

MINUTES OF THE HOUSE UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on March 8, 2006 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Mary Galligan, Kansas Legislative Research
Dennis Hodgins, Kansas Legislative Research
Mary Torrence, Revisor's Office
Renaë Hansen, Committee Secretary

Conferees appearing before the committee:

John Federico, Kansas Cable Telecommunications Association
Jeff Wick, Nex-Teck
Steve Rarrick, CURB

Others attending:

See attached list.

Mary Galligan, Kansas Legislative Research, (Attachment 1), presented the current status of Telecommunication Price Deregulation in Indiana in a chart form. Additionally, (Attachment 2), a chart comparing the current law and **SB 350** as amended was offered, and (Attachment 3), and SB Bell briefing of the deregulation process and its' affects in Oklahoma.

Hearing on:

SB 350 **Regulation of telecommunications.**

Neutral:

John Federico, on behalf of The Kansas Cable Telecommunications Association, (Attachment 4), appeared neutral to **SB 350** in light of some of the amendments made in Senate Utilities.

Opponents:

Jeff Wick, Chief Operating Officer, Nex-Tech, (Attachments 5), presented testimony in opposition to **SB 350**. In light of the fact that **SB 350** most likely would pass, proposed amendments (Attachment 6), to make the bill a bit more fair and palatable.

Steve Rarrick, Staff Attorney, Citizens' Utility Ratepayer Board, (Attachment 7), in direct opposition to **SB 350** and described the ramifications it might have for consumers.

Written Opponents:

Ernest Kutzley, Advocacy Director, AARP, (Attachment 8), offered written testimony in opposition to **SB 350**.

Questions were asked and comments were made by Representatives: Annie Kuether, Tom Sloan, Lynne Oharah, Carl Krehbiel, Don Myers, and Melody Miller.

Hearing on **SB 350** was closed.

Tomorrow and Friday the Committee will work **SB 350**.

The next meeting is scheduled for March 9, 2006.

Meeting adjourned.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 8, 2006

NAME	REPRESENTING
STEVE RARRICK	CURB
Paul Snider	ATT
David Kerr	ATT
Debbie Vignatelli	ATT
Tim Pirkering	ATT
Tom Gargano	ATT
Kirk Haggard	Sprint
TOM DAY	KCC
JEFF WICK	NEX-TECH
LINDA YOTON	NEX-TECH
Dan Sprunge	Curb
Shonda Titsworth	CURB
Anne Spiess	ATT
Doug Smith	SITA/RTMC

SB 350
STATUS OF TELECOMMUNICATION PRICE DEREGULATION IN INDIANA

HOUSE UTILITIES
 DATE: 3/8/06
 ATTACHMENT 1

STATE	YEAR/METHOD	COMPETITION	BASIC BUSINESS LINES	BASIC RESIDENTIAL LINES	CALL MANAGEMENT	PACKAGES/BUNDLES	CLEC/CABLE REGULATION	AUTHO RE-REGULATE
Indiana	2006 State Law Indiana Code § 8-1-2.6	There is automatic price deregulation for all services except "stand-alone" residential lines. Stand alone residential lines remain price capped until June 2009. AT&T Indiana must adhere to its alternative regulation plan, which expires in June 2007.	All business lines are price deregulated for AT&T Indiana in 2007 after expiration of current alternative regulatory plan with the Indiana Utility Regulatory Commission (IRUC). Small business rates capped until June 2007.	All residential lines are price deregulated for AT&T Indiana in 2007 after expiration of current alternate regulatory agreement with IRUC (rates capped until June 2007). After June 2007, monthly rate for one "stand-alone" line per customer is price capped through 2009, with \$1 per year increases allowed where the provider will deploy DSL broadband to 50% of customers in any exchange with a price increase.	All call management features are price deregulated for AT&T Indiana in 2007 after expiration of current alternate regulatory agreement with IRUC (monthly rates can now increase by \$.38 per feature per year).	All packages/bundles are price deregulated for AT&T Indiana in 2007 after expiration of current alternate regulatory agreement with IRUC.	No price regulation of competitors.	Did not find provision for IRUC to re-regulate price. IRUC retains authority to regulate service. IRUC must prepare bi-annual report to Legislature on status of competition and technology.

HOUSE UTILITIES
DATE: 3/8/06
ATTACHMENT 2

COMPARISON CHART OF CURRENT LAW AND SB 350 AS AMENDED

STATE	YEAR/METHOD	COMPETITION	BASIC BUSINESS LINES	BASIC RESIDENTIAL LINES	CALL MANAGEMENT	PACKAGES/ BUNDLES	CLEC/CABLE REGULATION	AUTHORITY TO RE-REGULATE
<p>Kansas</p>	<p>1996 State Law (KSA 66-2001 <i>et seq.</i>)</p> <p>2005 Regulatory Order (Docket No. 05-SWBT-997-PDR)</p>	<p>There is no automatic de-regulation provision.</p> <p>The commission may price deregulate within an exchange area, or at its discretion on a statewide basis, any individual service or service category upon a finding by the commission that there is a telecommunications carrier or an alternative provider providing a comparable product or service, considering both function and price, in that exchange area. KSA 66-2005(q).</p> <p>KCC did not find sufficient competition to discipline prices for single-line business service and to protect consumers of the stand-alone residential access line in the Kansas City, Topeka, and Wichita exchanges.</p>	<p>All small business lines under price cap regulation.</p> <p>KCC found sufficient and sustainable competition in Wichita exchange (but not in the Kansas City or Topeka exchanges) to justify deregulation of multi-line business service, Plexar business service and Digital Loop business service.</p> <p>KCC price deregulated flat rate trunk business service, Smart Trunk business service, and Digital Loop business services with the Super Trunk option in all three exchanges.</p>	<p>All residential lines under price cap regulation.</p>	<p>All call management features under price cap regulation, except for those features associated with price deregulated lines or trunks.</p>	<p>Most packages/bundles under price cap regulation. Packages /bundles in Kansas City and Wichita exchanges granted "pricing flexibility" in 2005 if there was at least one facilities-based provider currently offering service in the exchange. Pricing flexibility are conditions imposed on the pricing freedom to ensure sufficient protections of consumers. One of the protections was to require that the individual services that are contained in the bundle must be available at rates under price caps for purchase on an <i>a la carte</i> basis.</p> <p>KCC defined a bundle as "the offering of a basic access line with one or more of the following, subscribed together, as one service option offered at one price: one or more call management features, intraLATA long distance service, interLATA long distance service, DSL, video service, or wireless service."</p>	<p>No price regulation of competitors. CLECs are required to file a one-page annual report with the Commission.</p>	<p>The commission shall resume price regulation of a service provided . . . upon a determination by the commission that there is no longer a telecommunications carrier or alternative provider providing a comparable product or service, considering both function and price, in that exchange area. KSA 66-2005(r).</p> <p>Pursuant to Docket 997, the KCC determined that in those instances where price deregulation was granted, AT&T is still obligated to price its services in a manner that is not "unjust or unreasonably discriminatory or unduly preferential (KSA 66-1,187).</p>

