

Prepared Testimony of

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*before the*

Pennsylvania House of Representatives  
Consumer Affairs Committee

*hearing on*

**House Bill 1608, Printer's No. 2209  
(Repeal of Local Telephone Regulation)**

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## Summary

- **People are going to get hurt.** If this radical bill—comprising the industry’s Ultimate Christmas Wish List—is enacted, your constituents’ financial and, potentially, physical health will be harmed, especially if your constituents live in rural areas and low-income urban areas of the state.
- **Why the bill is premature, and an alternative proposal** (described on pages 2-5).
- **All or most urban and suburban exchanges of Verizon PA/North will immediately be declared competitive.** The bill almost completely removes the PUC’s oversight and consumer protections by allowing these carriers and other incumbent local telephone companies, if they so choose, to self-declare whole telephone exchanges as “competitive,” which is made dependent on the population density of the exchange, and classifies exchanges as either a “*nonrural*” exchange (with 300 or more persons per square mile according to the 2010 decennial census) or a “*rural*” exchange (all others).
- **Once the company declares an exchange competitive, it is free to serve (or not serve) whomever it pleases, to offer (or not offer) whatever services it pleases, and to charge whatever rates it pleases.** Customers lose basic protections regarding adequacy, reliability, safety, and privacy of service, and protections from price gouging, unauthorized charges (“cramming”), and unauthorized charges of service providers (“slamming”).
  - Verizon and, potentially, other large carriers seek deregulation to escape the “carrier of last resort” (COLR) obligations that require universal service to everyone within their service territories and maintenance of traditional landlines for telephone and broadband access services. These carriers want the freedom to provide basic voice services with inferior fixed wireless technologies and, where possible, to substitute their wireline broadband services with the more expensive and more profitable wireless data plans of their affiliates or “joint venture” partners. To do this, they must strip the PUC of any enforcement power over service quality and prices.
  - Customers in rural and lower-income areas will be subject to types of “redlining”—flagrant discrimination as to prices charged, technology made available, areas served, and quality and reliability of service.
- **Dissatisfied customers will have nowhere to complain.** The bill eliminates the PUC as a forum for complaints, and abolishes all consumer protection laws and regulations. Industry argues that consumers may complain instead to Better Business Bureaus, Chambers of Commerce, the Attorney General, the FCC, or the courts, but none of these (even if they had the capability and expert personnel) would have any legal basis to provide relief because of the bill’s repeals.
- **Access to emergency services is jeopardized.** Because of the bill’s repeal of reporting requirements, quality of service and reliability standards, and PUC monitoring authority over critical wireline network infrastructure (meant to detect outages that can also impede access to 911/E911 emergency services), the public’s safety is gravely jeopardized.
- **Anti-competitive behavior will flourish.** Because of the bill’s repeal of PUC authority to audit books of account and property and to review mergers and acquisitions and transactions with affiliates, carriers will easily evade wholesale interconnection requirements and otherwise fend off competitors (who provide alternatives for consumers).
- **Especially in rural areas, Verizon will replace landlines with inferior Voice Link.** As Verizon’s CEO has admitted, Verizon’s rural landlines will be replaced with wireless whenever possible (in the Company’s sole discretion). A “fixed” wireless device known as Voice Link will be installed for

voice service. It is an inferior substitute for corresponding landline service. Voice Link cannot be used for Internet access, and it will NOT:

- Allow receipt of collect calls, use of calling card minutes or other forms of cheap long-distance service. A separate international plan for international calls is required.
  - Work with medical Life Alert systems or home security alarm systems, which hurts the elderly trying to maintain independence and anyone with a burglar alarm or fire alarm system without independent wireless connections.
  - Work with DVRs or Fax machines.
  - Work with point of sale credit card machines or other electronic payment processing systems.
- **Technology advances do not obviate the need to protect consumers.** Despite industry's self-serving arguments that technology advances and robust competition have rendered consumer protections "outdated," the need for regulatory oversight never changes, regardless of changes in technologies used to provide a service.
    - Regulators intervene to impose public interest obligations. Regardless of the level of competition, some oversight is always necessary to provide things the market will not. This includes consumer protection mechanisms, local number portability, interconnection between competing carriers, prioritization of restoration of services after disaster, 9-1-1 service, access for the hearing and speech impaired, and universal service.
    - Regulation is also essential where competition is not vigorous enough to adequately protect consumers and ensure market choice and innovation.
  - **Only the industry knows the true level of competition.** Whether an adequate level of competition exists in Pennsylvania is known only to the industry participants. Their claims are completely unsubstantiated and incapable of discovery without legislation empowering the PUC to acquire the data confidentially and to report to the General Assembly. No informed public interest policy decision can be made without such information.
  - **Landlines remain vital, despite questionable industry statistics.** With billions of dollars riding on the bill, the industry's numbers—purporting to prove that landlines are plummeting while wireless lines are skyrocketing—are untrustworthy, principally because they (1) fail to account for wireline access lines that are used by business and government entities (e.g., industry-cited Center for Disease Control surveys rely only on residential households); (2) lines that provide broadband and/or Internet Protocol (IP)-based services are classified as "something else"; and (3) do not address residential households that depend on both wireline and wireless services. Landlines will remain vital for many years to come.
  - **Rural carriers only support the bill to receive five more years of Pennsylvania Universal Service Fund (Pa. USF) support.** Although several of Pennsylvania's rural carriers are in serious financial danger because of a 2011 FCC order (engineered primarily by AT&T and Verizon) depriving them of vital revenues for the use of their facilities, they very shortsightedly support the bill (when they should be opposing it with all their strength) because it preserves the Pa. USF for a mere five years *at 2012 levels*, but forever caps the fund at its yearend 2018 level and forbids an expansion of the base of contributors to include wireless (principally AT&T and Verizon) and interconnected voice over the Internet Protocol (VoIP) providers. The PUC may extend the fund's life, but, given the bill's restrictions, it will be inadequate after January 1, 2019. Also, any rural carrier that declares even one of its exchanges competitive has its fund receipts reduced by 5% (maximum of 15% over three years), which permanently reduces the fund size. This shortsighted and premature approach puts at serious risk the continuous and universal availability of wireline telecommunications and broadband services in high-cost rural areas of Pennsylvania.

## Testimony

Chairman Godshall, Chairman Daley, and Members of the Committee, thank you for the opportunity to testify today on House Bill 1608, Printer's No. 2209.

*I wish to make plain at the outset that my criticism of this bill is limited to its provisions, and not at all to its sponsors for whom I have the utmost respect.*

To summarize my testimony: This bill, if enacted, will harm your constituents, especially if your constituents live in rural areas or are low-income regardless of where they live in the state. The harm has the potential to be so grave that they will, in droves, ask you why you let it happen.

In an effort to demonstrate that I am qualified to speak on the merits of the bill, I offer the following: This is my fourteenth year (1979-1985; 2005 – present) regulating the local exchange telephone companies that have advanced this bill. I am currently an active member of the Committee on Telecommunications of the National Association of Regulatory Utility Commissioners (NARUC). On January 27, 2010, I was appointed by the Federal Communications Commission as one of four state utility regulators on the Federal-State Joint Board for Universal Service created by Congress in 1996 to ensure the availability of telecommunications services throughout the nation. I was elected State Chairman of the Board in January 2011 and continue in that role after my reappointment to the Board in July of this year.

I have attached to this prepared testimony my detailed analysis of the bill. I will provide an even more detailed, line-by-line analysis of the bill to your offices by e-mail.

## **Why the Bill Is Premature, and An Alternative Proposal**

My staff and I have spent a great deal of time attempting to explain why the bill is not good for consumers and for Pennsylvania. Rather than dwelling on criticisms, let me be more constructive by urging you to look at the bigger picture and to consider this bill in a larger context.

The big picture is rooted in an unchangeable economic fact: It costs much more to serve telephone customers in rural areas (where there are far fewer customers per mile of line and fewer business customers) than it does to serve them in urban and suburban areas.

Yet, from the beginning of telephony in America, universal service has been the goal—ubiquitous availability of telephone service.

So states (through their public utility commissions) granted exclusive service territories for phone companies and guaranteed them reasonable returns on investments that provided service in return for adequate and safe service and facilities at reasonable prices.

Implicit in this “social compact” was the understanding (valid to this day) that the company would serve everyone in its service territory if it was reasonably economic to do so (if not, the customer must contribute to the cost of the necessary facilities). This has become known as the “carrier of last resort” (COLR) obligation.

H.B. 1608 eliminates that obligation. Why do our phone companies want this? There are two principal reasons:

(1) So-called “asymmetric”<sup>1</sup> regulation of cable and wireless companies compared to that of local exchange companies. Cable and wireless companies essentially operate under Federal Communications Commission (FCC) rules. “Incumbent local exchange carriers” (ILECs) are regulated by state public utility commissions that are much more demanding about service quality and rates and conditions of service. They claim that they cannot compete fairly with entities that do not share their state regulatory burdens.

As a matter of corporate strategy, Verizon may want to provide retail services in all or most of its rural exchanges largely through its affiliate Verizon Wireless and not through its established landline telephone and broadband network. This requires the total shedding of state regulation for permissive federal regulation.

(2) Federal funding subsidizing service in rural areas has been reduced by FCC “reforms” in 2011, that also eliminated (immediately and gradually over time) substantial access payments by long distance and wireless carriers for their use of the ILECs’ facilities to terminate calls on the local systems. The National Exchange Carriers Association estimates that the FCC “reforms” will result in cumulative reductions of \$5.2 billion from 2012-2020.

