

Committee Name:
**Senate Select Committee – Job Creation
(SSC–JC)**

Appointments

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Committee Hearings

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Senate Select Committee on Job Creation

Paper Ballot: Senator Stepp
Deadline: Today, 2-3-04, 2:00 pm

The following bill received a public hearing on Thursday, January 15, 2004.

Attached, please find a substitute amendment, which addresses concerns heard at the hearing. This substitute amendment adds a 30 day petition completeness standard and adds a 60 day extension procedure after the 180 day deadline. The substitute amendment specifies that the deadlines apply to petitions filed by ILECs, CLECs and ATUs and gives greater detail on what information must be included in the petition.

Please return your vote via paper ballot to Senator Stepp's office by 2:00 pm today, Tuesday, February 3, 2004.

Thank you.

Assembly Bill 729:

relating to: petitions by certain telecommunications utilities regarding unbundled network or service elements.

Introduction and Adoption of Substitute Amendment.

LRB 0327/2

YES NO

Concurrence as amended.

YES NO

Senate Bill 370 (Senate Companion):

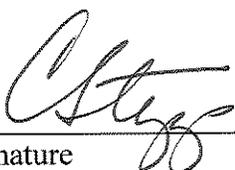
LRB 0329/2

Introduction and Adoption of Substitute Amendment.

YES NO

Passage as amended.

YES NO



Signature

Senate Select Committee on Job Creation

Paper Ballot: Senator Kanavas
Deadline: Today, 2-3-04, 2:00 pm

The following bill received a public hearing on Thursday, January 15, 2004.

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Thank you.

Assembly Bill 729:

relating to: petitions by certain telecommunications utilities regarding unbundled network or service elements.

Introduction and Adoption of Substitute Amendment.

YES NO

Concurrence as amended.

YES NO

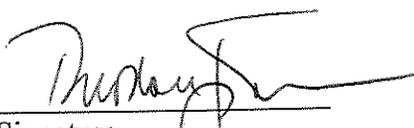
Senate Bill 370 (Senate Companion):

Introduction and Adoption of Substitute Amendment.

YES NO

Passage as amended.

YES NO



Signature

Senate Select Committee on Job Creation

Paper Ballot: Senator Leibham
Deadline: Today, 2-3-04, 2:00 pm

The following bill received a public hearing on Thursday, January 15, 2004.

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Thank you.

Assembly Bill 729:

relating to: petitions by certain telecommunications utilities regarding unbundled network or service elements.

Introduction and Adoption of Substitute Amendment.

YES NO

Concurrence as amended.

YES NO

Senate Bill 370 (Senate Companion):

Introduction and Adoption of Substitute Amendment.

YES NO

Passage as amended.

YES NO

JOE LEIBHAM
Signature

Senate Select Committee on Job Creation

Paper Ballot: Senator Chvala
Deadline: Today, 2-3-04, 2:00 pm

The following bill received a public hearing on Thursday, January 15, 2004.

Attached, please find a substitute amendment, which addresses concerns heard at the hearing. This substitute amendment adds a 30 day petition completeness standard and adds a 60 day extension procedure after the 180 day deadline. The substitute amendment specifies that the deadlines apply to petitions filed by ILECs, CLECs and ATUs and gives greater detail on what information must be included in the petition.

Please return your vote via paper ballot to Senator Stepp's office by 2:00 pm today, Tuesday, February 3, 2004.

Thank you.

Assembly Bill 729:

relating to: petitions by certain telecommunications utilities regarding unbundled network or service elements.

Introduction and Adoption of Substitute Amendment.

YES NO

Concurrence as amended.

YES NO

Senate Bill 370 (Senate Companion):

Introduction and Adoption of Substitute Amendment.

YES NO

Passage as amended.

YES NO


Signature

Senate Select Committee on Job Creation

Paper Ballot: Senator Jauch
Deadline: Today, 2-3-04, 2:00 pm

The following bill received a public hearing on Thursday, January 15, 2004.

