

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Vice Chairman Pat Apple at 9:30 A.M. on February 15, 2005 in Room 526-S of the Capitol.

Committee members absent: Senator Roger Reitz- excused

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:  
Rachel Reiber, VP, Everest Connections, Lenexa

Others in attendance: see attached list

Presentation by Everest Connections

Rachel Reiber, vice president, Everest Connections, provided background information on this facilities based broadband service provider. This provider has been in business since January 25, 2001 and provides service in both Kansas and Missouri. (Attachment 1)

Approval of Minutes

Moved by Senator Taddiken, seconded by Senator Lee, the minutes of the meetings of the Senate Utilities Committee held on February 9, 2005 and February 10, 2005 be approved. Motion carried.

Continued discussion on  
**S.B. 63 - Public Utilities, excluding certain landlords from definition**

After discussion on the amendments made in prior meetings on **S.B. 63**, (Attachment 2)

Moved by Senator Taddington, seconded by Senator Petersen, the committee reconsider all previous actions taken on S.B. 63. Motion carried

Moved by Senator Taddiken, seconded by Senator Pine, S.B. 63 be adopted as amended except for (b) and (d).

Substitute motion by Senator Francisco, seconded by Senator Apple, to amend S.B. 63 by adopting only new sections (b) and (e). Motion failed. (4-3).

Back to original motion by Senator Taddiken,  
Moved by Senator Taddiken, seconded by Senator Pine, S.B. 63 be adopted as amended except for (b) and (d). Motion carried.

Moved by Senator Taddiken, seconded by Senator Pine, S.B. 63 be passed out favorably as amended. Motion carried.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 2



## EVEREST®

- A facilities based broadband service provider. Everest provides local and long distance service, cable service and high speed Internet service to 30,500 customers over it's own facilities in Lenexa, Overland Park, Shawnee and south Kansas City.
- Formed in mid 2000; survived telecom "bust".
- Service to first customers was turned up on January 25, 2001.
- 96% owned by Aquila; however Aquila has provided no funding for Everest operations since April 2003. Everest is now self-supporting.
- Everest is capable of providing service to 74,000 homes; 65,000 of which are in Kansas.
- 90% of Everest's residential customers are in Kansas.
- Everest holds cable and telecom franchises from these cities: Lenexa, Shawnee, and Overland Park. Everest remits franchise fees on telephone and cable revenues. In addition, Everest holds telecommunications franchises in ~~Lenexa~~, Merriam, Mission, Fairway, Westwood, and the City of Mission Woods where it has telecom facilities that passes through each of these cities.  
*Leawood*
- Everest also provides business service and has approximately 7,000 access lines, 60% of which are served with a combination of SBC and Everest facilities. Forty percent are served using only Everest's network.
- 170 Employees; payroll in excess of \$10 million.
- Paid \$750,000 in Kansas property taxes.
- Everest customers contributed \$345,000 to the federal universal service fund and \$380,000 to the Kansas universal service fund. Everest receives no proceeds from either the federal or Kansas universal service funds.

**Senate Utilities Committee  
February 15, 2005  
Attachment 1-1**

## SENATE BILL No. 63

By Committee on Utilities

1-20

9 AN ACT concerning public utilities; relating to the definition thereof.

10

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

12 Section 1. The term "public utility" within the meaning of K.S.A. 66-  
13 104, and amendments thereto, shall not include any person or entity in  
14 the business of being a landlord who is supplied water by a city or water  
15 district and who furnishes such water to its tenants pursuant to subsection  
16 (a)(5) of K.S.A. 58 2553 or subsection (a)(6) of K.S.A. 58 25,111, and  
17 amendments thereto, with the use of a separate meter to measure the  
18 water furnished to the tenant, so long as the landlord charges the tenant  
19 at the same rate charged by the city or water district to the landlord. The  
20 furnishing of water by a landlord to a tenant in accordance with this  
21 section shall not be construed as a sale for resale which may be subject  
22 to the jurisdiction of the state corporation commission.

23 Sec. 2. This act shall take effect and be in force from and after its  
24 publication in the statute book.

(a)

**Any lease between a landlord and tenant in effect at the time this section becomes effective shall not be affected by the provisions of this section.**

**(b) The landlord shall not charge the tenant any surcharge for the installation, maintenance or any other purpose related to the use of a separate water meter.**

**(c) The landlord is entirely responsible for the cost of installing and maintaining separate meters for its tenants.**

**(d) Upon the tenant's request, the landlord shall provide the tenant with the tenant's water usage records for the past year.**

**(e) The landlord shall provide the tenant with a monthly water statement showing the computation of the amount the tenant owes, the tenant's meter reading for the current water statement period and the tenant's meter reading for the prior water statement period.**