So, does H.B. 1608 adequately address the first issue?

Yes, if you consider only the financial welfare of the companies, because, if the bill becomes law, they will then be able to shed unprofitable customers or demand that those customers pay a lot more to be served.

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<sup>1</sup> “Not identical on both sides of a central line; unsymmetrical; lacking symmetry.”

Of course, the answer is “no” if you are a customer, especially a rural customer. If the customer is made to take wireless rather than landline service, wireless service is not yet a satisfactory technical or affordable substitute for landline service, especially when many more cell towers need to be built to provide ubiquitous, reliable service. Rural service and rates will not be comparable to those in urban/suburban areas, as federal law requires.

Does H.B. 1608 address the second issue?

Yes, if you are Verizon (and perhaps mid-size carriers like CenturyLink and Windstream), if enough unprofitable customers can be dropped or charged more, but many of Pennsylvania’s small rural carriers will not survive because they cannot raise local subscriber rates high enough to compensate for the loss of both federal support and revenues from long distance and wireless carriers for terminating their calls. Their only hope is to receive sufficient compensating support from the Pennsylvania Universal Service Fund.

But H.B. 1608 caps that relief at 2012 levels, effectively terminates the fund at the end of 2018, and, if the PUC continues the fund, its level may not be greater than that at yearend 2018, and the base of contributors may not be broadened. After five years, the fund will be inadequate to provide meaningful support to those rural companies that desperately need it.

Consequently—

- (1) There is certainly asymmetric regulation, but whether it has significantly impaired competition and innovation is unknown. The PUC would need statutory authority to demand data on a confidential basis from cable, wireless, VoIP, and other providers to make a valid assessment. Meanwhile, the carriers’ claims that they cannot fairly compete are unsubstantiated and provide no basis to adopt the bill’s drastic repeals.
- (2) The Pa. USF is vitally needed and should be strengthened, not diminished and made ineffective.

- (3) Although elimination of the COLR obligation—and abandonment of the “social compact”—may be at least part of the eventual solution, it is premature and very unwise at this juncture.
- (4) **This is no time to strand many residential and business customers in both rural and non-rural areas without service or to condemn them to exorbitant rates with no laws or rules to provide them any relief, and no adequate and competent forum to adjudicate their complaints.**

This is especially so when several of Pennsylvania’s small rural carriers are facing serious financial uncertainty. Their customers face the troubling possibility that no other provider will view them as profitable, at least at their current (affordable) rates. *Regulatory authority may be needed to ensure continued service to these customers at affordable rates, if only to prevent widespread abandonment of unaffordable phone service and the resulting loss of customer access to emergency services.*

What is urgently needed is a thorough assessment of:

- The true state of telecommunications competition in the Commonwealth;
- The present and likely future financial health of all the state’s carriers, especially the rural ones, and their continued level of need for the Pennsylvania USF; and
- Possible solutions to asymmetric regulation short of complete abandonment of the COLR obligation.

Rather than prematurely enacting H.B. 1608, the General Assembly should direct the PUC to undertake such an assessment immediately and to provide a report within one year with appropriate recommendations. The Commission should be given statutory authority to obtain necessary information from *all* carriers providing service in the Commonwealth.

The remainder of my testimony addresses the bill’s provisions and explains the problems that would be created were it to become law.



## Introduction

This is a radical bill. It would cause a tectonic shift in telephone service from what Pennsylvania customers now know and rely on for their safety and convenience.

Verizon and, potentially, other large carriers, seek deregulation through this legislation to escape the "carrier of last resort" (COLR) obligations that require universal service to everyone within their service territories and maintenance of traditional landlines for telephone and broadband access services. These carriers want the freedom to provide basic voice services with inferior fixed wireless technologies and, where possible, to substitute their wireline broadband services with the more expensive and more profitable wireless data plans of their affiliates or "joint venture" partners.<sup>2</sup> To do this, they must strip the PUC of any enforcement power over service quality and prices.

*These changes would hurt the elderly and those with low income, regardless of whether they reside in urban or rural areas, and will have potentially devastating effects on the economic vitality of our rural communities.*

Thus, the bill almost completely removes the PUC's oversight and consumer protections by allowing these carriers to declare whole telephone exchanges as "competitive."

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<sup>2</sup> Verizon's CEO laid out the plan—shut off all the copper wires and either push customers onto FiOS, its fiber-to-the-home service, or onto expensive wireless. Lowell McAdam, Verizon Chairman & CEO and former CEO of Verizon Wireless, said this to a group of securities analysts on June 21, 2012:

But the vision that I have is we are going into the copper plant areas and every place we have FiOS, we are going to kill the copper. We are going to just take it out of service and we are going to move those services onto FiOS. We have got parallel networks in way too many places now, so that is a pot of gold in my view.

And then in other areas that are more rural and more sparsely populated, we have got LTE built that will handle all of those services and so we are going to cut the copper off there. We are going to do it over wireless. So I am going to be really shrinking the amount of copper we have out there...So margins can improve.

Whether or not an exchange may be self-declared competitive is made dependent on the population density of the exchange. Thus, the bill creates “*nonrural*” exchanges (with 300 or more persons per square mile according to the 2010 decennial census) and “*rural*” exchanges (all others).

An exchange remains “noncompetitive” until the local telephone company self-declares it to be “competitive.” *Once the company self-declares an exchange competitive, it is free to serve (or not serve) whomever it pleases, to offer (or not offer) whatever services it pleases, and to charge whatever rates it pleases.*

The moment an exchange is declared competitive, customers become vulnerable to exploitative practices. They lose basic protections regarding adequacy, reliability, safety and privacy of service, and protections from price gouging, unauthorized charges (“cramming”), and unauthorized changes of service providers (“slamming”).

**Objective Facts, Not Unsubstantiated Claims, Are Needed  
Before Longstanding Consumer Protections Are Abolished**

The proponents of this legislation argue that robust competition exists in Pennsylvania for local telecommunications services, that “market forces” will completely discipline competitive behavior, and that customers can always have their complaints resolved satisfactorily by calling their provider (who will be only too happy to please its customers lest it lose them to a competitor). Consequently, they argue, there simply is no reason for “outdated,” “monopoly-era” consumer protection rules and regulatory oversight in this digitally connected world of technological innovation.

Vast experience has demonstrated such assertions to be nonsense. The first chapter of any book on the history of public utility regulation describes the chaos—and gross abuse of customers — that occurred before state public utility laws were enacted and state utility

regulatory bodies were created in the first decade or so of the 20<sup>th</sup> century (the Pennsylvania Public Service Commission in 1913, the FCC in 1934). These regulatory bodies were charged with *balancing* the needs of both utilities and customers, but their chief duty was to be a protective buffer between utilities and their customers. Corporations often had large concentrations of capital, their fiduciary duty was to their shareholders (not to their customers), and their chief motivation was profit. Customers were generally powerless in the face of such strength and usually had no choice of alternative providers because of the monopoly held by their utility. Despite advances in technology, none of that has changed.

*Consequently, the need for regulatory oversight never changes, regardless of changes in technologies used to provide a service.*

The basic reasons why public utility commissions and agencies like the PUC and FCC were created remain the same. There are only two:

*First*, we intervene to impose public interest obligations. Regardless of the level of competition, some oversight is always necessary to provide things the market will not. This includes but is not limited to consumer protection mechanisms, local number portability and conservation, wholesale interconnection between competing carriers, network reliability and prioritization of restoration of services after outages or disasters, 9-1-1 service, access by impaired persons to services, and universal service.

*Second*, we regulate where competition is not vigorous enough to adequately protect consumers and to ensure market choice and innovation.

Supporters of House Bill 1608 allege that local telecommunications competition in Pennsylvania is vigorous enough to justify removing regulatory oversight and consumer

protections, *but these claims are completely unsubstantiated*, which is reason enough to reject the bill and its drastic changes. Many of your districts are composed of rural areas which will be among the hardest hit by the effects of this legislation if enacted. The standard in the bill for establishing a competitive exchange in a rural area is too vague and too easily achieved.<sup>3</sup>

The PUC's lengthy experience, first with telephone competition and more recently with electric and natural gas restructuring, has demonstrated conclusively that customers get trampled by untrammelled competition. Even with vibrant competition, just as (for example) with every sporting event, rules are needed to provide order and ensure fair and safe play, and there must be an impartial umpire to punish rule breakers and settle disputes.

The distribution system of an entity that provides vital public health and safety services is "affected with the public interest" and must remain under regulatory oversight.

Thus, when the General Assembly restructured the electric and natural gas industries, the distribution systems of both were kept under the PUC's jurisdiction. Even earlier with competition permitted in the telephone long distance market, all state legislatures left local exchange service under the auspices of state regulatory commissions. Because local exchange service was so vital to the wellbeing of Pennsylvanians, the General Assembly retained PUC jurisdiction over it, even while repealing the Commission's jurisdiction over wireless service in 1986.<sup>4</sup>

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<sup>3</sup> The standard in § 3016(c)(2)(i) (bill page 7) does not measure the true level of competition. Any two competing carriers need only touch a rural exchange while the vast bulk of the exchange may be served only by the existing dominant local exchange carrier.

<sup>4</sup> The PUC's jurisdiction over "mobile domestic cellular radio telecommunications service" was repealed by Act 241 of 1984 with the repeal expiring on December 31, 1985. Prior to that date, the repeal was extended until December 31, 1986 by Act 101 of 1985. The repeal was made final by Act 157 of 1986.

