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## **Testimony In Opposition to Senate Bill 400**

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My testimony will focus on issues in Senate Bill 400 that will affect Covad. Because we provide high speed internet access via DSL technology—and not voice services—my testimony should not be taken as a comprehensive review of the negative effects on Nevada that could flow from passage of SB 400. In fact, I will only be focussing on one short section of the bill, Section 10.

Senate Bill 400 represents an effort by SBC and Sprint to deregulate the entire telecommunications industry in Nevada (and if that was not their intent, the bill is stark example of poor drafting). Although “deregulation” as a concept is very appealing, it is important to recognize why the telecommunications industry was regulated in the first place: without regulation, monopolies tend to abuse their power. The wholesale deregulation of Nevada’s telecommunications monopolies would leave the state with no control whatsoever over one of its most important assets. Such a step should only be taken where the outcome of deregulation is clear. Such is not the case here. As I will discuss briefly later in my testimony, we *know* that competition has brought lower prices and a broad range of telecommunications choices for Nevada. What guarantee can Sprint or SBC offer Nevada that deregulation will offer more of the benefits that we already know are flowing from the status quo? None.

I hope to accomplish three things in the next few minutes. First, I want to tell you a little bit about Covad. Second, I want to give you some idea of the benefit that Nevada is deriving from our presence in the market, and, finally, I want to tell you why Covad believes that Senate Bill 400 is a bad choice for Nevada.

### **Covad Communications Company**

- Covad is the leading nationwide provider of high-speed internet access via DSL technology with more than 420,000 lines in service.
- Covad’s \$2 billion network reaches nearly 45% of the homes and businesses in America.
- Covad serves residential, home office, small and large business customers, with both wholesale and direct DSL services.
- Covad is the wholesaler of choice to the nation’s most respected Internet Service Providers including AT&T, Sprint, Earthlink, and AOL.
- Covad has invested more than \$1 million in our network in Nevada, and we intend to drive growth in this market aggressively.

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## **The Benefits of Telecommunications Competition in Nevada**

- “[The] Bells have lowered their rates from \$50 to roughly \$40 per month over the past year to match prices offered by Covad and other independent providers.” *Reuters*, January 24, 2003 (“FCC Likely to Keep Broadband Competition –Sources”).
- “[Residential DSL] competition forced the Bells and cable giants last year to drop broadband prices to \$40 from \$50 a month.” *USA Today*, February 10, 2003 (“Rule Change Could Boost DSL Prices”).
- **Bottom line:** Nevada’s 30,000+ residential DSL customers are saving about \$10.00 per month on broadband service representing more than \$3.6 million a year that Nevada’s citizen can pump back into other sectors of the economy.

## **Why Is Section 10 of Senate Bill 400 a Bad Idea for Nevada?**

### ***Loss of Local Control.***

- The bill will strip the Nevada PUC of its authority to regulate broadband.
- Because of the structure of federal regulation, the bill will place the authority to regulate Nevada broadband in the hands of the FCC in Washington, D.C.
- The PUC will lose all control over most telecommunications issues in Nevada including the ability to effectively act on consumer complaints.
- If this bill passes, your constituents will have to call Washington D.C. to get effective action on complaints about their broadband service.

### ***Destruction of Competition.***

- Because of a recent FCC decision, the bill will give SBC and Sprint a monopoly over residential DSL service, thereby allowing competition only for larger business customers.
- The loss of local regulatory authority will dramatically raise the cost of competing in Nevada because (1) it is more expensive to try cases before the FCC; and (2) cases that the FCC expects the states to handle are not a high priority.
- The loss of DSL competition will raise prices in a sector that is critical to the ability of Nevada businesses to compete locally, nationally and internationally.
- By denying Nevada’s businesses access to competitive innovation, Nevada will find it more difficult to compete for new business with neighboring states.
- Even Sprint itself believes this bill would destroy competition, and Sprint has opposed Section 10 of this bill in many other states including Kansas and Indiana:
  - In Kansas, Sprint’s Director of Government Affairs, Michael R. Murray, said, “We simply don’t understand how the current rules impede the deployment of broadband services. Moving the goal posts to the advantage of SBC and to the disadvantage of everyone else, in our view, is not good public policy.”

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- In a letter to Indiana legislators, another Sprint Director of Government Affairs, Charles R. Mercer, said that a bill containing a measure just like Section 10 of this bill would be “likely to impede competition and damage the telecommunications industry overall.” He went on to say, “[w]e firmly believe [the bill] will do more to disrupt telecommunications markets in Indiana than to improve them.”

#### **Keep the Playing Field Level: Maintain the Status Quo**

- SBC is doing quite well in the current regulatory environment:
  - At the end of 2002, SBC was the second largest broadband provider in all of North America, beating every cable company except Time-Warner.
  - Nationwide, DSL is growing at twice the rate of cable-based broadband.
- Regulations in place today already require the PUC to set lease prices for SBC’s and Sprint’s network that deliver a reasonable profit. The PUC is engaged *right now* in determining new prices for those network elements.
- The phone companies’ retail operations **already have regulatory parity** with cable-based broadband providers: the Nevada PUC is not allowed to regulate either.
  - To the extent that SBC and Sprint set their prices higher than cable competitors, they have made a *business choice, not obeyed a nonexistent regulatory mandate*.
  - SBC and Sprint gave cable broadband providers a three-year deployment head start which is the primary reason why cable currently has more customers than DSL.

*Competition is delivering price benefits and innovative service offerings to Nevada consumers and businesses right now. Despite the fact that SBC and Sprint are both flourishing in this environment, in this bill they are asking the Nevada legislature to return their monopoly to them. Please don’t destroy what all the companies here today have worked so hard to build both for Nevada’s citizens and for our shareholders. Don’t slay David on behalf of Goliath. We ask for nothing more than the status quo, a level playing field carefully and responsibly managed by the Nevada Public Utilities Commission. If this bill is passed, what it will deliver to SBC and Sprint is charity, not parity.*

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For further information, please contact Bill Weber, Covad Vice President for External Affairs, at 404-964-1145.