STATE	YEAR/METHOD	COMPETITION	BASIC BUSINESS LINES	BASIC RESIDENTIAL LINES	CALL MANAGEMENT	PACKAGES/ BUNDLES	CLEC/CABLE REGULATION	AUTHORITY TO RE-REGULATE
<p>Kansas</p>	<p>SB 350 as amended</p>	<p>Current language in KSA 66-2005(q) is stricken.</p> <p>Competition is presumed when: 1) There are 75,000 or more local exchange access lines served by all providers, 2) if less than 75,000, business service is price deregulated when two or more nonaffiliated telecommunications carriers or other entities, with one being facilities based, provide service to business customers, or 3) if less than 75,000, residential service is price deregulated when there are two or more nonaffiliated telecommunications carriers or other entities with one being facilities based provide service to residential customers.</p> <p>Price deregulated services shall be subject to the price floor and shall not be unreasonably discriminatory or unduly preferential within an exchange.</p>	<p>Rates for up to four business local exchange access lines at one locations shall remain subject to price cap regulation and shall be a uniform price exchange-wide.</p> <p>Beginning July 1, 2006, in any exchange with 75,000 or more local exchange access lines served by all providers, rates for all telecommunications services shall be price deregulated.</p> <p>In any exchange with fewer than 75,000 local exchange access lines served by all providers, the commission shall price deregulate all business services upon a demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, one of which must be a facilities based carrier or entity, providing local telecommunications service to business customers, regardless of whether the entity provides local services in conjunction with other services in that exchange area, no more than one of which may be a nonaffiliated radio communications services provider licensed by the FCC to provide commercial mobile radio services in that exchange.</p>	<p>Rates for the initial residential local exchange access line shall remain subject to price cap regulation and shall be a uniform price exchange-wide.</p> <p>Beginning July 1, 2006, in any exchange with 75,000 or more local exchange access lines served by all providers, rates for all telecommunications services shall be price deregulated.</p> <p>In any exchange with fewer than 75,000 local exchange access lines served by all providers, the commission shall price deregulate all residential services upon a demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, one of which must be a facilities based carrier or entity, providing local telecommunications service to residential customers, regardless of whether the entity provides local service in conjunction with other services in that exchange area, no more than one of which may be a nonaffiliated radio communications services provided licensed by the FCC to provide commercial radio services in that exchange.</p>	<p>Beginning July 1, 2006, in any exchange with 75,000 or more local exchange access lines served by all providers, rates for all telecommunications services shall be price deregulated.</p> <p>If less than 75,000, business service is price deregulated when two or more nonaffiliated telecommunications carriers or other entities, with one being facilities based, provide service to business customers.</p> <p>If less than 75,000 residential service is price deregulated when there are two or more nonaffiliated telecommunications carriers or other entities, with one being facilities based, provide service to residential customers.</p>	<p>For local exchange carriers subject to price cap regulation, packages/bundles are price deregulated statewide.</p> <p>Individual service components of the packages or bundles shall be available for purchase individually at prices subject to price cap regulation in any exchange if none of the following have not been met:</p> <p>*there are more than 75,000 local access lines served by all providers, rates for all telecommunications services shall be price deregulated;</p> <p>*there are less than 75,000 local access lines and there are two nonaffiliated telecommunications carriers, or other entities, with one being facilities based, rates for all business customers shall be price deregulated; or</p> <p>*there are less than 75,000 local access lines and there are two nonaffiliated telecommunications carriers, or other entities, with one being facilities based, rates for all residential customers shall be price deregulated.</p> <p>If services are subject to price deregulation, local exchange carriers shall offer a uniform price exchange-wide.</p>	<p>No price regulation of competitors. CLECs are required to file a one-page annual report with the Commission.</p>	<p>The commission may resume price cap regulation upon a finding, after a hearing, that the carrier has violated minimum quality of service standards and have been given reasonable notice and an opportunity to correct the violation and has failed to correct the violation.</p> <p>The commission shall determine the weighted, statewide average rate of nonwireless basic local telecommunications service as of July 1, 2006. Every three years thereafter, the commission shall determine the weighted statewide average rate of nonwireless basic local telecommunications services in exchanges that have been price deregulated and shall report its findings to the governor and to the legislature. If the average rate is greater than the weighted average multiplied by one plus the percentage increase in the consumer price index, the commission shall recommend such changes in state law as the commission deems appropriate.</p>

STATE	YEAR/METHOD	COMPETITION	BASIC BUSINESS LINES	BASIC RESIDENTIAL LINES	CALL MANAGEMENT	PACKAGES/ BUNDLES	CLEC/CABLE REGULATION	AUTHORITY TO RE-REGULATE
Kansas	SB 350 as amended con't		Facilities based carrier means a telecommunications carrier or entity providing local telephone service either wholly or partially over its own network but shall not include wireless service providers.	Facilities based carrier means a telecommunications carrier or entity providing local telephone service either wholly or partially over its own network but shall not include wireless service providers.		<p>If standards are met, prices for packages or bundles shall not exceed the sum of the highest prices of the <i>a la carte</i> components of the package or bundle.</p> <p>Packages or bundles means the offering of a local telecommunications service with one or more of the following, subscribed together, as one service option offered at one price: one or more call management services, internet access, video services or wireless services. Packages or bundles shall not include intraLATA and interLATA long distance service.</p>		

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JIM GARTNER
CONSULTANT - SOUTHWESTERN BELL

WORK PHONE - 785-235-2555
CELL PHONE - 785-231-7736

MG

HOUSE UTILITIES

DATE: 3/8/06

ATTACHMENT 3

AT&T Oklahoma Price Changes

Residential Services:

- Access Lines (Last price change: 1986)
 - Proposed monthly change of \$1.90 in all exchanges
 - Current prices range from \$10.22 (Rural) to \$14.34 (Urban)
 - Current Oklahoma prices are significantly lower than Kansas price of \$15.70
- Call Management Features
 - Call Waiting: Change from \$4.10 to \$5.00
 - Caller ID Name & Number: Change from \$9.50 to \$9.99
- Grandfathered Bundles/Packages
 - Proposed monthly change of \$1.95 for bundles ranging in price from \$12.95 to \$64.95
- Current Bundles/Packages
 - No changes for current popular packages
- Price Decreases; each of the following reduced \$1.00 per month:
 - 1+ Saver Direct 2000
 - 1+ Saver Direct Unlimited
 - Toll Value IntraLATA
 - Extended Community Saver Block of Time
 - Extended Community Saver Unlimited
 - Circle Saver Block 17 miles
 - Circle Saver Block 32 miles

Business Services:

- Access Lines
 - Proposed monthly change ranging from \$0 to \$1.92
 - Current prices range from \$22.08 (Rural) to \$43.18 (Urban)
- Call Management Features
 - Proposed monthly change ranging from \$0.33 to \$1.50
 - Current prices range from \$2.20 to \$10.25
- Bundles/Packages (3 of 4 packages are grandfathered)
 - Proposed monthly change ranging from \$1.87 to \$2.50
 - Current prices range from \$12.45 to \$17.30

The Daily Oklahoman

Oklahoma City, Oklahoma

Wednesday, February 22, 2006

AT&T to Raise Rates

By Jim Stafford, The Daily Oklahoman

Basic residential telephone rates for AT&T's Oklahoma subscribers will rise by \$1.90 per month -- or as much as 18.6 percent in some rural exchanges -- as of April 7, officials said Tuesday.