## **What the General Assembly Should Do Instead**

**The true level of competition** between and among Verizon, other Pennsylvania ILECs, Competitive Local Exchange Carriers (CLECs), VoIP providers, wireless companies, and cable companies **is unknown to all but the competitors themselves.** It therefore is impossible to intelligently or responsibly accept the carriers' arguments that robust competitive forces compel a level playing field unencumbered with consumer protections and regulatory oversight. It is irresponsible of these carriers to ask for such far-reaching deregulatory changes without making adequate provision for their customers' needs. They are focused instead on the billions of dollars they stand to gain from the bill.

Rather than enacting this bill without objective data to make a public interest policy choice, the General Assembly should direct the PUC to conduct an in-depth study of the state of telecommunications competition in the Commonwealth. It should empower the Commission to obtain information from all carriers operating in the Commonwealth (many of whom do not presently fall within the Commission's jurisdiction). The Commission should be required to report its findings within one year. Perhaps by then Verizon Wireless will have constructed enough cell towers to provide the same level of reliable service that Pennsylvania's landline carriers provide today. Also by then the effects of the FCC's 2011 federal USF and intercarrier compensation "reforms" on Pennsylvania's small rural carriers will be known. **THEN AND ONLY THEN** can an informed vote be cast on the bill. Consideration of this legislation at this time is extremely **PREMATURE.**

## **Eliminating Service Reliability and Quality Safeguards Raises Significant Public Safety Concerns**

All Pennsylvanians must have reliable communication capabilities, including access to lifesaving 911/E911 emergency services. The bill eliminates safeguards that are applicable when

**critical wireline telecommunications network infrastructure suffers outages** that impede 911/E911 voice call capabilities. Such safeguards cannot depend on “competitive markets” and corporate “self-policing.”

Verizon’s neglect of its poles is already a major concern for those who rent space on them to attach electric distribution and other devices. In fact, Verizon has cut back its workforce so much that infrastructure improvement work by electric companies is routinely delayed awaiting Verizon crews to arrive. Although the poles are becoming increasingly decrepit, Verizon has refused to sell them at reasonable prices to those pole attachers who wish to get on with their improvements without such delays.

#### **Dissatisfied Customers Will Have Nowhere To Turn for Relief**

The bill’s supporters argue that dissatisfied customers may complain to their service provider, the Better Business Bureau (BBB), Chambers of Commerce (C of C), the Pennsylvania Attorney General’s Bureau of Consumer Protection (AG BCP), the FCC, or courts of law. This is a ridiculous assertion.

Even if all of these entities had the PUC’s expertise and experience in handling customer complaints, none could provide relief because the bill repeals the law and regulations upon which any relief must be based.

It would be completely unavailing for an unhappy customer to call any of them, especially the BBB or C of C. The AG BCP consists of a handful of individuals who primarily enforce the Unfair Trade Practices and Consumer Protection Law<sup>5</sup> to combat unfair and deceptive business practices. The FCC fields consumer complaints based on federal law and regulations, but it will be the first to acknowledge that it is ill-equipped to handle state law

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<sup>5</sup> 73 P.S. §§ 201-1 – 201-9.3.

related complaints, especially on a large scale. It relies on state public utility commissions for that.<sup>6</sup> The FCC has, in several contexts, “recognize[d] ... that [S]tates play a vital role in protecting end users from fraud, enforcing fair business practices, and responding to consumer inquiries and complaints.”<sup>7</sup> And the state courts of law adjudicate civil and criminal disputes and are not designed or intended to be initial arbiters of state administrative law claims.

### **“Redlining” Will Occur and Inferior Voice Link Service Will Be Installed**

The industry proponents of the bill seek to eliminate their carrier of last resort (COLR) and universal service obligations in Pennsylvania. If enacted, unprofitable residential and business customers need not be served. Customers in rural and lower-income areas will be subject to types of “redlining”<sup>8</sup>—flagrant discrimination as to prices charged, technology made available, areas served, and quality of service.

Thus, stand-alone (i.e., without a requirement to receive TV and Internet access service or some vertical features in order to obtain basic voice service) wireline residential voice telephone service at affordable and uniformly available rates becomes the subject of corporate choice and can be eliminated indirectly or directly.

The bill allows Verizon to selectively abandon its landline network as it pleases and to insist that its customers subscribe to a “fixed” wireless service called Voice Link. Since

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<sup>6</sup> “The [Telecommunications Act of 1996] envisions collaboration between the FCC and the States in determining end-user needs, promoting on-going competition between providers and technologies, providing universal service, ensuring public safety and privacy, and protecting consumers from illegal and unfair practices.” Draft, NARUC Federalism Task Force Report: *Cooperative Federalism and Telecom in the 21<sup>st</sup> Century* (June 2013) at 4 (action is expected on the draft at NARUC’s meetings during the week of November 18, 2013), available at <http://www.naruc.org/Publications/20130825-final-DRAFT-Federalism-Task-Force-Report.pdf>.

<sup>7</sup> *In the Matter of Preserving the Open Internet; Broadband Industry Practices*, GN Docket No. 09-191, WC Docket No. 07-52, FCC 10-201 Report and Order (rel. Dec. 23, 2010) at 66 n.374, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-10-201A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-201A1.pdf).

<sup>8</sup> Defined generally as the practice of denying or charging more for services in particular areas.

Verizon's goal is to exit the landline business (with the possible exception of where FiOs has been deployed) in favor of a hugely profitable, unregulated wireless world, it will substitute lines into homes and businesses with this wireless device. It is a poor substitute for landline service. It has many shortcomings, as revealed by Verizon's own Terms of Service. The people most harmed by this scaled back service include the people who, in one way or another, are most vulnerable.

- Voice Link will not allow receipt of collect calls, use of calling card minutes or other forms of cheap long-distance service. It requires a separate international plan to make international calls.
- Voice Link will not work with medical Life Alert systems or home security alarm systems, which hurts the elderly trying to maintain independence and anyone with a burglar alarm or fire alarm system without independent wireless connections.
- Voice Link will not work with DVRs or Fax machines.
- Voice Link will not work with point of sale credit card machines or other electronic payment processing systems.
- Voice Link cannot be used for Internet access.

**It Is Overly Simplistic To Suggest That Customers Can Simply Switch Providers If They Are Unhappy With Their Service.**

It is disingenuous to suggest that "customers will simply switch providers if they are unhappy with their service," or that a phone call to their provider will necessarily provide any relief because their provider is anxious to please them for fear of losing them as a customer.

In reality, customers, particularly in rural areas of the state, usually have no choice but to stay with their incumbent local exchange provider because there is no satisfactory alternative: either no cable voice service (e.g., wireline VoIP) is available; a competitive local exchange carrier serves a core area but only businesses; or satellite voice service is far too expensive. If wireless service is available, it often suffers from uneven voice quality, dead zones, expensive



“usage-sensitive” pricing that limits usage (“data plans”), and contract terms tied to subsidizing expensive handsets that prohibit switching for lengthy periods. And the wireless industry recently won federal court approval to include contract terms forcing their customers to individually arbitrate rather than litigate claims, thus depriving customers of resort to courts of law and forcing them to go it alone against some of the most profitable companies in the world.<sup>9</sup>

In fact, the “you-can-switch-if-you’re-not-happy” argument has as much validity as the pre-New Deal U.S. Supreme Court’s rejection of reasonable limits on working hours for children, because such laws interfered with the children’s “liberty of contract.” Those unfortunate children had no real bargaining power with their employers, and neither do many customers in Pennsylvania when they complain to their wireless provider. The PUC routinely turns away their pleas for help for lack of jurisdiction.<sup>10</sup> Telling dissatisfied Pennsylvanians that they have the “liberty of contract” to switch to another voice provider is no solace—and no reason to abandon fair and reasonable consumer protections—when they realistically have no bargaining power and no alternative but to stay where they are.

**Pennsylvania’s Universal Service Fund Is Needed Now  
More Than Ever By Rural Telephone Companies  
To Ensure Universal Service**

The bill’s provisions regarding the Pennsylvania Universal Service Fund (Pa. USF) intentionally confuses and misdirects the debate regarding the universal service concept that encompasses both voice and broadband access services.

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<sup>9</sup> *AT&T Mobility LLC v. Concepcion*, \_\_ U.S. \_\_, 131 S.Ct. 1740 (2011) (holding that the Federal Arbitration Act preempts California judicial rule stating that a class arbitration waiver is unconscionable under California law if it is found in a consumer contract of adhesion in a setting in which disputes between the contracting parties predictably involve small amounts of damages).

<sup>10</sup> The PUC’s jurisdiction over “mobile domestic cellular radio telecommunications service” was repealed by Act 241 of 1984 with the repeal expiring on December 31, 1985. Prior to that date, the repeal was extended until December 31, 1986 by Act 101 of 1985. The repeal was made final by Act 157 of 1986.

The Pa. USF is a critical funding support mechanism for the rural incumbent local exchange telephone companies (ILECs) that have carrier of last resort (COLR) obligations in a number of rural and high-cost areas within Pennsylvania.

The Pa. USF operates in parallel with the federal USF. The FCC, through a number of actions starting in November 2011, is transforming the federal USF as well as the intercarrier compensation regime (i.e., money that is paid by one carrier to another for wholesale access to network facilities and the exchange of traffic). **The results adversely affect the financial viability and the operational survival of numerous rural ILECs both nationally and in Pennsylvania.** A number of parties, including the PUC, other state utility commissions, the National Association of Regulatory Utility Commissioners (NARUC), the National Association of Utility Consumer Advocates (NASUCA), and individual small rural telephone companies (and their national trade associations) have appealed the FCC's actions to the U.S. Court of Appeals for the 10th Circuit in Denver, Colorado.

