

NEVADA LEGISLATURE
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 fifth meeting of the Legislative Commission's Subcommittee to Study Telecommunication Services in Nevada was held on Friday, August 27, 2004, 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 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).

SUBCOMMITTEE MEMBERS PRESENT IN LAS VEGAS:

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

SUBCOMMITTEE MEMBER ABSENT:

Assemblyman David F. Brown

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Diane C. Thornton, Senior Research Analyst, Research Division
William L. Keane, Principal Deputy Legislative Counsel, Legal Division
Ricka Benum, Senior Research Secretary, Research Division

OPENING REMARKS

Chairman Parks called the meeting to order and requested Senator Townsend brief the Subcommittee on the recent hearing of the Intergovernmental Advisory Committee of the Federal Communications Commission (FCC).

- Senator Townsend indicated the possibility of Nevada hosting the Intergovernmental Advisory Committee for a two-day hearing, either in November 2004, or the spring of 2005.
- The Committee discussed several items during its August hearing.
 1. Homeland security was the primary focus of the recent hearing.
 2. Significant differences in telecommunication and wireless services between Canada and Mexico impede the ability for emergency personnel to communicate during crisis or disaster situations.
 3. The Committee requested the FCC make a determination to standardize, from state-to-state, the use of 2-1-1 or 3-1-1 Telephone System services. The new codes are a means of quick access to nonemergency police and other government services.

APPROVAL OF MINUTES OF THE JULY 9, 2004, MEETING HELD IN LAS VEGAS, NEVADA

- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

SENATOR TOWNSEND MOVED TO APPROVE THE MINUTES OF THE JULY 9, 2004, MEETING HELD IN LAS VEGAS, NEVADA. SENATOR HARDY SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

PRESENTATION ON BROADBAND OVER POWERLINE “AN EMERGING MARKET OPPORTUNITY”

- Christopher Britton, President and Chief Executive Officer (CEO), IDACOMM/Velocitus, Boise, Idaho, gave a Microsoft PowerPoint presentation ([Exhibit B](#)) and discussed the new technology of Broadband over Powerline (BPL) services. The BPL service company has combined the engineering of the fiber network and the broadband service delivery, along with the expertise of the broadband installation technology, resulting in a utility service partner for the deployment of the emerging concept. The BPL is not an active component, but rather a technology that layers on top of the utility grid which inserts a broadband or radio frequency, onto the utility line and follows the path of the network. The BPL approach is considered noninvasive, and can deploy technologies such as: promoting security, load balancing, and time-of-usage billing through advanced metering.

DISCUSSION OF RESEARCH FOR ASSEMBLY CONCURRENT RESOLUTION NO. 2

- Scott K. Kennedy, Senior Telecommunications Specialist, Gabel Communication, presented the finding of the consultants. He testified that the data accumulated contains a “significant amount of holes.” It was noted that several entities did not respond to the survey requesting the data, specifically cable companies, local exchange carriers (LECs), or wireless (cellular) companies. Mr. Kennedy provided a Microsoft PowerPoint presentation ([Exhibit C](#)) that is a compilation of publicly accessible data and information gleaned from the companies which did respond to Subcommittee’s request.
- Dr. Robert Loube, Director, Economic Research, Rhoads & Sinon, LLC, reported that the incumbent companies still dominate the industry in Nevada. He briefly described the state’s small universal service structure. Dr. Loube indicated the report reflects how to examine and understand subsidies.

There was discussion which addressed the suggestion to review the state’s universal service program. The report submitted by consultants, Scott K. Kennedy and Dr. Robert Loube, is available as [Exhibit D](#).

1. The statistics indicate that 90 to 100 percent of the residential wire line market is served by competitive local exchange carriers (CLECs). Incumbent local telephone companies (ILECs) remain dominate in the nonresidential wire line market; however, there is evidence of competition.
2. Approximately 63 percent of Nevada has cable service available, with cable system operators dominating the high-speed market, while only 34 percent of the housing units in the state have digital subscriber line (DSL) availability.
3. The SBC-Nevada pricing flexibility summary indicated price changes for custom calling services, wire protection plans, and high-capacity service. The increases for custom calling services were associated with the purchase of individual plans and increases for high-capacity services, which offered incentives for customers to move to long-term plan offers, rather than month-to-month billing.