It is the first rate increase for basic residential telephone service in the state since 1986, said Don Cain, AT&T Oklahoma president. The new rates apply across the board in all calling areas, which are grouped according to the number of telephone lines.

Basic residential telephone rates now range from a low of \$10.22 in the most rural regions of the state to \$14.34 in the largest metropolitan areas of Oklahoma City and Tulsa.

"You can look at almost anything else in America, and most people, like me, have experienced increases in prices," Cain said. "Cable prices have gone up 274 percent since 1986; I don't

have to tell you about natural gas. Even milk is up 72 percent from the price it was in 1986."

According to information supplied by the company, only 5.7 percent -- 39,400 -- of its approximately 700,000 Oklahoma customers subscribe to only basic phone service.

Another 202,000 Oklahoma customers subscribe to basic local service plus one to three calling features such as call waiting, caller ID and other services.

All will see their rates rise. AT&T -- formerly known as Southwestern Bell and then SBC -- will begin notifying customers of the rate increase March 1, Cain said.

AT&T spokesman Andy Morgan said the company will not raise monthly rates for most subscribers to its bundled packages of services such as All Distance, which combines local and long distance service for \$49.95 monthly plus tax.

Morgan said the company has been trying to lure its Oklahoma customers into the bundled packages, which provide calling features at discounted prices.

Cain said the rate increases are being initiated under the pricing freedoms the company won from the Oklahoma Corporation Commission in July. That deregulation ruling remains under appeal at the state Supreme Court by Cox Communications and the consumer group AARP.

"This is what we said would happen when the deregulation hearings occurred this summer," Cox spokeswoman Christine Martin said. "We warned the commission and Oklahoma consumers that SBC (now AT&T) would use its enormous market power to raise rates. Our concerns have now been validated by AT&T's price increase.

"All of AT&T's customers will now pay more for their telephone service as a result of this increase -- including those who can least afford it, such as senior citizens and others on fixed incomes and many of those have no competitive service in their town."

Sean Voskuhl, AARP's associate state director, said the ruling leaves consumers defenseless against rate increases.

"What really concerns us is that consumers will not have any recourse to fight rate increases for the next five years," Voskuhl said. "That's one of the reasons why we are appealing it to the state

Supreme Court. The real issue is the deregulation."

AT&T did not raise monthly rates for low-income Enhanced Lifeline customers, who pay only \$1 per month for their basic telephone services. A smaller number of subscribers to its basic Lifeline service will see their rates rise, but will continue to receive an \$8.75 monthly discount, Cain said.

The company counts 77,000 Lifeline and Enhanced Lifeline subscribers among its Oklahoma customers.

Cain said even with the new rates, basic residential phone rates remain below the actual cost of providing the service.

"Our long-run incremental costs for basic service is around \$17," Cain said. "Long-run incremental costs are not the same as fully distributed costs. To really make a profit, you need to charge around \$30.

"We are not going to get to that price with this increase anywhere in our territory this year."

Corporation Commission Chairman Jeff Cloud said AT&T was required by the deregulation order to roll out high-speed Internet services to rural Oklahoma, which he expects will bring economic benefits.

"They are trying to make DSL available to every central office, and, hopefully, that will benefit communities all over the state," Cloud said.

Cloud and Commissioner Denise Bode supported the order.

Bode said the term "deregulation" is a misconception of the commission action.

"The Oklahoma Corporation Commission has retained jurisdiction, and we will be watching them closely to ensure that people are being treated fairly across the board," Bode said. "The positive or silver lining is that they've been reducing (rates) on the majority over the past year by reducing the cost of the packages that customers seem to be wanting."

The commission ruling allows AT&T to raise local residential rates by a maximum \$2 per month per year in the next five years for the state's three smallest rate groups defined by access lines.

The Daily Oklahoman

Oklahoma City, Oklahoma

Thursday, February 23, 2006

AT&T increase is reasonable

--Editorial--

AS EXPECTED, critics of AT&T's successful effort to gain more pricing flexibility in Oklahoma are howling over the news that the company will soon be raising its residential telephone rates -- by \$1.90 per month.

Cox Communications and the AARP, the two most vocal opponents to what at the time was SBC's request for less regulation, see this week's rate-increase announcement as proof they were on target in predicting that the company, if given more rein by the Oklahoma Corporation Commission, would use it to run roughshod over customers.

We don't buy the Chicken Little argument. We see the increase as moderate and reasonable, not to mention overdue. The company's last rate increase for basic residential phone service was 20 years ago, when we were paying less than a dollar per

gallon for gasoline and about 55 cents for a loaf of bread.

AT&T will still be spending more to provide its basic residential service than it'll be getting back, even with the new rates. Don Cain, president of AT&T in Oklahoma, says the company's long-run incremental costs for basic service are about \$17 -- after the increase, the most expensive rate will be \$16.24 per month. It's worth noting, too, that AT&T isn't raising its \$1-per-month rate for its lowest-income customers who are part of the company's Enhanced Lifeline program.

After the Corporation Commission approved AT&T's deregulation request last summer, the company said it would begin a program to make high-speed Internet access available to 68 rural communities. That effort is under way. Last year's ruling also gives the commission the power to amend the new rules if it feels such a move is needed.

Commissioner Denise Bode said she and her colleagues "will be watching them closely to ensure that people are being treated fairly across the board." Our expectation is that they'll find that to be the case.



Testimony Regarding SB 350

Offered By:
John J. Federico

On Behalf of:
The Kansas Cable Telecommunications Association

House Utilities Committee
March 6, 2006

Thank you Mr. Chairman for allowing me the opportunity to appear on behalf of my client, the Kansas Cable Telecommunications Association. Although we appeared as an opponent to SB350 in the Senate Utilities Committee, as a result of the amendments adopted in the Committee, we now are closer to a "Neutral,..with concerns" position.

