

"Time Warner is acting like a company that doesn't like competition," Sallet said in a Nov. 15 statement. "The Time Warner letter to the Federal Communications Commission isn't about MCI. Maybe it's about the competition that ASkyB will bring to the Time Warner cable system." □

— By David Kaut

## Environment

### Intel To Sign Final Agreement On Project XL Plan For Arizona Plant

Intel Corp. and the Environmental Protection Agency plan to sign a final project agreement Nov. 19 under Project XL allowing the company to begin developing and implementing a multi-media operating plan at its new facility in Chandler, Ariz.

The agreement will be the second Project XL proposal to move to the implementation stage. The first final agreement was signed July 12 with the Jack Berry orange juice processing plant in LaBelle, Fla.

Project XL is an EPA program to allow companies or other entities regulatory flexibility in exchange for innovative plans that exceed environmental requirements.

Intel, the world's largest maker of microprocessors, has developed a plantwide plan encompassing environmental goals across all media, according to a draft of the agreement.

Timothy Mohin, Intel's government affairs manager, told BNA Nov. 18, that the final agreement is identical to the draft, which is posted on the Internet.

"In developing the master plan, the XL Project stakeholders have sought to reduce unnecessary, burdensome and duplicative requirements within the constraints of existing law," the draft said. "Several important innovations have resulted, including the creation of a consolidated reporting form, an integrated emergency planning document, and a streamlined air permitting scheme."

### Mixed Reviews

The project has received mixed reviews from the environmental community.

A local organization called Don't Waste Arizona praised the project in an Aug. 24 letter calling it "the best job of any in community outreach, access, and environmental performance."

Some of the harshest criticism came from representatives of the Southwest Network for Environmental and Economic Justice who said in a Sept. 5 letter that the project would subject the community and plant workers to higher exposures of toxics than the existing permit allows. The group also wrote that the Intel plan would be subject to weaker standards, would be "significant risk shifting that could expose workers to higher levels of exotic, untested chemicals," and would make verification of its emission limits difficult because "there is no provision for any monitoring, only modeling."

The Intel project does not do enough to ensure water is conserved and reused — a critical element in the site's desert setting, the group said.

Finally, the group criticized the project for its lack of community and worker oversight and accountability.

Another critic, Sanford Lewis, director of the Good Neighbor Project, which consults with public interest groups on stakeholder processes, said in a Sept. 16 letter that the project did not contain a strong enough pollution prevention element.

Mohin and Angela Boggs, the environmental, health, and safety regulatory issues manager, responded in a Sept. 23 letter that the critics were operating off factually incorrect information.

"There is no shifting of risk, either to the community by promoting the use of non-HAPs, toxics, or to Intel manufacturing employees through increased exposure to toxic chemicals," the Intel letter said.

### Emissions Caps

The plan would set emissions caps of 10 tons for all inorganic hazardous air pollutants and 10 tons for all organic HAPs, "not 9.9 tons for each HAP, as has been stated in at least two letters." The company has no motivation "to avoid HAPs regulation by substituting other, non-regulated toxic chemicals," even though the Clean Air Act would allow such substitution, the letter said.

Mohin and Boggs said the company's emissions are not secret, and the company revised estimates of HAPs upward to account for new data coming from scrubber testing at another facility.

"While we must protect confidential business information in accordance with existing rules and regulations, we have been up front in disclosing to the public the methods used to determine our emissions factors so that they can validate that they are scientifically defensible and conservative," the letter said.

In addition, the letter said, Intel has developed a technology-forcing plan to ensure source reduction and a plan for water reuse and reclamation "to drive significant reductions in fresh water demand, while requiring any recharge to groundwater meet drinking water standards." □

— By Susan Bruninga

### \* Health Care

### AFL-CIO President Joins With APHA To Demand Coverage For All Children

NEW YORK—Throwing his support behind an American Public Health Association agenda for improving children's health, AFL-CIO President John J. Sweeney Nov. 18 warned that congressional figures who stand in the way of a proposed health insurance program for children will face the same labor opposition as those who sought Medicare reductions in the last Congress.

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Sweeney delivered his threat while giving the Margaret Baggett Dolan Lecture at the APHA annual meeting, where the public health organization released a seven-point children's health program that included a call for Congress to "encourage and enable state health care reform initiatives to cover all children" and develop a federal program to extend health insurance coverage to the entire population.

