



LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY TELECOMMUNICATION SERVICES IN NEVADA

(Assembly Concurrent Resolution No. 2

[File No. 10, *Statutes of Nevada 2003*, 20th Special Session])

SUMMARY MINUTES AND ACTION REPORT

The first meeting of the Legislative Commission's Subcommittee to Study Telecommunication in Nevada was held on Friday, November 14, 2003, at 9:30 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's Web site at www.leg.state.nv.us/Session/72nd2003/Interim. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Assemblyman David R. Parks, Chairman
Senator Maggie Carlton
Senator Warren Hardy
Senator Randolph J. Townsend
Assemblyman David Brown
Assemblyman David Goldwater

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Diane C. Thornton, Senior Research Analyst
Melisa Aguon, Secretary/IS Support Specialist

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT IN CARSON CITY:

William L. Keane, Principal Deputy Legislative Counsel
Nenita Wasserman, Senior Research Secretary

INTRODUCTION AND OPENING REMARKS

Chairman Parks opened the meeting and identified members present. Chairman Parks reviewed the factors that led him to come forward with his BDR which eventually was adopted by the 20th Special Session as ACR 2. Prior to his knowledge of S.B. 400, he was motivated to request this bill draft request because of a number of factors.

- Three years ago, he had fixed based wireless service in his home and used it for 16 months until the service was discontinued.
- The growth of internet technology has made significant changes to communications; including voice over internet protocol (VoIP).

- The number of business and news related articles dealing with mergers, acquisitions, court rulings, and advancements has been increasing.
- Nevada is not in the top rankings among other states for telecommunications.

DISCUSSION OF THE FEDERAL COMMUNICATIONS COMMISSION (FCC) POLICY TO FOSTER COMPETITION IN THE PROVISIONS OF TELECOMMUNICATION SERVICES

Michelle Carey, Division Chief, Competition Policy Division, FCC, spoke about the passage of the Telecommunications Act of 1996 (1996 Act) which opened local exchange markets to competition. She stated the fact that section 251 placed different sets of obligations on carriers depending on their position in the market. Section 251(c) places network unbundling obligations on the incumbent LEC. Pursuant to this section incumbent LECs must make pieces of their network available to competing LECs at cost-based rates if competitors are "impaired" without such access.

Ms. Carey explained that the Commission has interpreted what it means to be "impaired" three separate times since the passage of the 1996 Act.

1) Local Competition Order (1996) – Ultimately, the Supreme Court vacated the Commission's interpretation of "impairment", in large part because the Commission failed to consider the availability of elements outside the incumbent's network.

2) UNE Remand Order (1999) – In 2002, the D.C. Circuit vacated and remanded this order, concluding that we failed to consider market-specific evidence, and that we didn't conduct a granular analysis that took into account local conditions of entry.

3) In August 2003, the Commission released the Triennial Review Order. This order is being appealed by both incumbent LECs and competitive LECs in the D.C. Circuit.

She reviewed the four major themes of the Triennial Review Order:

Granular Inquiry. The Commission drew lines using a framework based on the type of facility, capacity, and geographic and customer markets. Where the Commission could not reach a national finding of impairment or no impairment, it directed state commissions to consider market-specific evidence pursuant to objective triggers. These triggers apply to switching, enterprise loops, and transport.

Intermodal Competition. In applying objective triggers, the Commission considered the extent of deployed intermodal technology (i.e., cable or wireless facilities).

Deployment Analysis. In assessing deployment, the Commission examined both *actual* deployment, where competitors have deployed, as well as *potential* deployment, where competitors could deploy.

Broadband/Advanced Telecom Capability. The Commission balanced the goal of access to unbundled network elements under section 251 against the goal in section 706 of the 1996 Act to encourage the deployment of advanced telecommunications capabilities to all Americans. Thus, the Commission generally applied a lighter regulatory touch to new network technologies such as Fiber to the Home and packet switching, than to legacy technologies such as circuit switching or copper loop.

Responding to Chairman Parks' inquiry as to what will be on the horizon for the FCC, Brent M. Olson, Deputy Chief, Competition Policy Division, FCC, attending through video conference from Washington, D.C., replied that there is litigation and a number of appeals that have been consolidated seeking review of this Order. Speaking more generally, Mr. Olson stated that two major issues are before the division including broadband issues and a procedure pending on the regulation of DSL. The procedure is examining whether there should be tariff requirements or whether the companies should be relieved of those obligations. The commission is also beginning an inquiry regarding VoIP.

Tom Navin, Deputy Chief, Competition Policy Division, FCC, attending through videoconference from Washington, D.C., reported that broadband connections are increasingly being used to deliver voice services. He also discussed issues relating to what the Telecommunication Act provides and the complications that the new

services, such as VoIP, that are provided over internet protocol creates.

DISCUSSION OF TELECOMMUNICATION SERVICES AND REGULATION IN NEVADA

Don Soderberg, Chairman Public Utilities Commission of Nevada addressed the committee on the many types of telecommunication services that allow communication and are available through a broad group of providers. His detailed testimony is [Exhibit B1](#) of these minutes. Also provided to committee were separate written statements by Chairman Michael K. Powell, Chairman, Federal Communications Commission which is [Exhibit B2](#), an excerpt from Remarks of Michael K. Powell made to the Associated Press Annual Meeting and General Session of the National Newspaper Association Annual Convention on April 28, 2003, which is [Exhibit B3](#), and separate statement of Commissioner Kevin J. Martin which is [Exhibit B4](#).