*Because of the FCC's ill-advised actions, the Pa. USF assumes critical importance for the maintenance and enhancement of universally available wireline voice and broadband access services in rural Pennsylvania for residential and business consumers.*

Wireless broadband in rural areas cannot be the substitute solution because of deployment and technological spectrum limitations, and because wireless data plans are much more expensive than terrestrial broadband. Furthermore, all wireless traffic including broadband depends on wireline network facilities for its movement in both rural and urban areas. If those facilities are not upgraded, transmission speeds can become degraded as the volume of traffic (including wireless) increases. The rural ILECs must have adequate financial incentives and assurances to continue investing in their landline broadband networks. Because of the FCC's

misguided actions and the resulting financial uncertainty, the majority of rural ILECs both nationally *and in Pennsylvania* have nearly ceased making capital investments in their broadband networks, and they have declined to avail themselves of even low interest loans from the Rural Utilities Service (RUS) in the U.S. Department of Agriculture.<sup>11</sup>

The small rural carriers' own consultant briefed the PUC after the FCC's 2011 order and warned the Commission that a number of smaller rural ILECs in Pennsylvania risk losing more than \$7.31 million of annual high-cost support from the federal USF, jeopardizing their very viability.<sup>12</sup>

At the same time, the FCC's ill-conceived intercarrier compensation "reforms" have resulted in cumulative intrastate switched access revenue reductions of \$47.17 million for all the rural ILECs in Pennsylvania in 2012-2013. These reductions are only partially offset by the federal "access recovery charge" (resulting in higher local telephone bills), and other federal transitional support mechanisms.<sup>13</sup> Thus, under the FCC's directives, a wireless carrier that moves a call from Philadelphia to a wireline number in Ephrata pays Denver and Ephrata Telephone Company (D&E - Windstream) absolutely nothing for the use of D&E's switched access network in terminating the call. Under current FCC rules, smaller rural ILECs will see their call termination switched access rates and revenues reach absolute zero by 2020.

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<sup>11</sup> See Michael J. Balhoff & Bradley P. Williams, *State USF White Paper: New Rural Investment Challenges* (June 2013), available at <http://www.wyotelassn.org/associations/7492/files/State%20USF%20White%20Paper%20June%202013.pdf>.

<sup>12</sup> Alexicon Consulting, Meeting with the Pennsylvania Public Utility Commission, March 7, 2012, p. 3 (elimination of federal USF support to areas that are served by an "unsubsidized competitor" that does not have COLR obligations).

<sup>13</sup> Such federal transitional support mechanisms will be phased out for certain larger rural ILECs in 2017-2020 (federal "price cap" companies: *Transformation Order*, ¶ 920, p. 333, 26 FCC Rcd 17663, 17996).

Continuous reductions in federal USF support and access revenues for rural ILECs holds grave implications for the maintenance of universal service and broadband availability in rural Pennsylvania. *This is not the time to freeze the Pa. USF at 2012 levels and forbid expansion of the base of contributors to it, as the bill provides.* Rather, the Commission should be permitted to use its legal and technical expertise to restructure and reform the Pa. USF mechanism and the relevant regulations after input from all interested stakeholders. The Commission needs the flexibility to coordinate the Pa. USF's operation with that of the federal USF so that the concept of universal service (including broadband availability) remains viable for Pennsylvania's citizens, *especially for those who live and work in the high-cost rural areas of the Commonwealth.* The Commission was prepared to do just that before H.B. 1608 was introduced.

Leaving the necessary and appropriate reform and restructuring of the Pa. USF mechanism to the Commission's expertise will also resolve other issues that the bill glosses over. For example, Verizon PA currently funds its annual contribution to the Pa. USF with about \$16.8 million that it owes to its ratepayers from a prior Chapter 30 proceeding. Consequently, Verizon PA is not permitted to surcharge its customers for its contribution to the Pa. USF. If, however, the bill were to become law, should Verizon be made to return the \$16.8 million to its noncompetitive retail service customers before it declares any of its exchanges competitive and then imposes a Pa. USF contribution recovery surcharge on them?

Similarly, the bill is silent on how the recovery of the Pa. USF annual contributions will be recovered among the various categories of noncompetitive and competitive exchange and service classifications. It surely is not fair to impose this surcharge solely on selective categories of noncompetitive retail service customers, but, without PUC oversight, Verizon and other carriers may do so at will.

### **Anti-Competitive Behavior Will Flourish**

The bill eliminates current Section 3016(d)(1) of the Public Utility Code, 66 Pa. C.S. § 3016(d)(1), which mandates that the “prices which a local exchange telecommunications company charges for competitive services shall not be less than the costs to provide the service.” This encourages predatory pricing that can have inimical effects and artificially distort the markets for retail and wholesale telecommunications services that are provided by Pennsylvania’s incumbent local exchange carriers.

The bill maintains the existing statutory requirement under Section 3016(f)(1) that an incumbent local exchange carrier “shall be prohibited from using revenues earned or expenses incurred in conjunction with noncompetitive services to subsidize competitive services.”

However, the bill renders this important competitive safeguard and its enforcement ineffective by eliminating the PUC’s authority to “audit the accounting and reporting system of a telecommunications carrier relating to its transactions with an affiliate,” and by repealing the need for affiliated interest filings. (§§ 3019(b)(1) & (c)(1)(vi)).

Consequently, Verizon and other incumbent local carriers will be able to cross-subsidize services in competitive exchanges with revenues from noncompetitive exchanges. This is not only unfair to the customers without alternatives in the noncompetitive exchanges, but potentially fatal to competitors who must compete against unfairly subsidized Verizon prices.

Verizon will also price wholesale interconnection services in a discriminatory manner, favoring its affiliates over their competitors. Such anticompetitive behavior is made possible by “private” commercial interconnection agreements that will not be submitted to the PUC (§ 3017(b)), and by repeal of the requirement to file affiliated interest agreements.

**Beware of “Wireless-Only” Statistics; Landlines Will  
Remain Vital for Years To Come**

Much has been said — albeit imprecisely and with selective use of statistics — that wireline telecommunications services are a “thing of the past” and, consequently, regulatory oversight is unnecessary. The industry loves to trot out a graph purportedly showing that landlines are plummeting while wireless lines are skyrocketing. Apply liberal salt before believing it.<sup>14</sup>

The table below<sup>15</sup> is based on PUC data that are used to calculate the monthly Telecommunications Relay Service fee (TRS – service that is available to the hearing and/or speech impaired). The Commission in some fashion oversees at least 4.6 million residential and business access lines as of December 31, 2012, operated by both ILECs and wireline competitors. As this table indicates, the number of reportable access lines to the Commission for

<sup>14</sup> Start by reading this article: Bruce Kushnick, *‘Wireless-Only’ Statistics Are More Pixy Dust Than Facts; The ‘Landline’ Accounting Has Been Rigged*, available at [http://www.huffingtonpost.com/bruce-kushnick/wirelessonly-statistics-a\\_b\\_3645944.html](http://www.huffingtonpost.com/bruce-kushnick/wirelessonly-statistics-a_b_3645944.html).

<sup>15</sup> **Pennsylvania Access Lines  
Reported for TRS Fee Calculation, 2007-2012**

Year	Residential	Change	Change (%)	Business	Change	Change (%)	Total	Change	Change (%)
2007	4,246,821			2,454,874			6,701,695		
2008	3,758,229	-488,592	-11.50%	3,083,111	628,237	25.59%	6,841,340	139,645	2.08%
2009	4,836,663	1,078,434	28.70%	1,981,948	-1,101,163	-35.72%	6,818,611	-22,729	-0.33%
2010	3,157,133	-1,679,530	-34.72%	2,151,764	169,816	8.57%	5,308,897	-1,509,714	-22.14%
2011	4,048,612	891,479	28.24%	2,038,058	-113,706	-5.28%	6,086,670	777,773	14.65%
2012	2,878,281	-1,170,331	-28.91%	1,718,361	-319,697	-15.69%	4,596,642	-1,490,028	-24.48%

- NOTES:**
1. An entity (CONFIDENTIAL) changed its reporting method for its access lines as of Dec. 31, 2012.
  2. Reported business access lines include Centrex access line figures adjusted downwards with “equivalency ratios.”
  3. All access line figures are as of December 31 of each calendar year.
  4. These are aggregate figures from all reporting entities and are not proprietary.

Source: Pennsylvania Public Utility Commission, Technical Utility Services, Telecommunications Group, Recalculation of the Pennsylvania Telecommunications Relay Service (TRS) Surcharge, Docket No. M-2013-2341301, Report Date May 14, 2013, Order entered May 23, 2013.

purposes of recalculating the annual TRS monthly fee dropped dramatically from 2011 to 2012 or by 24.5%. This does not mean that wireline access lines were suddenly and en masse dropped by consumers. A certain entity (whose name must remain confidential) changed its reporting method.