APHA President E. Richard Brown, who is also director of the UCLA Center for Health Policy Research, characterized the proposed children's health insurance program as the equivalent of Medicare "at the other end of the age spectrum." The association's ideal is still universal health coverage, he said, but—like Medicare — health coverage for all people under age 18 would be another step along the way.

Brown argued that a single-payer system continues to draw wide support from the U.S. public but is opposed only "by certain interest groups and members of Congress."

#### 'A Nickel A Day'

Sweeney said unions and the public health community are natural partners in seeking better health for children and suggested that the health coverage proposal would cost only "a nickel a day per child."

He continued, "If we work together, I have no doubt we can pass children's health coverage. Why am I so optimistic? I think moderate and even conservative members of Congress learned in the recent election that it isn't wise to hand America's working families such an issue.

"If they don't come around, we'll use children's health the way we used Medicare, and that's a promise and a commitment."

Sweeney added that the unions want to work with the APHA "to help preserve and protect employer-based coverage for working families—at least until we can formulate a better approach."

Looking back at the last Congress, Sweeney called it "nothing short of miraculous" that organized labor and its allies were able to block the House Republicans' agenda on Medicare, Medicaid, and other social issues. "We stopped them cold," he said. "Who would have thought two years ago that our greatest public health programs would be our bulwark in our line of defense against anti-government extremists?"

With direct mail, television ads, and grass-roots lobbying, Sweeney said, "we put Medicare and Medicaid at the forefront of the national political debate and kept it there throughout the fall elections." He continued, "Even though we missed regaining control of the House by a worker-friendly majority, we reversed the agenda, and most people don't realize how close we came to winning: we defeated 17 of the incumbents we targeted and missed an additional 12 targets by a total of 14,000 votes."

#### Defending Medicare, Medicaid

But despite the gains, he added, "we will still have an uphill struggle defending Medicare and Medicaid."

Even Social Security, he said, "will come under attack as never before."

The importance of health insurance to the AFL-CIO is underscored by the fact that more than eight in 10 of all uninsured Americans are workers or are in families headed by workers, Sweeney said. In 1994 and 1995, nine of 10 children without health care had working parents, he added.

Also, he continued, unions started to realize some wage gains in the first three-quarters of 1996 "for the first time in many years" but saw them "more than offset" by cutbacks in benefits, primarily health insurance.

As an indication the level of public support, Sweeney cited a national post-election survey just completed by pollster Stan Greenberg finding that 52 percent of respondents said that guaranteeing affordable, comprehensive health care for all should be one of the country's top three policy priorities, including 22 percent who said it should be the No. 1 priority. Health coverage for children drew more limited but still substantial support, he added.

"Notwithstanding this level of support for universal health coverage, we all know President Clinton is not going to revive that debate," Sweeney said. "But we can still achieve meaningful change, the most promising of which lies in health insurance for every child in America."

Asked at a news conference if the children's insurance program had been formally made a legislative priority of the AFL-CIO, Sweeney said a leadership group would meet Dec. 16 to plan the unions' congressional agenda and that "child health will be one of the areas we'll talk about."

#### APHA's Agenda

In announcing the APHA's "new public health agenda for children," Brown called the program's components "both urgent and feasible" and argued that they could be put into place by executive and legislative action without much new government expense. The seven components of the plan were:

- Pre-natal care, maternal health, and child health programs, including outreach programs and, when needed, drug and alcohol treatment, smoking cessation, dietary supplements, and diabetes management.
- Access to health care for every child, through state and federal initiatives; protections in managed care; preservation of the Medicaid entitlement, including the early periodic screening diagnostic and testing benefit; and timely immunization.
- Substance abuse control programs, including Food and Drug Administration regulation of tobacco, a \$1 a pack cigarette excise tax hike, and a ban on television and radio ads for alcohol.
- Anti-violence and injury-prevention programs, including new limits on handguns.
- Environmental standards, inspection, and education, including air quality efforts, state and local health department programs, and federal infectious disease control, lead poisoning prevention, and asthma programs.

- A healthful standard of living, through restoration of welfare reform cuts in food stamps and repeal of provisions denying benefits to legal immigrants.

