gateway
- (Includes access to 31 Eagle iNDEMAND movie and event channels and 30 digital music channels).
- All four of the Digital tiers: Discovery, Movies & Arts, Variety and Sports & Information.
- Starz SuperPak
- All three of the HBO, Cinemax and Showtime Premium movie services.

Eagle Maximum Plus Value Package

\$117.95

Eagle Maximum Plus Value Pack Includes:

- Eagle Standard
- Digital Receiver with Gateway
- (Includes access to 31 Eagle iNDEMAND movie and event channels and 30 digital music channels).
- All four of the Digital tiers: Discovery, Movies & Arts, Variety and Sports & Information.
- Starz SuperPak
- All three of the HBO, Cinemax and Showtime Premium movie services.
- e-MAX High Speed Internet

2-5



EAGLE COMMUNICATIONS
CABLE & DIGITAL CABLE
HIGH-SPEED INTERNET

HAYS/ELLIS
785-625-5910 · HAYS
785-726-3291 · ELLIS

2-5



What is Eagle High-Speed Internet?

Eagle High-Speed Internet provides super-fast, unlimited Internet access to your home through Eagle's extensive cable network. By utilizing the powerful bandwidth capabilities of your Cable TV line and a cable modem, Eagle is able to provide the fastest Internet service available, without tying up your phone line! Also, Eagle High-Speed Internet is always on, making lengthy dial-up times and frustrating busy signals a thing of the past. Whether you want to do some quick research, listen to live streaming broadcasts, or download large files, Eagle High-Speed Internet makes it possible! Just turn on your computer and go!

How does it compare with DSL?

Like cable modem service, DSL also provides "High-Speed" Internet service without tying up phone lines, but that's where the similarities end. The following information should make it clear why Eagle High-Speed Internet is the better value when compared to DSL.

□ Location, Location, Location!

Due to the limitations of the phone lines which DSL data is transmitted, DSL service is only as good as your proximity to your local phone company. In fact, beyond a certain distance, DSL is not available at all! Eagle High-Speed Internet provides the same blazing service no matter where you live within our Cable system.

□ It's All About the Speed!

Not all "High-Speed" Internet Service is the same. While DSL is a significant step up from dial-up services, it is still delivered via the same outdated technology (twisted pair copper wiring used for phone service) and therefore is limited to the amount of data that it can hold. Also, with DSL, the farther away you are from the provider, the slower you can expect your connection to be! Eagle High-Speed Internet is delivered over a state-of-the-art broadband network, designed to perform impressive two-way interactive services. What does this mean? Eagle High-Speed Internet is more reliable and up to twice as fast as DSL!

□ Does Superior Service Mean Costly Service?

When you sign-up for Eagle High-Speed Internet, you get the added advantage of bundled pricing. Eagle Cable customers receive privileged discounts when adding High-Speed Internet service, as well as the convenience of one provider / one bill for both services!

Eagle High-Speed Internet Features:

The Advantage of Cable.

Since cable networks are designed to handle a greater variety of technologies and bandwidth, it offers the flexibility to merge with tomorrow's technological advances. You'll always be at the leading edge with Eagle High-Speed Internet.

Easy Hook-Up.

Our professional technicians will arrive to install a high speed network card, a cable modem, and a cable outlet near your computer. All you have to do is call!

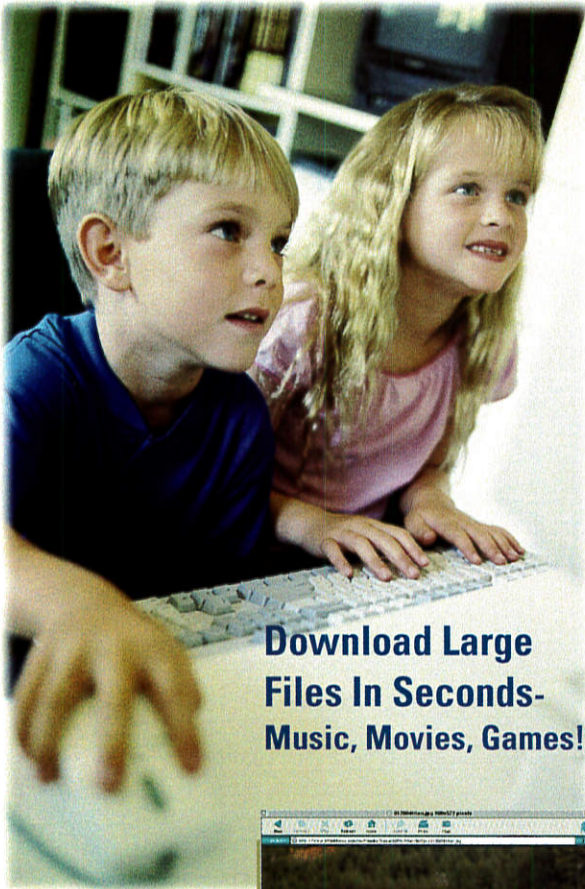
Free, Local Technical Support.