FCC statistics indicate that at least 6.7 million “wireline retail telephone service connections (including both switched access lines and interconnected VoIP subscriptions)”<sup>16</sup> were in operation as of June 2012 in Pennsylvania, with 3.9 million operated by ILECs which have carrier of last resort (COLR) obligations. Most of these ILECs also have Chapter 30 broadband deployment commitments and have received Commission authorizations for cumulative regulated revenue and rate increases of at least \$500 million since 2005-2006 — the quid pro quo of Chapter 30. Competitive carriers also depend for the provision of their retail services on at least 0.9 million ILEC provided lines (resold ILEC lines or unbundled network element ILEC lines).<sup>17</sup>

Thus, although wireless services have made great inroads, a large number of households still depend on both wireline and wireless services. This is reinforced by the fact that retail wireline broadband services (digital subscriber line or xDSL, fiber optic to the premises or to the home such as Verizon FiOS, cable television coaxial cable, etc.) can often provide access to the Internet at higher speeds and at much cheaper prices than equivalent and usage-based wireless data plans. Otherwise, you are welcome to watch Netflix movies on your wireless tablet via your nearest wireless tower and be prepared to either pay the price or cope with those annoying messages about exceeding your data download limits for the month.

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<sup>16</sup> FCC, Industry Analysis and Technology Division, Wireline Competition Bureau, *Local Telephone Competition: Status as of June 30, 2012*, (Washington, D.C., June 2013), at 2, and Table 9, at 20, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-321568A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-321568A1.pdf) (FCC Local Competition Report).

<sup>17</sup> FCC Local Competition Report, Table 15, at 26.

It should also be emphasized that small as well as large institutional multiline business customers do not rely on wireless telephones. When you swipe your credit card at a gas station, your payment information gets transmitted over a conventional wireline connection. Similarly, when you call your bank, an insurance company, a hospital, or a government agency, the call gets answered from a wireline phone. These wireline connections are not going away any time soon, and wireline communications are usually accorded a higher degree of privacy protection.

Those who rely on certain Center for Disease Control (CDC) telephone line statistics to argue the alleged obsolescence of wireline telecommunications services miss the obvious. The data sampling of the CDC does not cover business access lines. The reporting of wireline access lines also gets skewed when the same physical access line is or is not used for retail broadband access services, e.g., an ordinary copper-based access line that also provides xDSL service may be reported as “something else.”

The Commission, on the basis of individual Chapter 30 adjudications, has deregulated the prices for certain telecommunications services such as those offered to multiline institutional customers, e.g., Verizon Centrex. The Commission does not regulate the prices for bundled service packages that are offered to residential consumers, but it exercises measured and appropriate jurisdiction so that basic landline telephone connectivity is not hastily lost in the event of non-payment. The Commission also does not regulate prices for retail Voice over the Internet Protocol (VoIP) services under Pennsylvania’s 2008 VoIP Freedom Act. But the Commission is statutorily entrusted with the necessary regulatory oversight when it comes to the adequacy, reliability, and safety of the network facilities that are used for the provision of both regulated and unregulated services, and the movement of various telecommunications and



communications traffic ranging from Netflix movies to critical and lifesaving 911/E911 voice calls.

When critical network facilities fail and impede the flow of traffic, including 911/E911 access to public safety answering points (PSAPs), the Commission gets involved. When consumers do not have wireline voice access to 911/E911, even when they use a price unregulated VoIP service, the Commission exercises jurisdiction.

Critical network infrastructure facilities such as fiber optic transmission lines, central office switching centers, and even ordinary retail access lines do fail. *Marketplace competition alone does not and cannot police basic parameters for the public safety and welfare of Pennsylvania's citizens.*

The FCC is unable and unwilling to deal with the adequacy, reliability, and safety of telecommunications services and network facilities in Pennsylvania. That is the proper and statutorily delegated duty of the PUC.

### **What's Missing from the Bill**

Verizon and other carrier supporters of the bill argue that they need competitive parity with cable and wireless companies, and they therefore need to be free from "outdated" regulatory oversight. Essentially, they don't want to be public utilities any longer. That being so, appropriate corollary provisions need to be added to the bill. For starters, I suggest these:

1. Like cable and wireless companies, Verizon and other ILECs should no longer have the power of eminent domain.
2. Like cable and wireless companies, Verizon's and other ILECs' facilities should no longer occupy the public streets, bridges, and rights-of-way free of charge. If the bill

becomes law, they should be required to begin payments to local municipalities for the right to occupy these public possessions.

3. Since Verizon is selectively abandoning its conventional wireline network, including its poles on which other public utilities rely, Verizon should be held responsible for the removal of these and other increasingly dangerous parts of its utility plant. The PUC should be empowered to oversee this process and to establish, after notice and an opportunity for hearing, fair sale prices.

4. Since Verizon seeks a level competitive playing field, it should not be permitted to subsidize its prices to the detriment of its competitors by receiving virtually automatic Chapter 30 rate increases. This reform should be implemented immediately in any exchange where Verizon delegates its broadband deployment obligation to its unregulated affiliate, Verizon Wireless.

5. Verizon should be required to provide one or more tiers of affordable basic calling service with access to E911 in all exchanges, regardless of whether the exchange is classified as competitive or noncompetitive, and should be prohibited from requiring that these voice services be bundled with video, data services, or other vertical features, that customers may not want or need.

In the strongest possible terms, I urge you not to support the bill.

I would be happy to answer any questions that you may have.

**Bill Analysis – H.B. 1608, P.N. 2209  
 Repeal of Local Telephone Regulation**

**James H. Cawley, Commissioner  
 Pennsylvania Public Utility Commission**

<i>Provisions</i>	<i>Problems</i>
<p><b>1. The Bill's Structural Approach –</b></p> <p>a. Under existing Public Utility Code Chapter 30 (which HB 1608 amends), Pennsylvania's "incumbent local exchange carriers" (ILECs) may seek the classification of certain protected and non-competitive services as competitive subject to PUC approval. Such a request can encompass a particular geographic area, exchange or group of exchanges, or density cell. (current § 3016(a)). Although the PUC abstains from the price regulation of competitive services, the existing Chapter 30 provides for continuous Commission jurisdiction over the safety, adequacy, reliability and privacy of services and the adequacy, reliability, and safety of related network facilities. The PUC also exercises certain jurisdiction (e.g., 911/E911 services) even if the retail services are offered over the Internet Protocol (IP), e.g., VoIP (73 Pa. S. § 2251.6(1)(i)). End-user consumers are accorded relevant protections.</p>	
<p>b. HB 1608 grandfathers the ILECs' competitive service classifications approved by the PUC. However, it permits ILECs to self-declare whole exchanges as competitive without any objective standards and PUC review.</p>	<p>This removes PUC oversight and critical consumer protections including those regarding the reliability, adequacy, and safety of services and <i>network facilities</i> in competitive exchanges, including critical access to 911/E911 calling services. In short, HB 1608 creates and discriminates between two broad classes of Pennsylvania telecom. service consumers.</p>
<p>c. An exchange is noncompetitive until an ILEC self-declares it competitive.</p>	
<p>d. Whether or not an exchange may be self-declared competitive—and how many consumer protections survive—is made dependent on the population density of the exchange, which is therefore either a "<i>nonrural</i>" exchange (with 300 or more persons per square mile according to the 2010 decennial census) or a "<i>rural</i>" exchange (all others).</p>	<p>Presumes, without any factual findings, that "nonrural" and "rural" exchanges are "competitive." No objective measurement of geographic density since exchange boundaries do not necessarily line up with census blocks and census tracks.</p>
<p>e. <i>Once an ILEC declares an exchange competitive, within certain time limitations relating to "basic calling service," it is free to serve (or not serve) whomever it pleases, to offer (or not offer) whatever services it pleases, and to charge whatever rates it pleases. Regulatory safeguards and consumer protections relating to the adequacy, reliability, and safety of services and network facilities will no longer apply</i> (proposed §§ 3019(c)(1)(iii) and 3019(c)(1)(v)).</p>	<p>This allows abandonment of "carrier of last resort" (COLR) obligations, and permits price and technology "redlining" in both urban and rural exchanges (certain services may be offered, but at higher prices or using inferior fixed wireless technology).</p>

<i>Provisions</i>	<i>Problems</i>
(1) All services determined by the PUC or declared by an ILEC to be competitive as of January 1, 2013, remain competitive services. (§ 3013(c)).	
(2) Once an exchange is declared by an ILEC to be competitive, all services provided in that exchange are deemed competitive services except wholesale switched carrier access services (§ 3016(c)(3)(i)).	The non-competitive switched access should stop “feeding” revenue and rate increases for other Ch. 30 ILEC non-competitive services through the ILECs’ price stability mechanisms.
(3) Tariffs detailing prices and service rules need not be filed with the PUC (except for “switched access,” which is a wholesale service between carriers) (§ 3016(d)(2)). Instead, the carrier must post its rates, terms, and conditions of service on an Internet website, or provide “other written notice to a customer upon request.” (§ 3016(d)(4)(i)).	This presumes that all end-users have electronic access to the Internet. There are no specifications what the “written notice” will contain. The ILEC can <i>differentiate</i> rates for the <i>same</i> service within the competitive exchange. Will such differentiated rates be posted or noticed and how often?
<p><b>2. Nonrural Exchanges –</b></p> <p>a. Immediately upon the bill’s enactment, nonrural exchanges may be declared competitive by the mere filing with the PUC of a “<i>declaration</i>” to that effect, which is effective immediately (§ 3016(c)(1)).</p>	Verizon PA/North are likely to immediately declare a number of their suburban and urban exchanges competitive. Other ILECs, which serve rural areas of the state, may not because of the bill’s provision (§3019(b.1)(ii)(B) on bill page 16) regarding the Pennsylvania Universal Service Fund (Pa. USF - discussed below) which reduces a carrier’s support receipts from the fund if it declares even one of its exchanges competitive.
<p>b. In competitive exchanges, <i>residential</i> customers who already subscribe to “<b>basic calling service</b>” (which, using any technology, provides the ability to transmit and receive voice communications, including access to E-911) on the day of the ILEC’s declaration, must be allowed to continue such service at their residential location until <i>January 1, 2018</i>, but such service is forfeited if the subscriber moves or disconnects service for any reason prior to that time (§ 3012, 3016(c)(3)(ii)).</p>	Note that all business customers in competitive exchanges are subject to competitive rates and services (no consumer protections, no PUC oversight of reliability, quality, and adequacy of services and network facilities, including 911/E911 access.
<p>c. In competitive exchanges, <i>residential</i> customers who do not subscribe to “basic calling service” on the day of the ILEC’s declaration may petition the PUC to order the ILEC to provide the service, which can only be ordered “if the customer establishes that [unspecified] “service” is not available to the customer’s location from another provider.” (§ 3016(c)(4)(i)).</p>	The burden shifts to residential consumers to ask for what ILECs now provide under their COLR obligations. Business customers are purposefully deprived from the same capability. The customer may not want inferior fixed wireless technology (e.g., Verizon Voice Link) that does not support home security monitoring and medical alert systems.
(1) If directed to provide “basic calling service,” the ILEC may use any technology, may charge different rates than those charged to other customers in the exchange, and may use joint ventures to provide the service, which may be bundled with other services at the provider’s option. (§ 3016(c)(4)(ii)&(iii)).	True <i>basic</i> local exchange telephone service is eliminated. The consumer is obliged to pay for unwanted “add-ons” like bundled services. Lifeline service consumers may be charged different