The cable industry in Kansas has a long history of bringing to market high-quality, affordable advanced telecommunication services to Kansas consumers across the state using our own leveraged, private capital. We are also proud of our reputation in this building as it relates to our *measured* responses to legislation related to increased or unnecessary regulation. Although it would be easy to do so, the KCTA does NOT endorse unnecessary regulation on any of its competitors, but does advocate that ALL factors be carefully considered before removing existing regulations, put in place to protect the consumer.

As I mentioned last year, there is no question that competition benefits the consumer. But in order to have competition, YOU NEED COMPETITORS. As stated in the Senate, the concerns we had with SB 350 sprung from the reality of what the telecommunication marketplace *is* in rural Kansas, and the "largeness" of the companies asking for unfettered deregulation. As we mentioned in the Senate we respectfully ask that you consider the long-term, negative impact that a poorly crafted, hastily enacted deregulation bill will have on the rural telecommunication consumer. To grant deregulation without the proper oversight and safeguards MAY create an unbalanced competitive environment that allows a telecommunications behemoth to easily eliminate smaller competitors in parts of the state where currently, telephone competitors to AT&T and United Telephone barely capture 5% of the market!

With that in mind Mr. Chairman, the KCTA does not endorse SB350, and would bow to the wisdom of your Committee as to whether they feel there is a sufficient level of "sustainable" competition to warrant granting deregulation to the market leader. And further, whether your Committee believes that there are sufficient safeguards in the bill to protect both smaller competitors, and more importantly, ...consumers.

In closing Mr. Chairman, the cable industry reserves the right to weigh-in in a meaningful manner, should significant changes be made to the bill either in your committee or on the House floor. Thank you for your time and consideration of our thoughts on SB350.



**Before the
House Utilities Committee
of the Legislature of the
State of Kansas**

Senate Bill No. 350

**Testimony of
Jeff Wick
Nex-Tech, Inc.**

Submitted March 6, 2006

HOUSE UTILITIES

DATE: 3/8/06

ATTACHMENT 5

Legislature of the State of Kansas
Senate Bill No. 350

Chairman Holmes and Members of the Committee:

Thank you for allowing me time to testify in opposition to Senate Bill 350 ("SB 350"). My name is Jeff Wick, the Chief Operating Officer of Nex-Tech, Inc. ("Nex-Tech"), a competitive local exchange carrier ("CLEC") headquartered and operating in Kansas. If enacted, this bill would substantially reduce the ability of the Kansas Corporation Commission ("KCC") to regulate telecommunications pricing throughout the state. Without the KCC's ability to oversee pricing, the competitive scope for telecommunications services will dramatically change with the potential elimination of competition for basic local telephone service and additional advanced services.

Allow me to provide a brief background of Nex-Tech. Nex-Tech is a wholly owned subsidiary of Rural Telephone Service Company, Inc., an independent telephone company based in Lenora, Kansas. Nex-Tech's headquarters are located in Hays with branch offices in nine other communities. Nex-Tech has over 100 employees.

Nex-Tech currently offers local telephone services in fourteen communities. For the years 2004 through 2006, Nex-Tech has committed to capital expenditures in excess of \$12,500,000 to overbuild and upgrade its telecommunications networks in Northwest Kansas.

Nex-Tech has made great strides in its commitment to provide advanced telecommunications services to rural Kansans who were previously "left behind" by AT&T and Sprint United. We have done exactly what the Telecommunications Act of 1996 intended; we have brought competition to underserved rural areas.

Nex-Tech's specific concerns are:

- (1) Without oversight of the KCC, anti-competitive behavior has the capability of eliminating competitive carriers. Lower prices are not always an anticipated outcome in a non-regulated or a non-competitive environment and the authors of this proposed language clearly contemplate price increases as documented in subsection (q) (3) on Page 9, Line 15: *"the carrier may thereafter adjust its rates for such price deregulated services upward or downward as it determines appropriate in its competitive environment."*

As an example, last year the FCC ruled that pricing for the leasing of lines (UNE-P) from large ILECs like AT&T would not be regulated. Therefore, the "negotiations" for pricing occurred outside of regulatory oversight. Nex-Tech and other CLECs saw a price increase of approximately 60% in less than one year. While AT&T's retail price for local telephone service is approximately \$15.70, its wholesale price to CLECs is over \$24.00. This is an example of what can happen if you take the regulatory oversight away from the KCC and put it in the hands of a large company such as AT&T.

- (2) SB 350 establishes an unreasonable view of what constitutes competition. SB 350, as proposed by AT&T, sets the "competitive trigger" test at one facilities-based competitor plus one other carrier which may be a wireless/cellular provider. The proposed language allows a facilities-based competitor "with one local telephone line" plus a wireless/cellular provider "with one wireless/cellular line" to meet the proposed "competitive trigger" test for initiating price deregulation in an exchange. This is in reference to the "competitive trigger" test for any

exchange with less than 75,000 access lines. This proves why price deregulation and what constitutes competition in an exchange should be left to the oversight of the KCC.

- (3) Competition for telecommunications services is not strong in the state of Kansas. The following quote comes from the KCC Report to the 2005 Kansas Legislature on Competition in Telecommunications. *“Kansas is still in the process of developing an effectively competitive market for the provisioning of local telecommunications services.”* Birch Telecom, a large CLEC in Kansas, has filed for bankruptcy and AT&T, formerly a CLEC in Kansas, was acquired by SBC.

The Impact on Competition

Recently, we visited with General Managers of two rural CLECs in Iowa, where price deregulation went into effect in 2005. Since the price deregulation bill was passed last year in Iowa, the large ILEC went into the communities served by these small, rural CLECs and offered a bundled package that includes local telephone service, 100 minutes of long distance, a large expanded calling area, and four calling features for less than \$6.00. Our understanding is the large ILEC only offered this special pricing in communities where they had CLEC competition. Both of these Iowa CLECs have lost a large number of customers and have lost all incentive to overbuild and improve services in any other communities. Future investments and employment growth from these CLECs has been eliminated in a very short time period. One of the General Managers commented that he “views the passage of price deregulation as an end to the growth and expansion of CLECs in Iowa.”

This information from Iowa, where price deregulation went into effect last year, demonstrates that a dominant incumbent carrier can engage in predatory pricing aimed at crippling the competitive environment. SB 350 attempts to guard against this by implementing a price floor so a carrier cannot price below its “cost.” However, our attorneys have advised us that arguing either a predatory pricing or pricing below “cost” claim through the courts or the KCC will be a lengthy and costly process. KCC representatives admitted, upon being questioned in the Senate Utilities Committee, that the process could take six months, a year, maybe two years depending on the circumstances.

A small CLEC will not win a price war against a firm such as AT&T, with 2005 revenue levels in excess of \$43 billion and net income of \$4.7 billion.