Attached, please find a substitute amendment, which addresses concerns heard at the hearing. This substitute amendment adds a 30 day petition completeness standard and adds a 60 day extension procedure after the 180 day deadline. The substitute amendment specifies that the deadlines apply to petitions filed by ILECs, CLECs and ATUs and gives greater detail on what information must be included in the petition.

Please return your vote via paper ballot to Senator Stepp's office by 2:00 pm today, Tuesday, February 3, 2004.

Thank you.

Assembly Bill 729:

relating to: petitions by certain telecommunications utilities regarding unbundled network or service elements.

Introduction and Adoption of Substitute Amendment.

YES NO

Concurrence as amended.

YES NO

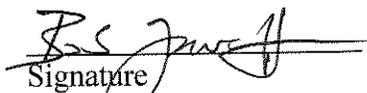
Senate Bill 370 (Senate Companion):

Introduction and Adoption of Substitute Amendment.

YES NO

Passage as amended.

YES NO


Signature



Wisconsin State AFL-CIO *...the voice for working families.*

David Newby, President • Sara L. Rogers, Exec. Vice President • Phillip L. Neuenfeldt, Secretary-Treasurer



January 12, 2004

Dear Members of the Wisconsin Legislature and Gov. Jim Doyle:

The Wisconsin State AFL-CIO and the Communications Workers of America strongly support passage of AB-729 and companion bill SB-370. These pro-jobs, pro-labor bills will help ensure that Wisconsin regulation keeps pace with constant change in today's telecommunications industry by setting a reasonable deadline of a half year (180 days) for decisions on certain cost filings. The current SBC Wisconsin cost docket was filed 44 months ago and is still ongoing.

The jobs of our members and Wisconsin residents are threatened by today's extremely low, government-mandated wholesale telecom prices (including the rate for what is known as "UNE-P"). By requiring review of new cost data in a timely manner, this bill could result in prices reflecting current facts. Without regulatory deadlines for these types of cases, workers and consumers will be denied the benefits of prompt regulatory review and potentially positive rulings.

AB-729 and Senate companion bill SB-370 will create the climate to preserve and grow family-supporting jobs in Wisconsin. Your support of this legislation is critical and will signal your support for the jobs of the thousands of telecom workers and other wage earners in Wisconsin. Thank you for your consideration and attention to this important legislation.

Sincerely,

David Newby
Wisconsin State AFL-CIO President

Ann Crump
CWA International Staff Representative

Senate Bill 370 -- Q & A

The "Let's Do SBC A Favor" Bill

Comments from LDMI Telecommunications, www.ldmi.com

(LDMI is an emerging CLEC in Wisconsin:

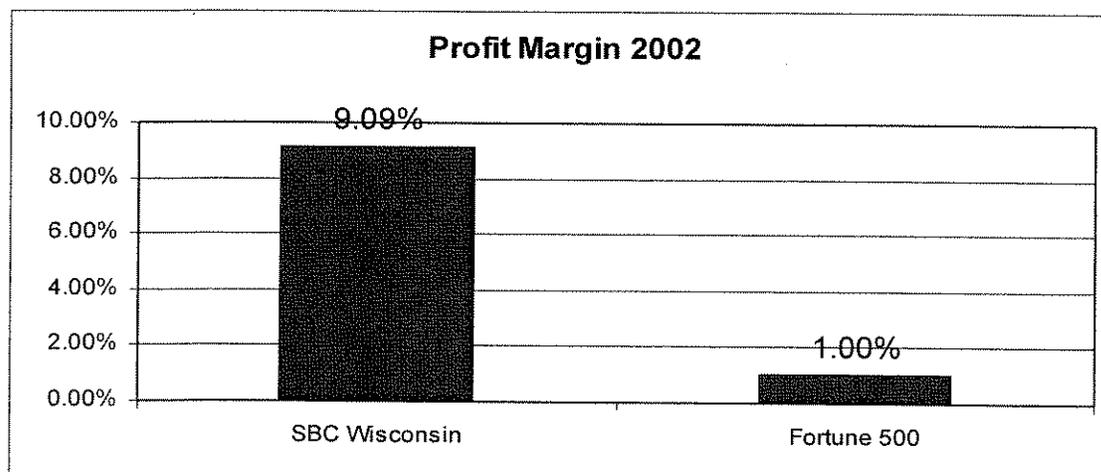
Contact JerryFinefrock@comcast.net, 248-840-2896)