Since October 1999, SBC-Nevada has introduced 46 new services. The new business services include enhancements to Centrex and standard interfaces for digital communications networks (ISDN) services, and high-speed fiber based services. New residential hook-ups focused on providing packages of services at discount rates.

4. In comparison, the Sprint-Nevada pricing flexibility summary indicated that prices changed for billing and

collection service, directory assistance, and call completion.

Sprint-Nevada has introduced 18 new services since October 1999, with no price increases since their introduction. New business services offered three types of high-speed connections; new residential services focused on providing packages of services at discounted rates, and offered three new three-digit call numbers.

5. Available public data indicates that the dominant carrier's costs per-line wire centers range from \$45 to \$475, which illustrates there is a substantial rural-to-urban differential.

PUBLIC COMMENT

- Gardner Gillespe spoke on behalf of Cox Communications, Las Vegas, Nevada. Mr. Gillespe responded to comments from the consultants by clarifying that neither Cox Communications, nor Cox Telecom Nevada provides telecommunication services. With respect to survey questions which pertained to broadband services, Cox Communications was not assured that the data submitted would be protected as confidential, and therefore did not participate.
- Iasaac Henderson, Las Vegas, Nevada, urged telecommunications companies to provide low-cost services to benefit senior citizens and persons considered to be "working poor" within the communities they serve.
- Dan Jacobsen, Executive Director Regulatory, SBC Nevada, Las Vegas, Nevada, expressed concern that the report submitted by the consultants was lacking in complete and specific information and, if accepted or approved by the Subcommittee, could lead to unsupported conclusions regarding the competitiveness of the market. Mr. Jacobsen suggested that the type of findings the Subcommittee is looking for could be better addressed in proceedings held by the Public Utilities Commission of Nevada (PUCN) and would offer a more appropriate forum.
- Dan Reaser, General Counsel, SBC Nevada, Las Vegas, Nevada, stated that the report incorrectly concludes that new service packages and price flexing benefits have not been affected by the passage of Senate Bill 400 (Chapter 479, *Statutes of Nevada 2003*). Mr. Reaser encouraged the Subcommittee to review and understand the implications set forth in Senate Bill 440 (Chapter 313, *Statutes of Nevada 1999*) since it served as the initial step toward packaging and pricing flexibility.

Following additional discussion, Mr. Jacobsen assured Assemblyman Goldwater that broadband services will remain as an unbundled service and can be purchased on a "stand-alone basis."

- Assemblyman Goldwater requested that the record reflect the specific objective of "consumer protection" to include the aspect of consumer choice, and the customer's ability to acquire package services at an affordable price.
- Ann Prongracz, Sprint Nevada, Las Vegas, Nevada, testified that the consultants' report does not address the issue of subsidies as directed by A.C.R. 2, and there are major steps toward deregulation that were ignored by the consultants.
- Julian Chang, AT&T, Legislative Affairs Vice President, AT&T, Pacific Region, acknowledged appreciation for the work of the consultants, but recognized that the final product is not an accurate depiction of the market in Nevada.
- Robert Ostrovsky, Cox Communications, Las Vegas, Nevada, concurred with the suggestion that the PUCN is the appropriate entity and venue to address the issues as stated in A.C.R. 2. Mr. Ostrovsky pointed out that cable companies do not fall under the jurisdiction of the PUCN and may not participate in a docket or study conducted by the Commission.

WORK SESSION—DISCUSSION AND ACTION REGARDING RECOMMENDATIONS

WORK SESSION DOCUMENT

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*])

*This "Work Session Document" has been compiled by the staff of the 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*]). It is designed to assist the Subcommittee members in making decisions concerning recommendations to be forwarded to the 2005 Session of the Nevada Legislature.*

The possible action listed in the document does not necessarily have the support or opposition of the Subcommittee. Rather, the possible action is compiled and organized so the members may review it to decide if it should be adopted, changed, rejected, or further considered.