A Competitive Environment Is Necessary

Maintaining a competitive environment for telecommunications services is vital for rural Kansas communities. A case in point is that Nex-Tech began offering local telephone service, high-speed Internet, cable television and other advanced services in Osborne, Kansas, in 2003. Osborne is an example of a previously underserved Kansas community where the incumbent provider, Sprint United, has yet to make high-speed Internet services available to the community. Nex-Tech overbuilt Osborne with a fiber-to-the-premise solution which community leaders believe has leveled the playing field for their businesses and residents to compete with urban communities.

Another example of a previously underserved community is Norton, Kansas, where Nex-Tech started providing services, including high-speed Internet, in 2000. It took the intervention of the KCC and the State Legislature to ensure that AT&T would deploy high-speed Internet in small communities like Norton. A competitive environment is needed in rural Kansas communities.

Conclusion

In closing, Nex-Tech has made great strides in its commitment to provide advanced telecommunications services to rural Kansans who were previously “left behind” by AT&T and Sprint United. Our continued ability to invest in advanced telecommunications services and grow employment opportunities within these areas, to the benefit of rural Kansas consumers, could be eliminated with the latitude SB 350 provides a dominant carrier such as AT&T.

Our view is that the current law works. K.S.A. 66-2005, which SB 350 amends, already provides ILECs the opportunity to offer promotional pricing and request price deregulation in their markets. AT&T utilized this existing statute in 2005 and was granted price deregulation for services as deemed appropriate by the KCC.

We strongly recommend that the Committee reject SB 350. However, if you choose to move forward with SB 350, we feel a compromise is to implement an amendment that would “exclude all exchanges with less than 75,000 access lines” or a lesser threshold you deem appropriate to adequately protect rural consumers and markets. Such an amendment would allow price deregulation in the larger exchanges in Kansas while ensuring that employment growth, capital investment and delivery of advanced services continues in the rural areas of our state. This is a “walk before you run” recommendation that provides the opportunity to evaluate the long-term effects of price deregulation.

Thank you for your time and consideration in this matter.

Contact Information:

**Jeff Wick
Chief Operating Officer
Nex-Tech, Inc.
Hays, KS
(877) 625-7872**

jwick@nex-tech.com

**Nex-Tech's Proposed Amendment
"Excluding Exchanges with Less Than 75,000 Access Lines"
from Senate Bill 350**

March 2, 2006



(Note: Nex-Tech's proposed amendments are highlighted in yellow.)

HOUSE UTILITIES
DATE: 3/8/06
ATTACHMENT 6

1 the miscellaneous services basket for local exchange carriers subject to
2 price cap regulation shall be as follows:

3 (A) Packages or bundles of services shall be price deregulated ~~state-~~
4 ~~wide,~~ however the individual telecommunication service components of
5 such packages or bundles shall remain available for purchase on an in-
6 dividual basis at prices subject to price cap regulation in any exchange in
7 which the standards in subsections (q)(1)(B), (C) or (D) have not been
8 met. **If standards in subsection (q)(1)(B), (C) or (D) have been met,**
9 **prices for packages or bundles shall not exceed the sum of the high-**
10 **est prices of the ala carte components of the package or bundle;**

in any exchange in which there are 75,000 or more local exchange access lines served by all providers,

11 (B) in any exchange in which there are 75,000 or more local exchange
12 access lines served by all providers, rates for all telecommunications serv-
13 ices shall be price deregulated;

14 (C) in any exchange in which there are fewer than 75,000 local
15 exchange access lines served by all providers, ~~the commission shall price~~
16 ~~deregulate all business telecommunication services upon a demonstra-~~
17 ~~tion by the requesting local telecommunications carrier that there are two or~~
18 ~~more nonaffiliated telecommunications carriers or other entities, one of~~
19 ~~which must be a facilities based carrier or entity, providing local~~
20 ~~telecommunications service to business customers, regardless of whether~~
21 ~~the entity provides local service in conjunction with other services in that~~
22 ~~exchange area, no more than one of which may be a nonaffiliated radio~~
23 ~~communication services provider licensed by the federal communications~~
24 ~~commission to provide commercial mobile radio services in that exchange;~~

rates for all business telecommunications services shall remain subject to price cap regulation;

25 (D) in any exchange in which there are fewer than 75,000 local
26 exchange access lines served by all providers, ~~the commission shall price~~
27 ~~deregulate all residential telecommunication services upon a demonstra-~~
28 ~~tion by the requesting local telecommunications carrier that there are two~~
29 ~~or more nonaffiliated telecommunications carriers or other entities, one~~
30 ~~of which must be a facilities based carrier or entity, providing local~~
31 ~~telecommunications service to residential customers, regardless of~~
32 ~~whether the entity provides local service in conjunction with other services~~
33 ~~in that exchange area, using, in whole or in part, facilities in which it or~~
34 ~~one of its affiliates has an ownership interest, no more than one of which~~
35 ~~may be a nonaffiliated radio communication services provider licensed by~~
36 ~~the federal communications commission to provide commercial mobile~~
37 ~~radio services in that exchange;~~

rates for all residential telecommunications services shall remain subject to price cap regulation;

38 (E) rates for lifeline services shall remain subject to price cap
39 regulation;

40 (F) rates for the initial residential local exchange access line and
41 up to four business local exchange access lines at one location shall
42 remain subject to price cap regulation; and

43 (G) local exchange carriers shall offer a uniform price through-

Citizens' Utility Ratepayer Board

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State of Kansas

Kathleen Sebelius, Governor

David Springe, Consumer Counsel
1500 S.W. Arrowhead Road
Topeka, Kansas 66604-4027
Phone: (785) 271-3200
Fax: (785) 271-3116
<http://curb.kcc.state.ks.us>

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By Steve Rarrick, Staff Attorney
Before the House Utility Committee
Re: Senate Bill 350
March 8, 2006

Chairman Holmes and Members of the Committee:

Thank you for the opportunity to appear before you this morning on behalf of the Citizens' Utility Ratepayer Board (CURB). My name is Steve Rarrick and I am an attorney with CURB.

CURB is opposed to Senate Bill 350, because sufficient competition to discipline AT&T's prices simply does not exist at this time. Criteria and standards for determining whether price deregulation should be granted under existing law [K.S.A. 66-2005(q)], including consideration of the public interest, were determined by the Kansas Corporation Commission (KCC or Commission) in Docket No. 02-GIMT-555-GIT. In that docket, all interested parties were provided an opportunity to participate, submit testimony, and cross-examine witnesses at a technical hearing. While AT&T may disagree with the standards set by the Commission, the standards do exist and were applied in the 2005 price deregulation application filed by Southwestern Bell (now AT&T).