Being a local company allows us to offer you personalized technical help. Our techs are determined to do whatever is needed to keep your service up and running (even if it means a personal visit to your home). Most questions can be answered instantaneously over the phone, we welcome your calls! Or email your questions to support@eaglecom.net

Also,

- ↖ *Blazing Fast Speed.*
- ↖ *'Always On' connection to the Internet.*
- ↖ *No Busy Signals. No Tied-Up Phone Lines.*
- ↖ *3 Email Accounts.*
- ↖ *Remote Access to Your Email.*
- ↖ *No Contract Required.*

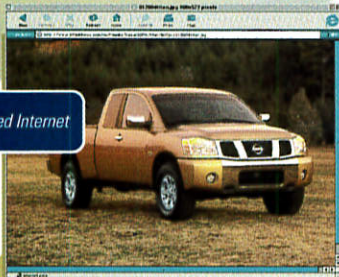




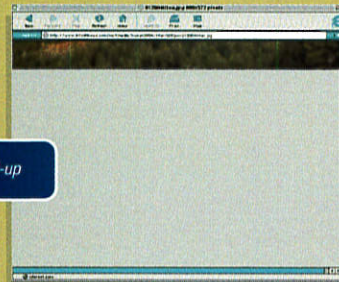
Download Large Files In Seconds- Music, Movies, Games!

Eagle High-Speed Internet

Download Speed Comparison



Standard Dial-up



2-7

High-Speed Internet starting at
\$19.95

Price includes \$10 Cable customer discount.

Take advantage of bundled pricing! All Eagle customers who carry Eagle Standard Cable service or better receive a \$10 monthly discount on their Internet service, as well as the convenience of having one combined, easy-to-pay bill.

Eagle Basic Cable subscribers receive a \$5 monthly discount when signing up for High-Speed Internet service.

Pricing for Non-Cable Subscribers:

e-Value _____ \$29.95

[256 K download, 256 K upload]

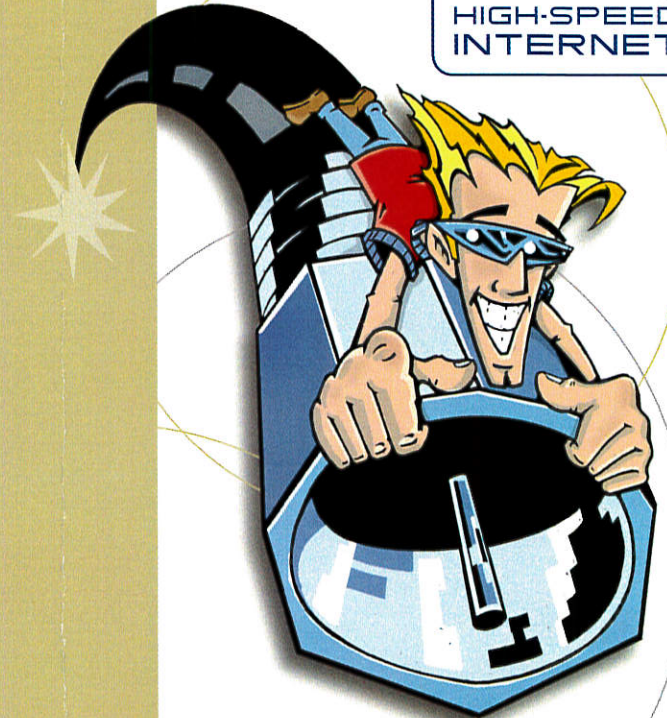
e-Max _____ \$49.95

[3000 K download, 512 K upload]

To sign-up for Eagle High-Speed Internet, Call 785-625-5910, or stop by our office at 2703 Hall St., Suite #13.