<i>Provisions</i>	<i>Problems</i>
	rates for the same service within the same exchange.
(2) The ILEC may charge rates below its cost for competitive services. (Deletion, bill page 9, lines 17-19).	This is a statutory endorsement of unlawful predatory pricing. An ILEC, where it faces competition, can price its retail services below cost (e.g., wholesale access cost), while charging such access costs to its local interconnected competitors. Once competitors are driven away, retail prices can go back up again. Federal law remedies are difficult to pursue.
<p><b>3. Rural Exchanges –</b></p> <p>a. Rural exchanges remain noncompetitive until the ILEC serving that exchange files with the PUC not merely a “declaration” that the exchange is competitive (as with nonrural exchanges) but a <i>“declaration and affidavit”</i> that it is competitive. (§ 3016(c)(2)(i)).</p>	The self-declaration is not subject to any objective criteria. Competitors may not be present throughout a rural exchange and wireless coverage may have gaps. This facilitates selective abandonment of ILEC wireline network segments, introduction of technically inferior fixed wireless technology for voice services, and mandatory switches to more expensive broadband access data plans of an ILEC’s wireless affiliate or “joint venture” partner.
(1) The declaration and affidavit must state “that two or more alternative service providers operate in the exchange.” An “alternative service provider” (ASP) is defined in existing Public Utility Code Chapter 30 as “An entity that provides telecommunications services in competition with a local exchange telecommunications company.” (66 Pa.C.S. § 3012).	
(2) One of the two ASPs may be an “over-the-top” ASP, defined by the bill as an ASP “that provides voice service over Internet protocol or a successor format using the wireline or wireless broadband transmission facilities operated by another entity and that does not operate its own broadband transmission facilities.” (§ 3016(c)(2)(iii)).	The services of ASPs depend on “best efforts” in the “Internet cloud.” ASPs do not have to meet rigorous quality of service and reliability standards. ASP services still depend on existing wireline networks for reaching end-users.
(3) Verizon and Verizon North cannot file such a declaration and affidavit regarding their rural exchanges until their Chapter 30 broadband deployment obligations end on December 31, 2015. (§ 3016(c)(2)(ii)).	
b. “Protected service” is provided in <i>noncompetitive</i> exchanges and is defined similarly to “basic calling service” (available in competitive exchanges): “Service provided to <i>residential consumers or single-line business consumers</i> that provides the ability to receive and transmit voice communications, including access to E-911.” (§ 3012) (emphasis added).	Note that multi-line businesses are not eligible for protected service (even in noncompetitive exchanges), only to competitive (i.e., potentially much higher) pricing and service. Use of “any technology” creates statutory ambiguity over PUC jurisdiction over “protected service” that will be provided over fixed wireless technology in a noncompetitive exchange (see also proposed § 3019(c)(1)(i), p. 19).

<i>Provisions</i>	<i>Problems</i>
<p>(1) Upon self-declaration of an ILEC exchange as competitive, protected service ceases, and the carrier is free to provide whatever prices and service it pleases, once an exchange is declared competitive (with time limits for the basic calling service).</p>	
<p>(2) While the exchange remains noncompetitive, protected service rate increases must be approved by the PUC with the nine-month time limit of § 1308, the time limits of the ILECs' alternative regulation plans and price stability mechanisms, and must be "just and reasonable" under § 1301. (§ 3016(d)(4)(ii)&amp;(iii)).</p>	<p>The amendment leaves the rates for other noncompetitive services (e.g., installation, restoration, disconnection) "off the picture." There is statutory ambiguity because the Ch. 30 alternative regulation plans and price stability mechanisms have much shorter time frames than the § 1308 nine-months, e.g., Verizon PA 60-day notice for "price change opportunity" non-competitive rate changes.</p>
<p>(3) The PUC retains its authority to apply and revise its 52 Pa. Code quality of service standards to the safety, adequacy, reliability, and privacy of protected services, as well as the ordering, installation, suspension, termination, and restoration of a protected service. (§ 3019(b)(2)(i)(A)(I)&amp;(II)).</p>	<p>The PUC will be unable to deal with network outages that also affect public safety (911/E911) in competitive exchanges. Adequacy, reliability, and privacy of services in both noncompetitive (e.g., multiline business customers) and competitive exchanges will not be under PUC safeguards. It restricts consumer access to the PUC for informal and formal consumer complaints.</p>
<p>(4) The PUC also retains its authority to hear and resolve customer complaints relating to protected service, but only if the complaint relates to:</p>	
<p>(a) an alleged unauthorized charge in violation of the FCC's Truth-in-Billing regulations (§ 3019(b)(2)(ii)(A), p. 14).</p>	<p>This reduces consumer protection by replacing the PUC's more robust and comprehensive regulations for "cramming" (unauthorized charges) and "slamming" (unauthorized change of long-distance provider) with much weaker FCC regulations. The PUC regulations provide relief. The FCC regulations merely address "disclosure."</p>
<p>(b) an alleged failure to comply with the provisions of an applicable tariff or the rate, term, or condition of a protected service posted on an Internet website pursuant to § 3016(d)(4)(i). § 3019(b)(2)(ii)(B), p. 14.</p>	<p>This bars numerous categories of consumers in both noncompetitive (e.g., multiline businesses) and competitive exchanges from having access to the PUC's informal and formal complaint process. The Atty Gen.-BCP will not be the most optimal alternative.</p>
<p>(c) an alleged failure to comply with an applicable service quality standard. (§3019(b)(2)(ii)). § 3019(b)(2)(ii)(C), p. 14.</p>	<p>An ILEC can define its own service quality standards for non-protected services and their customers and apply various exculpatory clauses for critical functionalities such as access to 911/E911. The PUC treats access to</p>

<i>Provisions</i>	<i>Problems</i>
	911/E911 as an <i>absolute</i> requirement even where VoIP is involved (73 P.S. § 2251.6(1)(i)).
<p>(5) To the extent that the PUC approves an ILEC's application for a transaction under § 1102(a)(1)-(4) (including abandonment of service, change of corporate control, etc.), with a condition, the PUC "may impose the condition to the extent necessary to ensure that the rates for protected services provided to a retail consumer by the applicant is [<i>sic</i>] just and reasonable." § 3019(b)(5)(ii), p. 15.</p>	<p>The proposed language contradicts the terms of § 3019(b)(4) (mergers and no reduction in advanced service or broadband deployment) which is retained. Transfer of ILEC assets has implications both for quality and reliability of service as well as for wholesale interconnection obligations. The PUC can also adopt and impose FCC conditions on merger transactions that do not relate to rates for protected services.</p>
<p>c. Notwithstanding § 3016(c)(2)'s requirement that rural exchange may only be declared competitive by declaration and affidavit, § 3019(b.1)(3) provides that an ILEC may declare a rural exchange competitive after January 1, 2019 by declaration only under § 3016(c)(1).</p>	<p>The five-year freeze of the Pa. USF at its 2012 funding level ends on January 1, 2019, with its continuation in doubt because its contribution base may not be broadened, and the fund level may not increase over that existing on December 31, 2018.</p>
<p>(1) An ILEC doing so relinquishes all support from the Pennsylvania Universal Service Fund "and shall not be eligible to receive future support." § 3019(b.1)(3)(i), p. 18.</p>	<p>This is a shortsighted view which does not contain an objective standard for the continuation of proportional Pa. USF support distributions to the ILEC's non-competitive and high-cost exchanges.</p>
<p>(2) All service (except "switched access," a wholesale service between carriers) in an exchange thus declared competitive is deemed competitive service, meaning protected service ceases in such exchanges.</p>	
<p><b>4. Repeal of the PUC's Authority to Protect the Public and Prevent Anti-Competitive Behavior –</b></p> <p>a. In exchange for virtually automatic rate increases, Chapter 30 required ILECs to deploy "broadband" throughout their service territories pursuant to "network modernization plans" (NMPs), with reports to the PUC so that it could gauge progress. 66 Pa.C.S. § 3014(f).</p>	
<p>(1) All ILECs completed their deployments by the end of 2008, except CenturyLink and Windstream (which must complete their deployments by yearend 2013) and Verizon and Verizon North (which must complete their deployments by yearend 2015).</p>	
<p>(2) The bill eliminates many reporting requirements. Once a final report is filed upon broadband deployment completion no further monitoring of broadband deployment is possible (other reporting that is eliminated includes annual financial, service, and access line reports). (§ 3015(e)(1)-(6), p. 4).</p>	<p>The elimination of these reporting requirements deprives the PUC of crucial information regarding the financial viability of regulated public utilities, the status of broadband deployment, necessary cross-check information for fiscal assessment purposes, quality of service statistics, etc.</p>