Q:

SB-370 seeks to put the heat on the Wisconsin PSC to act quickly on a wholesale rate hike for SBC Wisconsin. SBC Wisconsin says they are losing money, big-time, in Wisconsin, because of the "CLECs" who have started to provide competitive local phone service here. So what's wrong with doing SBC this favor, and helping "nudge" the PSC towards a CLEC rate hike?

A:

You have been seriously misled. SBC Wisconsin is not losing money in our state. In fact, it is fabulously profitable, as its most recent annual financial filing with the FCC shows:



As the graph above indicates, in 2002 – the most recent year for which data is available, SBC Wisconsin's profit margin was over nine times as high as that of the Fortune 500. Meanwhile, CLECs either lose money or have very meager profits.

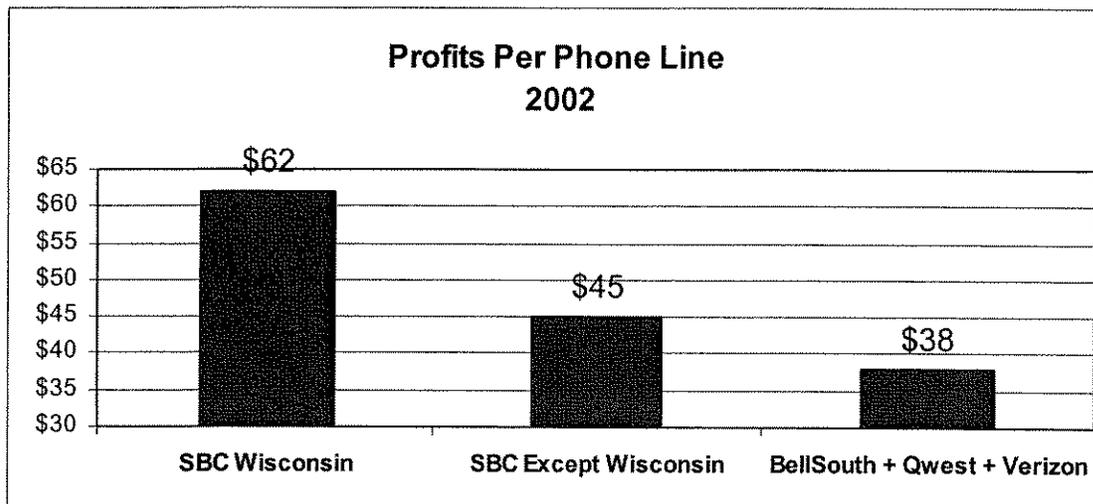
Q:

But I'm led to believe that SBC Wisconsin is doing poorly, because allegedly its wholesale prices to the CLECs are too low, and thus as compared to the rest of SBC and the rest of the Bell companies, SBC Wisconsin's financial performance is definitely below par, isn't it?

A:

Once again, someone has told a whopper. Again for 2002, the year with the most

recent available data as filed with the FCC, here is how the profit per telephone line of SBC Wisconsin compares to that of the rest of SBC, and to the other Bell companies in the U.S.:



So as you can see, SBC Wisconsin's profits per phone line are substantially higher than the average for the rest of SBC, and dramatically higher than that of the composite average for the other Bell companies in the U.S. – Bell South, Qwest, and Verizon.

Q:

But why would SBC want to substantially hike wholesale prices to its CLEC competitors – doubling or tripling the current prices – if it really doesn't need the money?

A:

This is part of a multi-state full-court-press by SBC throughout its five-state Ameritech region, to crush competition. SBC believes it has the CLECs on the run, and perhaps now it can finish the CLECs off.

Q:

Oh, come on now. Surely you exaggerate.