EAGLE HIGH-SPEED INTERNET



Blazing Fast Internet

As Little As

\$19.95 p/m

6 2 5 - 5 9 1 0

2-7

Presented by
PATRICK KNORR, GENERAL MANAGER
SUNFLOWER BROAD BAND, LAWRENCE

Before the Senate Utilities Committee on February 9, 2005

Mr. Chairman and Members of the Committee, thank you for giving us time today. I am Patrick Knorr, general manager, Sunflower Broad Band of Lawrence. Sunflower Broad Band is a family owned business. Their history goes back about a hundred years. They launched cable service about 1970 and have a deep commitment to community. This is best reflected in the local programming we provide. In 1995 we were one of the first in the country to launch high speed internet service as a cable company. In 1998 we launched ditto services and 2001 we launched competitive phone services.

In regard to the phone services, the current hottest item is VOIP. The service we offer is called switch service over cable - i.e. we use the cable facilities that go into your home to provide the phone service. VOIP uses the internet to transfer voice and there are a lot of different flavors in providing this service. It does not provide 911 service.

Cable providers across the country pay into USF. There are many layers of telecommunication services being provided now and plans for the future include cell phone services.

Our services are provided to Lawrence and Eudora and are being extended to Basehor and Tonganoxie and Piper and later this year will include Linwood. This will make competitive phone services available to these communities.

Community involvement and what this technology allows us to do for the community. The high speed internet service we provide has significantly put Lawrence above the standard curve on high speed internet. We are planning to work with our schools with multi-media education.

We do have concerns about deregulation.

SENATE UTILITIES COMMITTEE
FEBRUARY 9, 2005
ATTACHMENT 3-1

RUS Loans: Rural Broadband Access Loan & Loan Guarantee Program

The Rural Utility Service (RUS) has published the rules and enabled applications for the "Rural Broadband Access Loan and Loan Guarantee Program". This program is a new initiative by the RUS created with a goal of "ensuring that rural consumers enjoy the same quality and range of telecommunications services that are available in urban and suburban communities". This program is designed to provide loans for funding, on a technology neutral basis, the costs of construction, improvement and acquisition of facilities and equipment to provide broadband services to eligible rural communities.

Loan Program Overview

The RUS has identified \$1.455 Billion of funds to be allocated during FY 2003 for this program. This is a multi-year program, implemented under the 2002 Farm Bill, with funding authorized through 2007. This program enables three different low-interest loan mechanisms for eligible applicants.

The particular emphasis of this program is to encourage the development or expansion of broadband services into rural areas. The RUS defines broadband as 200 kbps both upstream and downstream, and "rural" as communities of 20,000 persons or less, including non-town areas. Communities with populations of 2,500 persons or less and rural areas with fewer than 10 persons per square mile

This program allows applicants to propose a wide variety of solutions, including copper, coax, fiber, wireless or other technologies. The program requires the delivery of broadband data services, but may also include voice and/or video as optional services.

Eligibility

The RUS broadband loan program is not restricted to telephone companies or to previous RUS borrowers. Nearly any type of business can participate, with a few notable exceptions. Individuals or partnerships of individuals may not participate, and the large telephone companies are not eligible (RBOCs and other companies serving more than 2% of the nation's telephone lines). State and local governments are restricted from eligibility until after April 30, 2003.

Competition

Existing RUS borrowers are given a measure of protection from potential competitors desiring to use this money. Specifically, the RUS will not make loans to other applicants to provide service within any exchange of an existing borrower if the existing borrower submits a letter of intent to provide broadband services in the proposed area within 2 years. The existing borrower is allowed 90 days from the time a competing application is submitted to the RUS to state this intention. We recommend that all existing borrowers become familiar with these provisions of the RUS broadband loan program and take the appropriate steps if such a competitor does appear.

Senate Utilities Committee
Coleen Jennison
February 9, 2005



Thank you Mr. Chairman and members of the Committee, I am Coleen Jennison, Director of Government Affairs for Cox Communications.

We appreciate your allowing us to present our views as they relate to competition, both cable and telephone, and the role we play in the state of Kansas. First, I would like to provide a little background about our company, then address the subject of competition, and conclude with some thoughts about the provision of telephone service.

Cox serves over 90 communities in Kansas from Wichita to Gas (pop. 532) from Cherryvale to Lindsborg. To give you some idea of our geography we serve Topeka, Manhattan, Garden City, Dodge City, Hutchinson, El Dorado, Great Bend and numerous communities in between. 100% of our customers, including those in Gas, Kansas, are served with state-of-the-art broadband technology. The service we provide throughout Kansas is equal to or surpasses any video and data service offered from Chicago to LA.