<i>Provisions</i>	<i>Problems</i>
b. The PUC is deprived of the authority to:	
(1) Require the filing or Commission approval of affiliated interest and affiliated transaction agreements of any telecommunications carrier. § 3019(c)(1)(vi), p. 20.	The elimination of any policing of affiliate transactions undermines the enforcement of the statutory safeguard against cross-subsidization of competitive services by non-competitive services that is still retained (§ 3016(f)(1)). ILECs can enter into preferential deals with their unregulated affiliates or subsidiaries (e.g., wholesale interconnection) that discriminate against interconnected but unaffiliated competitors. Because the PUC is effectively prevented from the meaningful review of ILEC corporate reorganization transactions and asset transfers (proposed § 3019(c)(1)(ii)(A)&(B)), non-policed affiliate transactions can be used to evade lawful wholesale interconnection obligations or result in the degradation of the adequacy, reliability, and safety of services and network facilities.
(2) Audit the accounting and reporting systems of any telecommunications carrier relating to its transactions with an affiliate under Public Utility Code Chapter 21 (§ 3019(c)(1)(vi), p. 20, see also bill page 13, lines 1-9, elimination of old § 3019(b)(1)).	The elimination of PUC auditing oversight will permit ILECs to absorb costs attributable to the operation of unregulated affiliates. This can skew the market for unaffiliated competitors.
(3) Review or revise quality of service standards contained in 52 Pa. Code that address the safety, adequacy, reliability and privacy of telecommunications services, and the ordering, installation, suspension, termination and restoration of any telecommunications service. (Deletion of old § 3019(b)(2) at bill page 13, lines 10-18).	As pointed earlier, HB 1608 divides and discriminates Pa. consumers when it comes to regulatory protections for the adequacy, reliability, quality of service and underlying networks. There are no regulatory protections for those in the competitive exchanges, including those relating to public safety 911/E911 access.
c. Regarding sales, mergers, acquisitions, and other transactions requiring PUC approval under § 1102(a)(1)-(4), the PUC must act within 90 days or the application is deemed approved (§ 3019(b)(5)), but the PUC has no authority under § 1102(a)(3)&(4) to act on any:	Existing PUC regulations more than adequately address non-contested applications. This is a totally inadequate time frame for the adjudication of contested applications.
(1) Reorganization of or transaction between a telecommunications carrier and a parent, subsidiary, or an affiliated entity “of which at least 20% of the beneficial ownership is held directly or indirectly by the same person or entity.” (§ 3019(c)(1)(ii)(A), p. 20).	The PUC will be unable to review whether corporate reorganization transactions can affect an ILEC’s management, operations, and the continuous provision of adequate and reliable services to the public.
(2) Sale, transfer of stock, consolidation, merger, acquisition, conveyance or lease of realty or personalty “that does not involve the transfer of a customer of a retail service classified as protected, noncompetitive or competitive under this chapter.” (§ 3019(c)(1)(ii)(B),	The PUC will not be able to review whether asset transfers affect an ILEC’s adequate and reliable provision of services, and whether such asset



<i>Provisions</i>	<i>Problems</i>
p. 20).	transfers may be intended to evade lawful wholesale interconnection obligations.
d. Regarding competitive services, the PUC is forbidden to:	
(1) Impose any “new or existing” quality of service standards, including those in 52 Pa. Code Chapter 63. § 3019(c)(1)(iii), p. 20.	There is a false premise that the quality and reliability of wireline “competitive” services is “self-policed” by the marketplace. The marketplace cannot and will not deal with outages of ILEC network facilities (e.g., fiber optic cables and central offices) that also impede public safety 911/E911 communications. The PUC can and does.
(2) Impose any “new or existing” standards on billing practices or other communications with retail customers, including those in 52 Pa. Code Chapter 64. § 3019(c)(1)(iii), p. 20.	This bars consumer access to the PUC for the informal and/or formal resolution of billing disputes. Even protected service customers receive competitive long-distance services under a single bill. When a billing dispute arises, the PUC is the expert agency that resolves it.
(3) Regulate competitive services or facilities, including those under § 1102(a)(2) or 66 Pa.C.S. Chapter 15 (relating to service and facilities).	Prohibition of PUC authority over the adequacy, reliability, quality, and safety of network <i>facilities</i> regardless of whether such facilities are or are not located in competitive exchanges. Network facility outages affect public safety parameters because 911/E911 call traffic is impeded. The language of HB 1608 also creates an unmanageable statutory ambiguity because wholesale switched access services (and their substantial underlying network facilities) continue to be termed non-competitive even in competitive exchanges.
e. The PUC is deprived, “for any purpose,” of all authority to dictate a carrier’s “choice of technology,” including “any technology utilized or service provided by a telecommunications carrier or interexchange telecommunications carrier that the commission did not actively regulate on January 1, 2013.” (§ 3019(c)(1)(i)).	This will permit Verizon to replace its basic landline service with fixed wireless through its affiliate, Verizon Wireless, including replacement of lines into homes and businesses with Voice Link, a fixed wireless technology that is incapable of providing broadband service or supporting medical alert and home security alarm systems.
f. Regarding <i>interexchange</i> carriers, the bill (§ 3018(b)(3)(c)&(d)) repeals the PUC’s jurisdiction to:	
(1) Require them to file reports, documents, or other information to monitor the market for competitiveness. Eliminated text of § 3018(d)(2), p. 12.	

<i>Provisions</i>	<i>Problems</i>
<p>(2) Resolve complaints regarding the quality of their service. Eliminated text in § 3018(b)(3), pp. 11-12, regarding regulation of “ordering, installation, restoration and disconnection of interexchange service to consumers” and eliminated text in § 3018(d)(1), p. 12, regarding the authority of the PUC “to resolve complaints of interexchange telecommunications carrier service.”</p>	<p>Effectively bars consumer access to the Commission for the informal and/or formal resolution of quality of service complaints that relate to long-distance services. Such quality of service consumer complaints may also involve an ILEC, and/or situations where the customer’s long-distance provider has been changed without the consumer’s consent (“slamming”).</p>
<p>(3) To change a declared competitive interexchange service back to noncompetitive if it finds “that sufficient competition is no longer present.” Eliminated text in § 3018(c), p. 12.</p>	
<p>g. The PUC is required to review and eliminate all regulations, policies, and orders that are contrary to Chapter 30 as amended by the bill, while ensuring, “that a local exchange telecommunications company is not subjected to a greater regulatory burden than applies to a competing alternative service provider” (§ 3019(b.1)(5)), and the repealing provisions of § 3019(c) govern over any conflicting law (§ 3019(c)(2)).</p>	<p>HB 1608 stays silent on the regulatory treatment of access to 911/E911 and telecommunications relay service (TRS) for the hearing and speech impaired (911/E911 and TRS are not defined as <u>essential</u> “protected” services for <u>all</u> consumers in <u>all</u> exchanges), and this provision creates legal conflict with the PUC jurisdiction over 911/E911 and TRS even when these are provided through VoIP. 72 Pa. S. § 2251.61(1)(i)&amp;(ii).</p>
<p>h. Contracts between a carrier and a municipality no longer need to be filed and approved by the PUC under Public Utility Code § 507. (§ 3016(d)(2)).</p>	
<p><b>5. Freezing of the Pennsylvania Universal Service Fund –</b></p> <p>a. Since the inception of the Bell System (later called AT&amp;T), it has been necessary to subsidize the cost of rural service (where there are many fewer customers per mile of line) with revenues from suburban and urban service.</p>	
<p>b. With the U.S. Department of Justice’s breakup of AT&amp;T, effective on January 1, 1984, and the creation of seven Regional Bell Operating Companies (RBOCs), including Bell Atlantic (now Verizon) and Southwestern Bell (now AT&amp;T),<sup>1</sup> this system of cross-subsidization of necessity came to an end. It was replaced with the creation of the federal Universal Service Fund (USF) with customer bill surcharges.</p>	

<sup>1</sup> The other five “Baby Bells” were Ameritech, BellSouth, NYNEX, Pacific Telesis, and US West (prior to 1984, AT&T also held investments in two smaller and otherwise independent companies, Cincinnati Bell and Southern New England Telephone (SNET), both of which became fully independent after the 1984 breakup). Currently, three companies have the RBOCs as predecessors: (The new) AT&T, Inc., Verizon, and CenturyLink. Southwestern Bell changed its name to SBC Communications in 1995, acquired Pacific Telesis in 1997, SNET in 1998, and Ameritech in 1999. In 2005, SBC acquired former parent company AT&T Corp. and took its name, and then purchased BellSouth in 2006. Bell Atlantic acquired NYNEX in 1997 and GTE (the largest independent telephone company) in 2000, thereafter changing its name to Verizon. It acquired long distance company MCI in 2006. CenturyLink (formerly Century Telephone, “CenturyTel”) acquired part of Ameritech in 1998, and then acquired Embarq (the former local operations of Sprint-United Tel. Co. of Pa.) in 2009. In 2010, CenturyLink acquired Qwest, a former fiber optics long distance company, which had acquired US West in 2000.