In denying SBC's request to price deregulate most of SBC's services, including basic residential service and single-line business service, the KCC specifically held:

- Sufficient competition to discipline prices was not present in any of the three exchanges (Kansas City, Wichita, and Topeka) for basic residential access lines or single line business service.¹
- The Commission had serious concerns about the "sustainability of the minimal CLEC presence in the market for basic residential access lines."²
- Competitors' share of the stand-alone residential market is 2% compared to SBC's near monopoly 98% share.³

¹ *In the Matter of Southwestern Bell Telephone, L.P.'s Application for Price Deregulation of Certain Residential and Business Telecommunications Services in the Kansas City, Wichita, and Topeka, Kansas, Metropolitan Exchanges Pursuant to K.S.A. 66-2005(q)*, Order Granting in Part and Denying in Part Southwestern Bell Telephone, L.P.'s Application for Price Deregulation of Certain Residential and Business Telecommunications Services in the Kansas City, Wichita, and Topeka Metropolitan Exchanges (June 27, 2005 Order), KCC Docket No. 05-SWBT-907-PDR, 05-SWBT-997-PDR, June 27, 2005, ¶¶ 186-190.

² June 27, 2005 Order, at ¶ 188.

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- 25.06%, 23.20%, and 23.3% of SBC's Kansas City, Wichita, and Topeka subscribers, respectively, subscribe to basic residential access line service only.⁴ Further, a significant number of residential consumers purchase only one vertical service.⁵
- 12.65% of Kansans are elderly, 14.75% are disabled, and 12.1% are impoverished.⁶ The Commission held it must consider the relatively vulnerable positions of the elderly, disabled, and impoverished, and ensure they have access to universal service at an affordable price as required by K.S.A. 66-1,187(p) and K.S.A. 66-2001(a).⁷

Having failed to persuade the KCC that sufficient competition exists to discipline its prices in the State's three largest markets, AT&T has proposed Senate Bill 350 to re-define price deregulation, not in terms of sufficiency of competition to discipline its prices, but in terms of (1) the number of access lines in an exchange (page 8, lines 11-13; over 75,000 lines) or (2) the number of competitors in an exchange (page 8, lines 14-37; two unaffiliated carriers providing service). Unfortunately, neither of these criteria demonstrates that sufficient competition exists to discipline AT&T's prices. The mere existence of over 75,000 lines in an exchange says nothing about whether the providers present in those exchanges have sufficient market power to compete with AT&T or to discipline AT&T's prices. Nor does the existence of two unaffiliated carriers in exchanges with less than 75,000 lines provide any assurance that those two carriers are viable, sustainable companies that can withstand extended pricing wars with AT&T, or will resist the documented tendency of smaller companies to follow the dominant company's price increases in what is referred to as "umbrella pricing."

Basic local service, sometimes called "POTS" (plain old telephone service), is the cornerstone of the telecommunications industry and is the service that the poor, the disabled, the elderly, and most Kansans use for contacting doctors, schools, and friends and family. Basic local service is the primary service in the definition of universal service in K.S.A. 66-1,187 (p), and is a service that is not ready for price deregulation.

The public policy of the State of Kansas regarding telecommunications was stated by the Legislature in K.S.A. 66-2001:

"It is hereby declared to be the public policy of the state to:

(a) Ensure that every Kansan will have access to a first class telecommunications infrastructure that provides **excellent services at an affordable price;**

(b) ensure that consumers throughout the state realize the benefits of competition through increased services and improved telecommunications facilities and infrastructure **at reduced rates;...**" (emphasis added)

³ June 27, 2005 Order, at ¶ 101 (citing CURB witness Trevor Roycroft, PhD.)

⁴ June 27, 2005 Order, at ¶ 186.

⁵ June 27, 2005 Order, at ¶ 102.

⁶ June 27, 2005 Order, at ¶ 186.

⁷ June 27, 2005 Order, at 186.

Senate Bill 350 is about AT&T's ability to raise prices, not about its ability to lower prices to meet competition. Price cap companies can lower their prices to meet competition under existing law. They have pricing flexibility on bundled service offerings. All of us in AT&T's service territories have received its advertisements which more than demonstrate its ability to lower prices. Senate Bill 350 is about giving price cap companies the ability to raise prices for basic local residential and single-line business service. As noted by Vice-Chairman Krehbiel yesterday, this is exactly what has occurred in Oklahoma, where AT&T recently announced it would raise prices for basic residential telephone service by \$1.90 per month following the deregulation of prices in Oklahoma, staying just below the \$2 per month price increase limitation currently in place.

CURB opposes Senate Bill 350, but appreciates the amendments made by the Senate Utilities Committee as a result of concerns raised by CURB, Staff, and other conferees. Critically important are the amendments requiring exchange-wide pricing and retaining price cap protection for the standalone residential and four standalone business lines. Should the Committee decide to move forward with this bill, CURB would offer the balloon amendments attached to my testimony which we believe would provide additional necessary protections to Kansas residential and small business ratepayers. These balloon amendments are as follows:

- At page 8, lines 11, 14, and 25, CURB would recommend adding the phrase “except as provided in subsections (q)(1)(E), (F), and (G),” to make it clear that the services deregulated in subsections (q)(1)(B), (C), and (D) are modified by the exceptions contained in subsections (q)(1)(E), (F), and (G). Our concern is that the language below contained in subsections (q)(1)(B), (C), and (D), respectively, is inconsistent with the provisions of subsections (q)(1)(E), (F), and (G) without this recommended phrase.
 - “rates for **all telecommunications services** shall be price deregulated”;
 - “shall price deregulate **all business telecommunications services**”; and
 - “shall price deregulate **all residential telecommunications services**.”
- At page 8, line 40-41, CURB would recommend adding ala carte call management services to the list of services that should remain under price cap protection. In the price deregulation docket last year, it was learned that not only do 23-25% of AT&T's customers subscribe to standalone basic residential access line service only, but that a significant number of residential consumers subscribe to basic service with only one vertical service. These ratepayers should continue to receive price cap protection for the basic line and any ala carte call management services, since you cannot go to another carrier for call management services and remain with AT&T for the basic line. Since AT&T is receiving price deregulation of bundled services in subsection (q)(1)(A), this exception should not limit its ability to market bundles containing call management services.
- At page 8, line 43, CURB recommends adding the phrase, “except as provided in subsection (l).” Subsection (l) is the promotions subsection passed last year. Using this language instead of the language proposed in the AT&T balloon amendment will avoid the issue of creating new and different exceptions to exchange-wide pricing than those authorized last year in subsection (l).

- At page 10, line 41, CURB would recommend adding “B”, to allow the Commission to resume price cap regulation if the condition in subsection (q)(1)(B) - 75,000 or more access lines, is no longer satisfied in the exchange. While CURB believes the 75,000 access line “bright line” is not relevant to whether sufficient competition exists to discipline the incumbent’s prices, if the legislation contains this bright line, it should also provide the Commission the ability to resume price regulation if that condition no longer exists.