A:

No. In a recent study, the Consumer Federation of America said the arguments of SBC and other Bells "for higher wholesale prices... don't stand up to scrutiny... a detailed analysis of 39 states for which data on residential competition is available demonstrates that the key arguments used by the Baby Bells to try to... raise wholesale prices, are flat-out wrong... Bell proposals would raise prices to such exorbitant levels that competitors will be forced from the marketplace." And of the actions by the Bells, the pressure by SBC – on legislatures, governors, and state public service commissions – is by far the worst.

Q:

And what makes you say SBC is the worst?

A:

A March 30, 2003 Fortune Magazine article on SBC CEO Ed Whitacre was entitled "The Angriest CEO in Telecom". The article pointed out, "Whitacre's combative stance has set him apart from other Bell CEOs... some longtime observers... suggest that SBC's CEO lets his ire drive his strategy, as well as the movements of his lobbying team... **Crushing the competition** is one thing... 'We will fight until we just can't fight anymore', he says..."

Q:

And when has SBC been up to this mischief to which you refer?

A:

In May of last year, SBC convinced the Illinois Legislature to pass a bill that more than doubled wholesale prices to CLECs in that state – exactly what SBC wants for Wisconsin. Said the Chicago Tribune, "... the complex law... allows SBC to double the rate it can charge local phone service competitors to lease its lines. In so doing... lawmakers took the rare step of usurping the decision-making power of the state's utility rate-making agency... SBC and its subsidiaries had registered no fewer than 33 lobbyists and lobbying firms to work on its behalf..."

Q:

And what did the Chicago Tribune say was the effect of passing the SBC bill?

A:

"...most users likely to see increase in phone bills... The consensus: higher retail rates for most phone users – including SBC's own customers."

Q:

And they say that later on last year, SBC pressured the Michigan legislature to put the heat on the Michigan PSC for a quick decision to substantially hike wholesale rates to CLECs there. But the Michigan Legislature and Michigan PSC refused to bow to pressure, right?

A:

That's what some said. But the Michigan PSC established an accelerated schedule for the wholesale rate hike case, a schedule that some said only SBC could love.

Q:

And what's happened in Indiana? Didn't SBC put similar pressure there on the Indiana legislature, and the Indiana utility commission?

A:

Yes. And again, the Indiana legislature said they wouldn't bow to undue pressure. But then, just over a week ago, the Indiana utility commission granted SBC Indiana a huge increase in wholesale rates to competitors which left observers everywhere dumbfounded.

Q:

O.k., the Indiana wholesale increase was upwards of thirty percent. And other than the Illinois action (which the courts overturned), it's the first wholesale rate hike by any state in the country (costs are going down, so state commissions are requiring wholesale rates to go down). But is the Indiana wholesale rate hike really such a big deal?

A:

It is, when you consider the financials of a "lucky" CLEC operating here, who (as contrasted to many CLECs who are losing money) has managed to eke out a small profit:

| Indiana CLEC: | | | |
|-------------------------------------|--|--------|----------------|
| Costs As a Percent of Revenue: | | Today | After Increase |
| NET REVENUE | | 100.0% | 100.0% |
| COST OF SBC WHOLESALe PRICES | | 51.7% | 67.2% |
| OTHER EXPENSES | | | |
| Sales | | 10.9% | 10.9% |
| Marketing | | 0.9% | 0.9% |
| Advertising | | 0.8% | 0.8% |
| Customer Care | | 3.8% | 3.8% |
| Finance & Exec | | 3.1% | 3.1% |
| Operations & Engineering | | 2.6% | 2.6% |
| IT | | 2.2% | 2.2% |
| Billing | | 1.2% | 1.2% |
| Regulatory | | 0.7% | 0.7% |
| Collections & Bad Debt | | 4.3% | 4.3% |
| Benefits & Payroll Taxes | | 3.3% | 3.3% |
| Rent | | 2.7% | 2.7% |
| Other Operating Expenses | | 3.9% | 3.9% |
| Depreciation & Amortization | | 4.3% | 4.3% |
| Interest | | 1.0% | 1.0% |
| Taxes | | 2.4% | 2.4% |
| NET INCOME | | 0.2% | -15.3% |

The Indiana increase of 30% in SBC wholesale prices has now taken that Indiana CLEC – who had a very small profit – and placed it in a situation where the CLEC now has a substantial loss. The CLEC has only a couple of choices: raise its prices

to consumers and businesses – or stop serving customers in the state of Indiana. Or, it can go bankrupt (as a number of CLECs recently have).