<i>Provisions</i>	<i>Problems</i>
<p>c. The federal USF is approximately \$8.5 billion, of which \$4.5 billion were in a “High Cost Fund” that was annually distributed to some (but not all) ILECs serving “high cost” rural areas. As of November 2011, the FCC is reforming the federal USF mechanism with the new Connect America Fund.</p>	<p><b>Reduced levels of federal USF support to rural ILECs both nationally and in Pennsylvania.</b></p>
<p>d. Pennsylvania telephone customers annually pay approximately \$160 million more into the federal USF than what Pennsylvania receives in support distributions from the federal USF (Pa. is a “net contributor” state along with FL, CA, NY, NJ, VA, MA, and others – states such as ME, VT, WY and others are “net recipients”).</p>	
<p>e. In addition, Pennsylvania rural ILECs derive revenues from their subscribers in local rates, from charges on other carriers for using their facilities (for originating, transporting, and terminating calls to, for, and from other carriers), and from the Pennsylvania Universal Fund (Pa. USF), which was created by the PUC in March, 2001 to offset lost “access” revenues to rural ILECs when the PUC lowered intrastate access charges on carriers for terminating their calls on the rural ILECs’ facilities.</p>	
<p>f. The Pa. USF is funded by contribution assessments on intrastate retail wireline revenues of ILECs, competitive local exchange carriers (CLECs), and long-distance carriers, but not on wireless carriers and VoIP entities, and annually amounts to approximately \$33 million. A new PUC proceeding will be inquiring into whether the “contribution base” of entities paying into the Pa. USF should be broadened, and how the existing Pa. USF mechanism should be restructured.</p>	<p><b>Certain wholesale CLECs provide Pa. USF contribution assessment payments on behalf of cable (CATV) companies that provide retail wireline VoIP services to end-users.</b></p>
<p>g. The bill mandates that ILECs’ receipts from the Pa. USF shall not fall below those received in 2012 until January 1, 2019 (§ 3019(b.1)(1)(ii)(A)), but an ILEC that declares one or more of its exchanges competitive under § 3016(c)(2)—meaning in both nonrural and rural exchanges—suffers at 5% annual reduction in its receipts from the Pa. USF (based on its 2012 receipt level), with a maximum reduction of 15% over a three year period. This is meant “to reduce the size of the Pennsylvania universal service fund.” (§ 3019(b.1)(1)(ii)(B)).</p>	<p><b>Such an eventuality, however unlikely for the rural ILEC recipients of Pa. USF funding support, can trigger an adjudication because the contribution assessment level will need to be revised. The potential “5%” reduction in Pa. USF receipts is not objective. The same ILEC may need to support other high-cost noncompetitive exchanges.</b></p>
<p>h. The bill retains the PUC as the Pa. USF administrator and provides for formal PUC review and a decision by January 1, 2019, on whether the fund should continue and on what terms. (§ 3019(b.1)(1); (b.1)(2)(i)).</p>	<p><b>HB 1608 imposes a number of unfounded restrictions on the PUC’s investigation. Most importantly, the PUC will be unable to examine the interaction of the Pa. USF mechanism with the operations of the federal USF. For example, contemplated federal USF reforms of the contribution base may affect how the Pa. USF operates well before 2018-2019.</b></p>
<p>(1) The base of contributors to the fund may not be expanded, either before or after January 1, 2019, even if the fund is continued after that date, and the PUC “may not expand the size of the</p>	<p><b>The bill ignores FCC actions that have made broadband a “supported” service (part and parcel of universal service). In</b></p>

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<i>Federal</i> [Pennsylvania?] Universal Service Fund above the level existing on December 31, 2018.” (§ 3019(b.1)(1)(iv) & (b.1)(2)(iii)).	view of other inimical FCC actions, however, the role of the Pa. USF for the universal availability of telecom. and broadband services in rural Pennsylvania should be expanding and not retracting as the bill proposes.
(2) Except to implement the bill, the PUC may make no changes to the Pa. USF or its implementing regulations until January 1, 2019, although it may reset the assessment rate on contributing carriers to ensure sufficient funds, and contributing carriers may recover their contribution by surcharging their customers an “end-user charge.” (§ 3019(b.1)(1)(iii)-(v)).	The bill does not provide any guidance on how an ILEC will impose this surcharge among its noncompetitive and competitive exchanges and services. Absent such guidance, regulated noncompetitive service customers will be those absorbing the surcharge. Relevant PUC Pa. USF regulations will need to change.
(3) The fund may be continued “only if the commission determines that it is necessary to enable the continued provision of reliable basic voice calling service at affordable and reasonable rates by local exchange telecommunications companies.” (§ 3019(b.1)(2)(iii)).	This is a short-sighted provision that ignores the role of the Pa. USF for the universal availability of both telecom. and broadband access services in high-cost rural areas of Pennsylvania. It also prohibits the PUC from appropriately coordinating the operation of the Pa. USF with the operation of the federal USF mechanism.
i. Until January 1, 2019, disbursements from the Pa. USF may only be made to ILECs that received fund proceeds on or before January 1, 2013, and “continues to offer <i>basic calling service</i> to its customers pursuant to a tariff or posts its rates, terms, and conditions of local exchange service on an Internet website under § 3016(d)(3) while receiving disbursements from the fund. (§ 3019(b.1)(b)(i)(A) (emphasis added) & (b.1)(b)(i)(B)).	
<p><b>6. No Restrictions on the Technology To Be Used for Lifeline Service; Elimination of Notice Requirement (Contrary to Federal Law) –</b></p> <p>a. “Lifeline service” as defined in Chapter 30 is a discounted rate local service offering provided to income-eligible customers through “eligible telecommunications carriers” (ETCs) who are approved by the PUC (under delegated federal law) to provide such service pursuant to federal regulations and Pennsylvania law.</p>	
b. An ETC may use any available technology to provide Lifeline service “without subjecting the technology to greater commission regulation than would apply if the service were provided by a company not subject to the commission’s jurisdiction.” (§ 3019(f)(1)).	An ILEC that has a Commission issued “eligible telecom. carrier” (ETC) designation under federal and Pa. law cannot <u>delegate</u> such a designation to an affiliated entity so that the affiliate can provide Lifeline service “through any technology,” e.g., through fixed wireless. The affiliate needs to receive its own ETC designation.
c. The bill <i>deletes</i> the requirement that an ETC inform its Lifeline customers twice annually by bill insert or message of the availability of	It is unclear why the bill eliminates this statutory requirement since eligible

<i>Provisions</i>	<i>Problems</i>
<p>the service with “appropriate eligibility, benefits and contact information for customers who wish to learn of the Lifeline service subscription requirements.” (§ 3019(f)(4)).</p>	<p>telecom. carriers (ETCs) that offer Lifeline services are required by federal regulation to publicize “the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.” 47 C.F.R. § 54.405(b). The Commission enforces the existing statutory requirement both for wireline and wireless ETCs that offer Lifeline services within Pennsylvania.</p>
<p><b>7. Preservation of Carriers’ Obligations (and the PUC’s Authority) Under 47 U.S.C. §§ 251 &amp; 252 –</b></p> <p>a. Sections 251 and 252 of the Telecommunications Act of 1996 require telecommunications carriers to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers (§ 251), and establish the procedures for negotiation, mediation, arbitration, and approval of interconnection agreements together with pricing standards (§ 252).</p>	
<p>b. The bill preserves carriers’ obligations and the PUC’s authority under those federal statutes. § 3019(b.1)(4)(i)&amp;(ii), pp. 18-19.</p>	<p>If HB 1608 adopts this language it <u>cannot</u> prohibit the PUC from imposing conditions on ILEC transfers of corporate control and/or disposition of assets (proposed § 3019(b)(5)(ii)), where such conditions are designed to ensure compliance with the federal Sec. 251 and 252 wholesale interconnection obligations of ILECs. Nor can the PUC be prohibited from mirroring FCC conditions that are imposed on ILEC corporate reorganizations and/or asset transfers.</p>
<p><b>8. Provisions Added to Ensure Carrier-to-Carrier Payments –</b></p> <p>a. While the bulk of the bill labors to ensure that consumer protections and PUC authority to police the industry for anti-consumer and anti-competitive behavior is repealed, it adds carrier protections to ensure they are paid for the use of their networks by other carriers.</p>	
<p>b. Carriers must pay tariffed intrastate access charges for rendered interexchange access services, unless they have agreed otherwise in an interconnection or other commercial agreement. § 3017(b), p. 11.</p>	<p>The bill language does not provide any non-discriminatory safeguards for “commercial” interconnection agreements that may be reached between an ILEC and one or more of its unregulated affiliates. In view of the fact that affiliate transaction arrangements of ILECs are not policed under HB 1608 (proposed § 3019(c)(1)(vi)), an ILEC can charge lower wholesale access rates to an affiliate</p>

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	and higher ones to a non-affiliated carrier. Only federal law will police such unlawful and discriminatory conduct if and when such conduct is detected.
c. Before filing a complaint with the PUC, disputing parties must attempt good faith negotiations to resolve their dispute.	
d. If a complaint is filed, the PUC must decide the dispute within 180 calendar days of a complaint filing, and must require financial security from the nonpaying carrier if it continues to receive interexchange services from the complainant during the pendency of the proceeding. (§ 3017(b), (d), (e)).	This is a totally inadequate time period to accord due process and adjudicate complex complaint cases involving intercarrier compensation disputes.
<p><b>9. Effective date –</b></p> <p>If enacted, the bill becomes effective in 60 days.</p>	