Under Nevada Revised Statutes (NRS) 218.2429, interim committees conducting a study or investigation are limited to no more than five legislative measures (bill draft requests and requests for the drafting of resolutions). Finally, A.C.R. 2 specifies that any recommended legislation proposed by the Subcommittee must be approved by a majority of the members of the Assembly and a majority of the members of the Senate appointed to the Subcommittee. The Legislative Commission shall then submit a final report of the results of the study and any recommendations for legislation to the 73rd Session of the Nevada Legislature.

1. Provide for specified information to be confidential for the purpose of creating reports for Legislative committees and studies.

In addition to any other method available to a Legislative committee or study for obtaining information, a Legislative committee or study may obtain information using the following statutory process.

- **First, the Legislative committee or study may designate an outside consultant to receive information, including confidential information, and to create a report for the Legislative committee or study based upon that information.**
- **Second, a person providing information to this outside consultant may designate as confidential any of the information he provides to the outside consultant.**
- **Third, the outside consultant may include such confidential information in the report only if the confidential information is aggregated or otherwise combined with other information so the confidential information cannot be identified as the confidential information of the person who provided it. Pursuant to this statutory process, the outside consultant must not release the confidential information to the Legislative committee or study or to any other person except for the employees or staff of the outside consultant who are necessary to create the report. The report itself may be released to the Legislative committee or study, and the Legislative committee or study may release the report to the public.**
- **The outside consultant must destroy the confidential information by a date designated by the Legislative committee or study after the report is completed.**
- **Finally, all information designated as confidential pursuant to this process shall be deemed confidential for all purposes related to this statutory process. (Proposed by Chairman Parks)**
- Chairman Parks referred to the "Work Session Document" ([Exhibit E](#)) and outlined the purpose of the suggested legislation stated under Recommendation No. 1. He said the purpose would be to eliminate the difficulty encountered by consultants when attempting to collect confidential data necessary during interim and other legislative studies.

- Senator Townsend spoke on the merit of the recommendation and noted it would serve numerous committees in obtaining necessary data for a variety of issues.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

SENATOR TOWNSEND MOVED FOR APPROVAL OF RECOMMENDATION NO. 1, AND THAT THE SUBCOMMITTEE INCLUDE IN ITS FINAL REPORT, A REQUEST FOR THE DRAFTING OF LEGISLATION AS OUTLINED IN THE RECOMMENDATION. IN ADDITION, THE SUBCOMMITTEE REQUESTED THAT THE SUBCOMMITTEE'S LEGAL COUNSEL AND ANY COUNSEL REPRESENTING INTERESTED PARTIES, COMBINE EFFORTS TO CRAFT LANGUAGE THAT WOULD BENEFIT THE COMPILATION OF PROPRIETARY DATA. THE MOTION WAS SECONDED BY SENATOR HARDY.

- Assemblyman Goldwater noted his concern regarding the issue of confidentiality insofar as it pertains to open meeting situations. He questioned who would determine what constitutes confidential data or information, as well as, competitive or proprietary data.
- Senator Townsend opined that any data submitted to a deliberating body would not include the identity or names of the business entities involved, just the data pertinent to making public policy. He compared it to data submitted to the State Gaming Control Board, then used for statistical purposes.
- Senator Carlton indicated that initially she shared Mr. Goldwater's concerns. However, the draft language could be structured in such a way that any information would be submitted in an aggregate manner. The intent would be to assimilate data for a specific purpose before being destroyed by the outside party.
- Chairman Parks requested clarification or comments from the Subcommittee's legal counsel.
- William L. Keane, Principal Deputy Legislative Counsel, Legal Division, clarified that the bill draft request (BDR) contained a potential solution for the problem of collecting sensitive information. The approach would allow for the collection of data and, by having it deemed to be confidential by law, establish a method of protecting the information and persons who provide the information, thereby allowing committees and legislative studies to obtain information they may not otherwise be able to acquire.
- Senator Hardy suggested that language be incorporated that would outline the purpose and framework of the Subcommittee's intention for requesting the BDR.
- At the request of the Chairman, Senator Townsend amended his motion to accommodate the BDR deadline of September 1, 2004.

SENATOR TOWNSEND AMENDED THE MOTION BY DELETING THE WORDS "INCLUDE IN ITS FINAL REPORT" AND INSERTING "BY ACTION OF THE SUBCOMMITTEE." THE MOTION PASSED UNANIMOUSLY.

- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

SENATOR TOWNSEND MOVED FOR APPROVAL THAT THE SUBCOMMITTEE'S FINAL REPORT INCLUDE A REQUEST FOR THE CHAIRMAN OF THE PUBLIC UTILITIES COMMISSION OF NEVADA TO APPEAR BEFORE BOTH THE SENATE STANDING COMMITTEE ON COMMERCE AND LABOR, AND THE ASSEMBLY STANDING COMMITTEE ON COMMERCE AND LABOR, EITHER JOINTLY OR SEPARATELY, DURING THE FIRST WEEK OF THE 2005 LEGISLATIVE SESSION, FOR THE PURPOSE OF: (1) PROVIDING INFORMATION ON THE CURRENT STATUS OF VARIOUS FEDERAL COMMUNICATIONS COMMISSION (FCC) DOCKETS AND THEIR POTENTIAL

IMPLICATIONS ON THE STATE OF NEVADA; AND (2) TO REPORT ON THE REMARKABLY FAST-PACED CHANGES OCCURRING IN THE TELECOMMUNICATIONS MARKET IN REGARD TO MERGERS, ACQUISITIONS, OR BANKRUPTCIES OF COMPANIES. SENATOR HARDY SECONDED THE MOTION WHICH, CARRIED UNANIMOUSLY.

- Chairman Parks encouraged dialogue on finalizing the Subcommittee's final report, as to the extent of information provided by the consultants for submittal to the Legislative Commission.
- Senator Townsend outlined the components as stated in A.C.R. 2, and concluded that the Subcommittee has fulfilled its obligation. In addition, he emphasized that the report submitted by the consultants is essentially incomplete due to the lack of pertinent data, and urged the Subcommittee not to accept the document for inclusion in its final report.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

SENATOR TOWNSEND MOVED THAT THE SUBCOMMITTEE NOT ACCEPT THE REPORT OF THE CONSULTANTS ENGAGED BY THE PUBLIC SERVICE COMMISSION OF NEVADA. SENATOR HARDY SECONDED THE MOTION.

- Senator Carlton commented that the consultants' report should be viewed as a work in progress and she agreed that it should be forwarded to the PUCN for its review. Speaking to the issue of implicit subsidies, Senator Carlton stated that first their existence must be recognized and the matter should be considered for any beneficial value to public policy. In addition, she said the PUCN is the proper forum to examine subsidies, guarantee they maintain a fair balance, and review the possibility of eliminating any area of financial support.
- During general discussion of the motion, Assemblyman Goldwater and Senator Hardy requested clarification as to any consequence or effect if the Subcommittee not to accept the consultants' report.
- Mr. Keane, previously identified, stated that if the Subcommittee did not accept the consultants' report, it would not be included with the Subcommittee's final report to the Legislative Commission, nor would it be attached as an appendix to that document.
- Mr. Goldwater commented that he views some information to be better than none, and that the report does have some value, even though by the consultants' admission, the report is incomplete, it still contains some amount of information.
- Senator Hardy expressed concern that the consultants' report is considered a public document, and added that the Subcommittee should clarify that conclusions in the report were derived by examining incomplete data.
- Chairman Parks called for a vote on the motion.

THE MOTION CARRIED, ASSEMBLYMAN GOLDWATER VOTED NO.

ADJOURNMENT

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

Respectfully submitted,

Ricka Benum
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.”

[Exhibit B](#) is a Microsoft PowerPoint presentation, titled “Broadband over Powerline, An Emerging Market Opportunity,” submitted by Christopher Britton, President and Chief Executive Officer (CEO), IDACOMM, Velocitus, Boise, Idaho.

[Exhibit C](#) is a Microsoft PowerPoint presentation, submitted by Scott K. Kennedy, Senior Telecommunications Specialist, Gabel Communication.

[Exhibit D](#) is a report titled “The State of Telecommunications Services in Nevada,” submitted by Dr. Robert Loube, Director, Economic Research, Rhoads & Sinon, LLC, and Scott K. Kennedy, Senior Telecommunications Specialist, Gabel Communication, dated August 2004.

[Exhibit E](#) is the “Work Session Document” compiled by Diane C. Thornton, Senior Research Analyst, Research Division, and William L. Keane, Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau.

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 online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.