Aside from providing state-of-the-art broadband services, we proudly give back to our communities in many ways. We believe that we are only as successful as the communities we serve. That's why we offer free cable television and high speed Internet to K-12 schools in our service areas. That's why we gave more than \$9 million in cash and in-kind donations back to our communities last year alone. That's why we provide more than 80 city and educational channels in our state valued at more than \$10 million annually.

Furthermore, we staff 22 local offices across the state and employ over 940 Kansans with a payroll of \$43 million. We also pay more than \$8.4 million in municipal franchise fees.

To wrap up the back ground, one misconception we face is that cable isn't regulated. In fact, the cable industry is regulated at the federal level by the Cable Act (the Cable Act specifically is Title VI of the communications Act of 1934, as initially adopted by the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, and as further amended by the Telecommunications Act of 1996). Additionally, we are required to obtain franchises from the Local Franchising Authorities where we provide or intend to provide service.

SENATE UTILITIES COMMITTEE
FEBRUARY 9, 2005
ATTACHMENT 4-1

My job requires that I do this for the eastern half of Kansas. The last franchise that I had the pleasure of renewing took 3 years and was over 30 pages long. Finally, we are under obligation to adhere to the rules and regulations of the Federal Communications Commission (FCC) requiring dozens of reports and plant specifications annually.

Regarding competition, during my four years with Cox the legislative directive has been consistent – bring competition to Kansans. Companies have answered the call, Cox among them, and competition is budding in Kansas. Not quite blooming, as other companies would have you believe, but certainly budding.

In terms of cable, long gone are the days where we enjoyed product exclusivity in the marketplace. Just as the ILECS, we face competition from wireless. Competition in the form of satellite and Direct Broadcast Satellite (DBS) is formidable. While SBC currently has teamed up with Dish Network to provide the video portion of their bundle, they have announced plans to build a new fiber network that will provide 18 million households IP-based television in addition to other services.

While Cox continues to maintain a healthy video market share in Kansas, it is a result of our aggressive roll out of new products. In addition to the 260 channels of video, Cox offers High Speed Internet, High Definition Television (HDTV), Digital Video Recorders (DVRs), Interactive Program Guides (IPGs) and commercial free music channels.

So, we come to telephone. I agree with my colleague from Sprint, Richard Lawson, when he said, “it is a world where the distinction between services is becoming more and more blurred because of advances in such technology as wireless, Internet, and broadband telephony. It is a world where one service can easily be substituted for another service or completely replace it.”

If we wanted it all tied up in a neat package, we would have left it as it was and we wouldn't be having this conversation about competition.

Cox began offering traditional switch telephone in Wichita in March 2003 and subsequently the surrounding areas of Goddard, Park City, Kechi, Bel Aire, Valley Center, and Maize. Ours is a facilities based Competitive Local Exchange Carrier (meaning we build and utilize our own separate infrastructure), that operates under Cox Kansas Telecom, LLC. Cox does pay into E911 and the Kansas Universal Service Fund. The only KUSF money we are eligible for in return is that which reimburses us for providing life line services. Cox offers local service, features (such as Caller ID, Call Waiting and Voice Mail), and long distance.

There are many that have decided that “competition has worked” in Kansas. I would submit that notion is slightly premature. Just last year the KCC stated that “no competitor has amassed a significant share of the market. Thus, competition is not yet firmly established.” In fact, 94.6% of the wireline telecommunications market is

controlled by the ILECs in Kansas. Sprint in its presentation to this committee pointed to the FCC report indicating CLECs had garnered about 22% of the local market in Kansas. In reality 78% of the market is held by ILECs, 16.6% is held by ILECs and leased to CLECs (resale and UNEs) and only 5.4% is held by facilities based CLECs, such as Cox.

While we understand and respect the Federal and State obligations required of traditional telephone companies, Cox unlike our competitors, has built our infrastructure with 100% private risk capital. Since 1996 we have invested more than \$350 million in Kansas alone to ensure that our customers have access to the most technologically advanced services available. We continue to invest more than \$50 million annually to upgrade and maintain our infrastructure. Cox is very proud of what we bring, not just to metropolitan areas, but to small and large communities across the state. However, because the local telephone market has been served by a monopoly for over one hundred years, competition in the market will not occur naturally.

As Cox continues to make a facilities based investment in Kansas, we would encourage the legislature to take into consideration the true state of competition in this state. Finally, after 100 years, consumers are beginning to have choices.

The legislature has issued the challenge – bring competition to Kansas. Cox and cable companies are doing just that. We respectfully request that you allow us the opportunity for that competition to take hold before you make changes that very well could reverse any progress that has been made on behalf of Kansas consumers.