Finally, I would like to respond briefly below to the amendments offered by AT&T yesterday.

- AT&T’s proposed amendment at page 8, line 42, would eliminate price cap protections for Kansans simply because they choose to purchase call management, broadband, video, or wireless services from AT&T. Since AT&T is granted price deregulation of bundled service offerings under subsection (q)(1)(A) at page 8, lines 3-10, CURB does not believe AT&T should be able to raise the price of basic phone service simply because the customer wants to purchase, ala carte, other services provided by AT&T, such as wireless or DSL. CURB again urges the Committee to adopt CURB’s proposed balloon amendment to subsection (q)(1)(F), which would add ala carte call management services to the list of services to remain under price cap protection.
- AT&T’s proposed amendment at page 9, line 2, would create new exceptions to exchange-wide pricing, different than the promotional offerings authorized last session in subsection (l) (*see*, page 6, lines 33-36). AT&T’s proposed language includes “other additional discounted promotional and tariffed prices, including those to retain current customers, or to gain new or former customers.” This language is different than the language in subsection (l), and causes concern to both CURB and Commission Staff. As a result, CURB urges the Committee to adopt CURB’s proposed balloon amendment to subsection (q)(1)(G), at page 8, line 43 of the bill, which would state, “except as provided in subsection (l).” This language will retain AT&T’s ability to offer promotions under subsection (l) without creating new and different rights to price discriminate beyond what is authorized under subsection (l). Requiring exchange-wide pricing is crucial to “ensure that consumers throughout the state realize the benefits of competition through increased services and improved telecommunications facilities and infrastructure **at reduced rates,**” one of the public policies expressed by the Legislature in K.S.A. 66-2001.
- CURB does not oppose AT&T’s proposed amendment at page 10, lines 14 and 16.

Passage of this bill will result in higher prices for residential and small businesses. Oklahoma residential ratepayers just experienced what will result from premature price deregulation. On the business side, some of the exchanges in Kansas have facilities based competitors providing business service, but only for very large business services. Small businesses do not offer the lucrative opportunities that large businesses offer to competitive companies to justify running lines to individual businesses. Those small businesses will lose the protections of price cap regulation under this bill, and will pay higher prices as a result.

On behalf of CURB, I urge you to vote against passage of Senate Bill 350. However, in the event the Committee proceeds with the bill, I would request that you include the balloon amendments proposed by CURB and decline the first two amendments proposed by AT&T.

CURB Proposed Amendments

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1 the miscellaneous services basket for local exchange carriers subject to
2 price cap regulation shall be as follows:

3 (A) Packages or bundles of services shall be price deregulated state-
4 wide, however the individual telecommunication service components of
5 such packages or bundles shall remain available for purchase on an in-
6 dividual basis at prices subject to price cap regulation in any exchange in
7 which the standards in subsections (q)(1)(B), (C) or (D) have not been
8 met. If standards in subsection (q)(1)(B), (C) or (D) have been met,
9 prices for packages or bundles shall not exceed the sum of the high-
10 est prices of the ala carte components of the package or bundle;

except as provided in subsections (q)(1)(E),
(F), and (G),

11 (B) ~~in any exchange in which there are 75,000 or more local exchange~~
12 ~~access lines served by all providers, rates for all telecommunications serv-~~
13 ~~ices shall be price deregulated;~~

except as provided in subsections (q)(1) (E),
(F), and (G),

14 (C) ~~in any exchange in which there are fewer than 75,000 local~~
15 ~~exchange access lines served by all providers, the commission shall price~~
16 ~~deregulate all business telecommunication services upon a demonstration~~
17 ~~by the requesting local telecommunications carrier that there are two or~~
18 ~~more nonaffiliated telecommunications carriers or other entities, one of~~
19 ~~which must be a facilities based carrier or entity, providing local~~
20 ~~telecommunications service to business customers, regardless of whether~~
21 ~~the entity provides local service in conjunction with other services in that~~
22 ~~exchange area, no more than one of which may be a nonaffiliated radio~~
23 ~~communication services provider licensed by the federal communications~~
24 ~~commission to provide commercial mobile radio services in that exchange;~~

except as provided in subsections (q)(1) (E),
(F), and (G),

25 (D) ~~in any exchange in which there are fewer than 75,000 local~~
26 ~~exchange access lines served by all providers, the commission shall price~~
27 ~~deregulate all residential telecommunication services upon a demonstra-~~
28 ~~tion by the requesting local telecommunications carrier that there are two~~
29 ~~or more nonaffiliated telecommunications carriers or other entities, one~~
30 ~~of which must be a facilities based carrier or entity, providing local~~
31 ~~telecommunications service to residential customers, regardless of~~
32 ~~whether the entity provides local service in conjunction with other services~~
33 ~~in that exchange area, using, in whole or in part, facilities in which it or~~
34 ~~one of its affiliates has an ownership interest, no more than one of which~~
35 ~~may be a nonaffiliated radio communication services provider licensed by~~
36 ~~the federal communications commission to provide commercial mobile~~
37 ~~radio services in that exchange;~~

38 (E) rates for lifeline services shall remain subject to price cap
39 regulation;

, and

40 (F) rates for the initial residential local exchange access line and
41 up to four business local exchange access lines at one location shall
42 remain subject to price cap regulation; and

and any ala carte residential and business call
management services

43 (G) local exchange carriers shall offer a uniform price through-

except as provided in subsection (I),

CURB Proposed Amendments

Senate Bill 350

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1 mission finds that the weighted, average rate of nonwireless basic
2 local telecommunications service, in exchanges that have been price
3 deregulated pursuant to subsection (q)(1)(B), (C) or (D) in any
4 three year period is greater than the weighted, statewide average
5 rate of nonwireless basic local telecommunications service as of July
6 1, 2006, multiplied by one plus the percentage increase in the con-
7 sumer price index for goods and services for the study periods, the
8 commission shall recommend to the governor and the legislature
9 such changes in state law as the commission deems appropriate.

10 ~~(5)~~ (7) For the purposes of this subsection:

11 (A) "Packages or bundles of services" means the offering of a local
12 telecommunications service with one or more of the following, subscribed
13 together, as one service option offered at one price, one or more call man-
14 agement services, ~~intraLATA long distance service, interLATA long dis-~~
15 ~~tance service, internet access, video services or wireless services. Pack-~~
16 ~~ages or bundles of services shall not include intraLATA and~~
17 ~~interLATA long distance service;~~

18 (B) "local telecommunications service" means two-way voice service
19 capable of being originated and terminated within the exchange of the
20 local exchange telecommunications company seeking price deregulation
21 of its services, regardless of the technology used to provision the voice
22 service;

23 (C) "broadband network" means a connection that delivers services
24 at speeds exceeding two hundred kilobits per second in at least one direc-
25 tion; ~~and~~

26 (D) "prepaid telecommunications service" means a local service for
27 which payment is made in advance that excludes access to operator as-
28 sistance and long distance service; ~~and~~

29 (E) "facilities based carrier" means a telecommunications car-
30 rier or entity providing local telephone service either wholly or par-
31 tially over its own network. Facilities based carrier shall not include
32 any radio communication services provider licensed by the federal
33 communications commission to provide commercial mobile radio
34 services.