Q:

You need to explain this some other way to me, because I still don't understand.

A:

Yesterday's Indianapolis Star newspaper pointed out that as a result of the Indiana commission decision to radically hike wholesale prices, the wholesale price for phone lines is now higher than the retail price.

Q:

Huh? That's absurd. You can't be serious.

A:

As the Indianapolis Star said yesterday, January 14, "The IURC raised by about 30 percent the rates competitors must pay to lease parts of SBC's network and then resell them as services to Indiana residential customers. The IURC decision means that SBC Indiana's wholesale prices of about \$16.63 per line are now higher than the retail prices it charges its own customers – about \$11.15 per line, the company said in a written statement."

Q:

And if SBC Wisconsin gets the wholesale rate hike it wants here...

A:

Yes, wholesale prices to CLECs in Wisconsin would be higher than the retail prices that SBC charges to its own customers.

Q:

But SBC doesn't get wholesale services from other companies at a big discount, and so it shouldn't have to provide such services to CLECs at a big discount, either.

A:

Wrong. You are aware that SBC now provides Interstate long distance services to Wisconsin customers. For long distance calls terminating outside the state, SBC hands these calls off to a wholesaler, who gives SBC an even bigger discount percentage than SBC gives to CLECs today.

Q:

You said that following the huge Indiana wholesale rate hike of a week or two ago, theoretically a CLEC would have to hike prices, or withdraw from the market. But what has actually happened there?

A:

It's still early in the process, and shell-shocked CLECs are still trying to regroup. But as the Indianapolis Star said yesterday, "AT&T said today it will stop offering its Call

Plan Unlimited and Unlimited Plus local service plans to Indiana consumers and will raise rates for those customers already enrolled in the plans... AT&T will be forced to raise rates for existing customers on these plans by two dollars a line..." And Telecom Policy Report on January 7 said, "AT&T... is considering withdrawing from the Indiana market entirely, according to sources inside the telecom giant."

Q:

And what are other CLECs doing about the huge Indiana SBC wholesale rate hike ?

A:

MCI says "customers... are very likely to face increases... we won't... offer services below our costs." CMC Telecom, which recently received CLEC authority to enter Indiana says they have "put all expansion plans into Indiana on hold until further notice because of this unconscionable ruling." LDMI Telecommunications says, "Unless this decision is overturned, LDMI cannot enter the Indiana local market."

Q:

SBC says AT&T is a fat cat, who is behind all the CLEC efforts here.

A:

Absolutely false. AT&T speaks for itself, not for us or other CLECs. And SBC's profit margin nationally for the latest 12 months is about 18 percent, as compared to just two percent for AT&T. So SBC has a profit margin almost nine times that of AT&T, even though AT&T is the most cost-efficient of the CLECs. SBC's stock market valuation is over 2.13 times its annual revenues, whereas AT&T's stock valuation is only 0.475 times its annual revenues. Other CLECs, facing anti-competitive actions by SBC and its friends, have even lower valuations. By contrast, SBC's profits in 2002 represented over eight percent of all the profits of all the Fortune 500 companies in the country, combined!

Q:

But shouldn't wholesale rates go up?

A:

No !!!! The pricing mechanism for wholesale rates, as set by the FCC and the Wisconsin PSC, is a forward-looking pricing mechanism. Telecom costs, as SBC acknowledges, are continually coming down. Therefore, wholesale rates in Wisconsin, if there is a new wholesale cost case, must go down, not up !

Q:

And in summary?

