

SB 120 amendments offered on 3-8-05 by Sprint

Summary.....

Below are comments point by point on the amendments offered by Sprint on 3-7-05. It should be understood that companies such as Sprint and SBC, under current statutes and KCC rules have the ability to secure these same flexibilities by application to the KCC. Sprint has been successful in this process with their approved application for price deregulation in the Gardner exchange. This bill removes the ability of the KCC to review, approve or amend changes in pricing or offerings of the ILEC when services are offered in a bundle or in an area deemed “competitive.” Who better than the KCC has the ability to review the true state of competition and determine whether it is appropriate to deregulate a particular exchange.

Page 2, line 4.....Depreciation

Sprint attempted to alleviate concerns regarding depreciation by stipulating that the changes will not affect KUSF payments, however the amendment does not indicate how that could be avoided nor does it address concerns with UNE rates and price floors. It implies that the KCC is not authorized to regulate those items. Although many UNEs will be “going away,” there will still be required UNEs such as the analog loop, subloops and interconnection. If depreciation rates are accelerated these increased costs will directly affect LRIC figures and be reflected in the above mention UNE prices. Although depreciation rates would be consistent across the state for a particular asset, depreciation rates could be adjusted by type of asset.

Page 5, section (f).....Bundles

Although an amendment has been offered to remove the statement “any new telecommunications service offered after August 1, 2005 and packaged” this does not change the outcome of this language and the industry still objects to this change. Although the former language would guarantee that new services (however ultimately defined) would be price deregulated, the remaining language still provides the same flexibility for any service, just by placing the service in a bundle. It also appears that price caps would not be applicable to any service placed in a bundle.

Placing a service into a bundle does not insure that the product is competitive. For example, in many areas of rural Kansas, there are no competitive providers of a basic telephone line, however the line would be price deregulated when placed into a bundle regardless of whether any competitor was present. It is probable that customers in rural areas will pay a much higher rate for services, bundled or otherwise, than customers in the more populated areas with competitive providers. In addition, Sprint and SBC will still receive KUSF and USF high cost funds for those rural areas, ultimately subsidizing their competitive pricing.

Studies such as the Bank of America report indicate that SBC for example has been able to increase its ARPU (average revenue per user) by bundling services and has been an effective tool whether a competitor is present or not. In addition, this practice increases “stickiness” of customers and discourages customer to switch carriers.

Page 6, section g..... Price caps

The insertion of “in Kansas” in line 25 does not offer a significant change in this language. Current statute allows for this index (CPI-TS) to be used at the telephone provider’s request and approval of the commission, but by designating which index should be used it removes the Commission’s ability to determine the appropriate formula for Kansas. Given the complexity of this issue, the Commission is the best qualified to determine the formula for price cap adjustments based on Kansas data.

Page 6, section i.....Price caps of miscellaneous services

Special access services (T1’s for example) are included in the miscellaneous basket and increases in this area would directly affect rates for services provided to CLEC’s. With the ruling regarding UNE’s, CLEC’s will be forced to purchase services of this type through the special access tariff which is considerably higher than current UNE prices. It will be difficult for CLEC’s to remain competitive using the special access tariff, but if Sprint and SBC are allowed to increase prices 4-6% every year, regardless of the economy or CPI, competitive providers will experience significant price squeezes, resulting in loss of competition.

Page 8, section p.....Deregulation

As stated before, Cox does not oppose deregulation when there is evidence that there is healthy, sustainable, facilities-based competition throughout the Sprint and SBC service areas in Kansas. Currently, Sprint and SBC services pass 90% of the homes in Kansas. Cox is opposed to this test of competition in its amended form for several reasons, and would again submit that before deregulating the 2 dominant providers of communications service in Kansas that the KCC be required to study the state of competition in Kansas. The study should result in a collaborative plan to deregulate the ILECs in a planned and orderly fashion. In addition the subsidies currently received by the incumbents, such as USF and access charges, should also be addressed as these subsidies provide a competitive advantage to the incumbent.

Although an amendment has been offered to require 2 competitors to be present before an exchange or area is deemed competitive, it does allow for resellers and UNE type carriers to be included. These providers are dependent on the ILEC network and can only provide what the ILEC provides. Although the ILEC’s consider this competition, they still receive revenue from these resale CLECs and still control the quality of service provided to the end customer. Only facility-based providers are true competition for the ILEC’s. This amendment also allows for a non-affiliated cellular provider to be considered as a competitor, however, cellular is generally not a replacement for wire line. Less than 6% of subscribers are “cutting the cord” in favor of a cellular phone only.

These are from the FCC Order (Docket No. 04-70. released 10/26/2004) approving the Cingular / AWS merger:

- “Evidence in the record indicates that Cingular has developed and marketed many of its wireless products and services to complement – and specifically not to replace – residential wireline voice services. Cingular developed this strategy largely because SBC and BellSouth play a significant role in Cingular’s business decisions.” *Para 244*

- “According to SBC, ‘SBC Communications Inc., BellSouth and Cingular Wireless...are executing a ground breaking initiative to spur customer acquisition and retention by creating a new category of products that integrate wireline and wireless features and functionality – all through a wireless network overlap competitors cannot match.’” *Para 244, fn 579*

Page 8, line 40.....Conditions for re-regulation

This change to existing statute and the amendment are not necessary as the means for resuming price regulation is already established and sufficient. This removes the protection of “a telecommunications carrier or alternative provider providing a comparable product or service, considering both function and price, in that exchange area.”