35 (r) Upon complaint or request, the commission may investigate a
36 price deregulated service. The commission shall resume price regulation
37 of a service provided in any exchange area by placing it in the appropriate
38 service basket, as approved by the commission, upon a determination by
39 the commission that ~~there is no longer a telecommunications carrier or~~
40 ~~alternative provider providing a comparable product or service, consid-~~
41 ~~ering both function and price, the conditions in subsections (q)(1)(C) or~~ (B),
42 (D) are no longer satisfied in that exchange area.

43 (s) The commission shall require that for all local exchange carriers



March 8, 2006
Representative Holmes, Chair
House Utilities Committee
SB 350

Good morning Chairman Holmes and Members of the House Utilities Committee. My name is Ernest Kutzley and I am the Advocacy Director for AARP Kansas. Thank you for this opportunity to express our comments and opposition to SB 350 which would allow price deregulations for telecommunications services in Kansas.

AARP has approximately 350,000 members in Kansas, most of whom purchase their residential local telephone service from AT&T, formerly Southwestern Bell and SBC. Many of our members also purchase long distance and DSL service from that company as well.

AARP appreciates this opportunity to comment on SB 350. The consumers of Kansas depend on telecommunications services to make contact in an emergency, to keep up with family and friends, and these days, to access email and surf the Internet. Telecommunications services are important to AARP because our members depend on these services in their lives every day. Thus, any changes made to the regulation of telecommunications services have implications for our members, what they pay for telecommunications services, and potentially what they use as well.

AARP maintains that a service must be subject to effective competition prior to deregulation. Premature deregulation harms consumers by forcing them to pay higher rates for services for which there are not other choices in the market. Premature deregulation also allows the incumbent provider to remonopolize the service by using predatory pricing to eliminate all nascent competition.

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During 2005 the Kansas Corporation Commission determined that SBC, the largest phone company in the state, did not face enough competition to justify removing price controls over most major telephone services offered by the company.

The three-member commission was unanimous in retaining price controls over SBC's basic residential and business phone service, and a majority moved to retain individual price controls over individual extras, such as caller ID. But a majority of commissioners did agree to grant SBC more flexibility in offering rates for packages of services that bundle several services together.

Less than a year ago, SBC (now AT&T) failed to prove that its basic services should be deregulated under the provisions of current law. The company could not show that consumers had access to alternative providers offering comparable service at comparable price. The competitive situation has not changed, and if AT&T's proposed take-over of BellSouth is approved, the competitive situation will get worse for consumers, as one of the few companies that could have taken on AT&T as a competitor will be removed from the market. Yet, despite the Corporation Commission's findings and the number of competitors shrinking, under this proposed legislation AT&T doesn't have to face effective competition before its services will be price deregulated. Indeed, parts of the bill deregulate without a showing of any competition at all.

The bill deregulates prices of all bundled services statewide as well as prices for all telecommunications services in exchanges with 75,000 or more lines. While deregulation can be achieved through legislative decree, competitive choice cannot. The size of an exchange does not guarantee that competitive choices exist for consumers. AARP maintains that the burden of proof should be on the company to demonstrate to the Commission that effective competition exists in a market for a service prior to it being deregulated. Absent such a showing a market should remain regulated.

Residential services offered in smaller exchanges would be price deregulated if the provider can show that there are at least two unaffiliated providers who own their own facilities. Not more than one of these could be a wireless phone service provider. Internet

telephone services providers who do not own their own networks would not be considered alternative providers. Still, in most parts of the state this standard will be easily met by one wireless phone service provider and a cable TV provider that also offers a voice service. Wireless phone and cable are not effective competitors for consumers who want basic service.

Wireless service is a complement to, not a substitute for basic local service, so it is not a true competitor. Although we may hear about consumers who “cut the cord” and go completely wireless, not many do. Nationally, only 4-5 percent of consumers nationwide have cut their wireline cord. Meanwhile, the number of wireless phone lines has grown. The numbers demonstrates the complementary nature of wireless as opposed to it being a substitute and true competitor for wireline. Furthermore, the lack of service quality and reliability rules and consumer protections for wireless service demonstrates that it is not a comparable considering both function and price.

Cable companies provide voice service by offering Voice over Internet Protocol (VoIP). VoIP is not comparable in function to basic local service because consumers need a broadband connection to use VoIP, which in most places more than doubles the cost of basic service.

AARP recognizes that the Senate amendments have addressed a few of the harmful aspects of the original bill. Exchange-wide pricing and price protection for stand-alone basic will mitigate the negative impacts on fixed income and rural residents. However, AARP remains fundamentally opposed to deregulation of telecommunications services absent a showing of effective competition. Today the telecommunications market is moving toward even greater consolidation, rather than more competition.

Now is not the time to deregulate telephone service in Kansas. Competition is not developed enough to protect consumers from higher rates and lessened service quality. The recent and pending mergers among telephone industry giants have eliminated competitive options. Wireless and Internet telephony are not comparable in price and quality to the basic service on which so many consumers still rely.

Prior to deregulation of local service, consumers must have competitive options that can discipline the market and ensure that consumers are paying reasonable prices. In addition, the Committee needs to ensure that competition is sustainable in that these competitors will be around in the long term so that predatory pricing cannot allow for remonopolization of the market.

AARP wants to ensure that our members have telecommunications services that are reliable, of high quality, and are reasonably priced. Currently, we are transitioning from monopoly provision of local telephone service to competition to provide these services. Consumers need either the discipline of the market to ensure that their rates are kept reasonable or the oversight of regulators. We fear premature deregulation which will give us the worst of both worlds – deregulated monopolies that can price essential services at any price they choose. AARP believes that competition is not developed enough to protect consumers from higher rates and lessened service quality. Therefore, AARP Kansas opposes SB 350 and efforts to deregulate telephone service.

In conclusion AARP Kansas maintains that:

- Service must be subject to effective competition prior to deregulation.
- Premature deregulation not only harms consumers by forcing them to pay higher rates for services for which they have no choice, but it also allows the incumbent provider to remonopolize the service by using predatory pricing to eliminate all nascent competition.
- Consumers must have competitive options that can discipline the market and ensure that those consumers are paying reasonable rates.

Therefore, we respectfully request that you not support SB 350 which would allow price deregulations for telecommunications services in Kansas. Thank you