A:

The Legislature should not do SBC a favor, the result of which will be higher phone prices in Wisconsin, and less competition. We need to let the Wisconsin PSC do its job, without interference. Senate Bill 370 must be defeated.



**MCI Telecommunications
Corporation**

Public Policy
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312 470 2121
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To: Senate Job Creation Committee
From: Joan Campion
Vice President, MCI Law & Public Policy
Re: AB-729 and SB-370 – Certain Petitions Filed with the Wisconsin PSC
Date: Thursday, January 15, 2004

As passed by the State Assembly, AB-729 is fundamentally flawed. It should be rejected by the State Senate as an anti-competitive and anti-consumer proposal. The bill will drive up the cost of phone service to residents of Wisconsin, at a time that the cost of phone service should be going down, not up.

The following policy questions merit your consideration:

- Why does AB-729/SB-370 only benefit certain companies, and not others? Why should petitions filed by SBC receive priority consideration, while those filed by MCI and other teleco providers could linger indefinitely?
- What is to prevent a company from "gaming" the system and abusing the 180 day time limit? If a company withholds information and then files a huge amount of materials with the Wisconsin PSC on day 178 or 179, how can the PSC be expected to make the best decision possible on day #180?
- Typically in administrative law proceedings, a statutory deadline for action is measured beginning from the date that the application on the matter is complete. AB-729/SB-370 lacks that basic provision of when the time begins to run.
- As laudable as the provision may be, the 180 days specified may be too short for the Wisconsin PSC to make decisions on petitions filed. Can the Commissioners with their current staff meet this 180 day deadline? Will more staff be needed?
- If a 180 day deadline is set for telecom decisions by the Wisconsin PSC, other matters pending with the Commission may slide/slip. Do you have a clear understanding about what matters will get pushed back, and what the consequence of those delays will be on other businesses and consumers?

MCI favors and supports the objective of timely decision-making by the Wisconsin PSC. Unfortunately, AB-729/SB-370 is not uniform in its application and would advantage one company's petitions, at the expense of consumers and that company's competitors. This bill should be rejected, and a new proposal developed through an inclusive process that Wisconsin's long consensus tradition favors.



January 15, 2004

To: Honorable Members of the Senate Select Committee on Jobs Creation

From: Gail Sumi, Government Affairs Representative

Re: AB 729/SB 370, related to telecommunications

AARP Wisconsin opposes AB 729/SB 370 related to setting PSC deadlines in wholesale rate cases. Unfortunately I have a conflicting meeting this morning and am not able to testify.

AARP has long supported the development of competition in local phone service. Competition helps keep down rates and promotes better quality service by providing consumers with choices in phone companies. AARP's representation of its member's interests in telecommunication policy issues at the national level before the FCC and at the state level has taught us that this is a complicated policy area and one that deserves careful and deliberate decision-making.

AB 729/SB 370 poses a threat to competition by attempting to lessen the ability of the Public Service Commission of Wisconsin to carefully review the wholesale rates charged to SBC's competitors. The competitors use parts of the SBC network to serve Wisconsin consumers. As you will hear this morning from others who are testifying, the result of an expedited process in Indiana led to wholesale rates that are higher than SBC's retail rates. The result is decreased competition and higher rates for all consumers.

Thank you for your consideration.

Assembly Bill 729 and Senate Bill 370:
The Case for Regulatory Certainty
(Or Why It Should Not Take Over 3 ½ Years
To Set Wholesale Telecommunications Rates)