Dick Burdette, Manager, Regulatory Operations Staff, Public Utilities Commission of Nevada reported there are three methods of telecommunications competition that deliver service. The three “intermodal” methods include 1) traditional wireline or land line service; 2) wireless service; and 3) cable broadband and VoIP services. Please see and [Exhibit B5](#) for details of Mr. Burdette’s presentation.

Mr. Goldwater discussed the issue that at some point a determination must be made as to what the residential customer is absolutely entitled to concerning basic services.

Senator Townsend highlighted that there is a need for basic service to those less fortunate and it is likely to be a subsidized service. In order for the incumbent to provide that service, revenues must be received from somewhere else. Revenues are generally larger for the business client than the residential client. The companies do not have an obligation to address the needs for a “lifeline” client.

BACKGROUND ON KEY TELECOMMUNICATION LEGISLATION IN NEVADA

Diane C. Thornton, Senior Research Analyst, Research Division, Legislative Counsel Bureau gave a background report on key telecommunication legislation in Nevada. Please see [Exhibit C](#) for details of this presentation.

DISCUSSION OF CURRENT AND FUTURE COMPETITIVE TRENDS FOR TELECOMMUNICATION SERVICES IN NEVADA

Tim Hay, Chief Deputy Attorney General, Bureau of Consumer Protection (Consumer’s Advocate), Office of the Attorney General discussed current and future competitive trends for telecommunication services in Nevada. He stated that ACR 2 provides a study on rate making but is somewhat silent on consumer protection and quality of the consumer experience and safety.

INDUSTRY PANEL DISCUSSION ON TELECOMMUNICATION SERVICES AVAILABLE IN NEVADA

Julian C. L. Chang, Vice President Legislative Affairs, AT&T Communications of Nevada addressed the current status of telecommunication services in Nevada. He stated that AT&T leases lines from Sprint and is a multi-million dollar customer. Capital markets currently do not reward companies like AT&T for infrastructure deployment. The company is moving into an area of convergence and learning to work together with other companies amicably.

James J. Jackson, Esquire, Industry Representative for Cingular Wireless, stated that wireless communications is a major player in the telecommunication industry as known today. Growth and competition are the two issues that describe Cingular Wireless at this time. Please see [Exhibit D](#) for his detailed remarks.

Dan Jacobsen, Executive Director Regulatory, SBC Nevada reported that businesses are challenged to listen to their customers and to provide the service that customers are looking for. Please see [Exhibit E](#) for details of Mr. Jacobsen’s remarks.

Ann Pongracz, General Counsel, Sprint of Nevada, Las Vegas, gave a brief overview of the history of

telecommunications. Please see [Exhibit F](#) for details of Ms. Pongracz's presentation.

Gardner F. Gillespie, General Counsel, Cox Communications, Washington, D.C., testified that what is driving the telecommunication industry is a business's decision on whether or not to enter the marketplace. He noted that Cox communications is not in the telephone marketing business at this time in Nevada. Cox Communications has tremendous potential as a telephone provider in Nevada. In the markets where Cox Communications has constructed telephone systems, the market is regulated. The company makes the investments and know that it is risk capital.

DISCUSSION OF AGENDA ITEMS FOR JANUARY 9, 2004 MEETING

Chairman Parks stated that Mr. Soderberg offered to provide the committee with some independent consultants to perform statistical analysis.

Senator Townsend requested that market maker individuals who are institutional investment types be requested to appear before the committee and educate committee members on what they look for. He also requested technical individuals to speak about the opportunities Nevada has.

PUBLIC COMMENT

Suzanne Johnson, private citizen, consumer, Gardnerville, Nevada testified that she would like the telecommunication companies to remember the consumers in rural Nevada. She is looking for a fast reliable service.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 12:59 p.m.

Respectfully submitted,

Nenita Wasserman
Senior Research Secretary

Diane C. Thornton
Senior Research Analyst

APPROVED BY:

Assemblyman David R. Parks, Chairman

Date: _____

LIST OF EXHIBITS

[Exhibit A](#) is the Meeting Notice and Agenda provided by Diane C. Thornton, Senior Research Analyst, Research Division, Legislative Counsel Bureau, Carson City, Nevada.

[Exhibit B1](#) is a copy of comments made by Don Soderberg, Chairman, Public Utilities Commission of Nevada, titled “Future Trends In Telecommunications.”

[Exhibit B2](#) is a copy of a statement titled “Separate Statement of Chairman Michael K. Powell, Approving in Part and Dissenting in Part, provided by Don Soderberg, Chairman, Public Utilities Commission of Nevada.

[Exhibit B3](#) is a copy of background information titled “Digital Migration,” provided by Don Soderberg, Chairman, Public Utilities Commission of Nevada.

[Exhibit B4](#) is a copy of background information titled “Separate Statement of Commissioner Kevin J. Martin” provided by Don Soderberg, Chairman, Public Utilities Commission of Nevada.

[Exhibit B5](#) is a copy of written remarks made by Dick Burdette, Manager, Regulatory Operations Staff, Public Utilities Commission of Nevada, titled “Overview of Telecommunications Competition in Nevada Today.”

[Exhibit C](#) is a copy of written remarks titled “Key Telecommunication Legislation in Nevada” provided by Diane C. Thornton, Senior Research Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is a copy of facts and figures titled “Wireless Facts and Figures” provided by James J. Jackson, Esquire, Industry Representative for Cingular Wireless.

[Exhibit E](#) is a copy of facts and figures titled “SBC is committing significant resources to serve Northern Nevada customers” provided by Dan Jacobsen, Executive Director Regulatory, SBC Nevada.

[Exhibit F](#) is an untitled document which is written remarks provided by Ann Pongracz, General Counsel, Sprint of Nevada.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library by [e-mail \(www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm\)](mailto:www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm) or telephone: 775/684-6827.