- Opportunity for reproductive health, through rejection of mandatory parental consent for minors to receive family planning advice and services, funding community- and school-based sex education programs, making contraceptives accessible to young people, and increasing funds for federal programs on family planning, sexually transmitted disease, and HIV prevention. □

### Securities

#### Prudential Securities To Pay \$18 Million To Settle New Era Case

Prudential Securities Inc. announced Nov. 15 that it would pay \$18 million to settle lawsuits over its dealings with the Foundation for New Era Philanthropy, now in Chapter 7 bankruptcy.

In agreeing to a settlement in principal with the bankruptcy trustee and certain non-profit organizations and philanthropists, regarding lawsuits pending in the U.S. District Court for the Eastern District of Pennsylvania and the U.S. Bankruptcy for the Eastern District of Pennsylvania, the firm made no admission of any liability.

The settlement would resolve all claims brought against Prudential Securities by the trustee and certain participants in the Foundation for New Era Philanthropy, the company's release stated. In addition, it would result in the withdrawal of objections filed by Prudential Securities to other settlements filed by the trustee, according to the release. In May 1995, the Securities and Exchange Commission brought charges against New Era and its founder John Bennett in the district court based on allegations of a fraudulent investment scheme that bilked non-profit entities and others of over \$135 million.

New Era, based in Radnor, Pa., operated a program that allegedly offered individual benefactors a chance to double their gifts to charity. The funds to double the gifts purportedly came from anonymous donors. Later in the scheme, non-profit organizations allegedly were offered the opportunity to double funds by submitting them to New Era. Under the alleged scheme, these organizations could send money to New Era and have the funds matched by the anonymous donors and then returned. Also in May 1995, New Era filed for bankruptcy protection. In September this year, Bennett was indicted in the same court based in large part on the same allegations contained in the SEC's complaint.

According to the recent release, the settlement would enable the trustee to move forward with his proposal for a prompt interim distribution to non-profit organizations harmed by New Era's Ponzi scheme and then proceed to an expeditious conclusion of the bankruptcy case. The settlement, when approved by the District Court and the Bankruptcy Court, would result in the dismissal of the trustee's lawsuit against Prudential Securities, as well as with-

drawal of objections and settlement of appeals filed by Prudential Securities regarding decisions by the Bankruptcy Court in the New Era case, Prudential noted. The settlement is also intended to resolve all litigation and potential claims against prudential Securities by non-profit organizations and philanthropists that had deposited funds with New Era. □

### Communications

#### Bipartisan Group Blasts FCC Phone Rules In Brief To Eighth Circuit Appeals Court

Four U.S. House members charged in a federal court filing that a "renegade" Federal Communications Commission "arrogantly" mangled congressional intent in writing rules for the Telecommunications Act's provisions on local competition.

Submitting a brief on the side of state regulators and local exchange carriers challenging the FCC's telephone interconnection order, Reps. W.J. (Billy) Tauzin (R-La), John Dingell (D-Mich), Rick Boucher (D-Va), and Dennis Hastert (R-Ill) urged the U.S. Court of Appeals for the Eighth Circuit to strike down the FCC's local pricing provisions.

The lawmakers argued that the commission had "taken a perfectly legible statute and turned it on its head."

"The FCC's First Report and Order is an act of extraordinary arrogance," they said. "The Order blatantly disregards congressional intent on two material aspects."

The lawmakers said that the FCC had trespassed on authority that Congress had left to the states and established rules requiring incumbent local phone companies to lease out parts of their systems at prices that would threaten network reliability.

"In order to reach the conclusions found in the Order, the Commissioners either had to determine that they had the authority to ignore the plain intent of the people's elected representatives, or that Congress doesn't know enough about legislative drafting to explicitly amend sections of the law that it wanted to change," they said.

"In the end, we decided to leave regulation of most local matters, including especially the pricing of local facilities and services, to the states," they added.

#### Key Distinction 'Eviscerated'

The representatives said that Congress had "deliberately crafted separate pricing methods" governing competitor access to the existing networks pegged to whether a new entrant would be using its own facilities or simply reselling incumbent's services.

The FCC rules "eviscerate this important distinction by making the more attractive cost-based pricing method," intended for facilities-based competitors, available to "pure resellers," they said.

"The Commission adopts quick fixes that Congress rejected in favor of encouraging long-term investment and employment," they said. "The Commission's agenda must, where there is conflict, take a back seat to Congress' own plan for the industry."

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