- This bill is a simple, straightforward deadline that affects all telecommunications providers alike regardless of whether they charge wholesale rates or whether they pay wholesale rates. The outcomes of wholesale cost dockets will not change as a result of this bill. However, the bill will provide that those outcomes must be timely (180 days), which will, in turn, provide the regulatory certainty that is critical for companies like SBC Wisconsin to make decisions regarding jobs and investments in the state of Wisconsin.
- Perhaps more important than what this bill does is what it does not do: It does not preordain any substantive result. It does not pick winners and losers. Indeed, it provides no substantive guidance or restriction whatsoever on the PSC's setting of wholesale rates. It is merely a procedural rule requiring cost dockets to be completed in six months regardless of whether the result is good, bad or otherwise from the perspective of the telecommunications utility involved.
- The most recent cost docket before the PSC has lasted 44 months and is still ongoing.
- That sort of time lag is simply untenable for any company, particularly one, like SBC Wisconsin, that employs more than 6,200 people in Wisconsin and that invests millions of dollars every year in infrastructure upgrades.
- As of September 2003, approximately 435,000 lines were served by competitors using elements of SBC Wisconsin's network leased at wholesale rates set by the PSC.
- Wholesale rates are to be set in a way to accomplish the goal of enabling fair competition without subsidizing unfair competition (and thereby harming consumers).
 - As new facts arise and as the FCC changes the methodology underlying cost dockets (which it has recently done and is currently doing), such facts and methodology changes must be incorporated into new wholesale rates as quickly as possible in order to accomplish their purpose.
- This bill is in no material way different than many aspects of the Jobs Bill that provide reasonable agency deadlines.
- Moreover, it is not materially different than the existing law requiring the commission to act on completed applications for permission to construct large electric generating facilities and high-voltage transmission lines with in 180 days. That law was enacted in 1997 Act 204 and refined just last month in 2003 Act 89.

{ AB 729 } Grand
{ SB 370 } panzer

Good afternoon. My name is Steve Beck and I am Senior Counsel to SBC Wisconsin. Thank you very much for the opportunity to speak to you about this very important piece of legislation.

In a nutshell, this legislation simply provides for a reasonable deadline in certain types of telecommunications cases before the PSC. In particular, it requires the PSC to render decisions in cases involving wholesale rates within 180 days of a petition by a telecommunications utility.

These cases are also called cost dockets by those in the industry. The most recent cost docket before the PSC has lasted 44 months and is still ongoing. With all due respect to the commission, and much respect is due, that sort of time lag is simply untenable for any company, particularly one that employs more than 6,200 people in Wisconsin and that invests millions of dollars every year in infrastructure upgrades. As of September 2003, approximately 18%, or almost one-fifth, of the lines in SBC Wisconsin's footprint were served by competitors using elements of our network leased at wholesale rates set by the PSC. In this fast-paced industry, it is simply not acceptable for these important dockets to take more than 3 ½ years. All we are asking for is regulatory certainty as to how long it will take for us to get an answer on our petitions regarding wholesale rates. This committee is providing similar certainty to other companies that deal with various other regulatory agencies as part of AB 655.

For example, suppose a substantial new fact is discovered or there is a major change in the regulatory underpinnings of cost dockets. These examples are far from hypothetical. New facts do arise. The FCC recently did clarify the methodology underlying cost dockets, and it is currently considering many other changes to that methodology. In order to have wholesale rates that accomplish their purpose of enabling fair competition without subsidizing unfair competition (and thereby harming consumers), these new facts and changes in methodology must be incorporated into new rates as quickly as possible. This bill is necessary to allow that to happen.

This bill is in no material way different than many aspects of the Jobs Bill that provide reasonable agency deadlines. Moreover, it is not materially different than the existing law requiring the commission to act on completed applications for permission to construct large electric generating facilities and high-voltage transmission lines within 180 days. That law was enacted in 1997 Act 204 and refined just last month in 2003 Act 89.

Perhaps more important than what this bill does is what it does not do: It does not preordain any substantive result. It does not pick winners and losers. Indeed, it provides no substantive guidance or restriction whatsoever on the PSC's setting of wholesale rates. It is merely a procedural rule requiring cost dockets to be completed in six months regardless of whether the result is good, bad or otherwise from the perspective of the telecommunications utility involved.

This bill is a simple, straightforward deadline that affects all telecommunications providers alike regardless of whether they charge wholesale rates or whether they pay wholesale rates. The outcomes of cost dockets will not change as a result of this bill. However, the bill will provide that those outcomes must be timely, which will, in turn, provide the regulatory certainty that is critical for companies like ours to make decisions regarding jobs and investments in the state of Wisconsin.

Thank you.