



Senate

General Assembly

File No. 214

January Session, 2005

Substitute Senate Bill No. 1097

Senate, April 7, 2005

The Committee on Energy and Technology reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING REGULATION OF TELECOMMUNICATIONS SERVICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-247c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2005*):

3 (a) No person shall provide intrastate telecommunications services,
4 except for private telecommunications service, commercial mobile
5 telecommunications service to the extent regulated by the federal
6 government and any service authorized under section 16-250a or a
7 joint or shared user tariff approved by the Department of Public Utility
8 Control, unless the person (1) offered, promoted and provided
9 intrastate telecommunications services on or before January 1, 1984,
10 pursuant to a special charter or certificate of public convenience and
11 necessity, or (2) is certified to provide intrastate telecommunications
12 services by the Department of Public Utility Control pursuant to

13 sections 16-247f to 16-247h, inclusive.

14 (b) Each provider of intrastate telecommunications services, as
15 defined in subsection (a) of this section, or any officer, agent or
16 employee thereof, which the department finds has failed to obey or
17 comply with any applicable order made or regulation adopted by the
18 department pursuant to this section shall be fined, by order of the
19 department, not more than ten thousand dollars for each offense. Each
20 distinct violation of any provision of this section or any such order or
21 regulation shall be a separate offense and, in the case of a continued
22 violation, each day thereof shall be deemed a separate offense. The
23 department shall impose any such civil penalty in accordance with the
24 procedure established in section 16-41.

25 (c) The department shall not prohibit or restrict the competitive
26 provision of intrastate telecommunications services offered by a
27 certified telecommunications provider or by a telephone company to
28 business customers unless the department finds that the competitive
29 provision of a telecommunications service would be contrary to the
30 goals set forth in section 16-247a, or would not be in accordance with
31 the provisions of section 16-247a or 16-247b, this section, sections
32 16-247e to 16-247h, inclusive, or section 16-247k.

33 Sec. 2. Section 16-247f of the general statutes is repealed and the
34 following is substituted in lieu thereof (*Effective July 1, 2005*):

35 (a) The department shall regulate the provision of
36 telecommunications services in the state in a manner designed to foster
37 competition and protect the public interest.

38 (b) Notwithstanding the provisions of section 16-19, a
39 telecommunications service offered on or before July 1, 1994, by a
40 certified telecommunications provider and a wide area telephone
41 service, "800" service, centrex service or digital centrex service offered
42 by a telephone company shall be deemed a competitive service. Any
43 other service offered by a telephone company on or before July 1, 1994,
44 shall be deemed a noncompetitive service, provided such initial

45 classification shall not be a factual finding that such service is
46 noncompetitive.

47 (c) On petition, on its own motion, or in conjunction with a tariff
48 investigation conducted pursuant to subsection (f) of this section, after
49 notice and an opportunity for a hearing, and within ninety days of
50 receipt of a petition or its motion or within the time period set forth in
51 subsection (f) of this section, as applicable, the department may
52 reclassify a telecommunications service as competitive, emerging
53 competitive or noncompetitive, in accordance with the degree of
54 competition which exists for that service in the marketplace, provided
55 (1) a competitive service shall not be reclassified as an emerging
56 competitive service, and (2) the department may extend the period (A)
57 before the end of the ninety-day period and upon notifying all parties
58 to the proceedings by thirty days, or (B) in accordance with the
59 provisions of subsection (f) of this section, as applicable. The
60 department may, on a consolidated basis, consider reclassification of
61 more than one business service. In a proceeding to determine whether
62 to reclassify, as competitive, a telecommunications service of a
63 telephone company offered to business customers, there shall be a
64 rebuttable presumption that the service sought to be reclassified is
65 competitive.

66 (d) In determining whether to reclassify a telecommunications
67 service, the department shall consider:

68 (1) The number, size and geographic distribution of certified
69 telecommunications providers of the service, provided the department
70 shall not reclassify any service as competitive if such service is
71 available only from a telephone company or an affiliate of a telephone
72 company that is a certified telecommunications provider;

73 (2) The availability of functionally equivalent services in the
74 relevant geographic area at competitive rates, terms and conditions,
75 including, but not limited to, services offered by certified
76 telecommunications providers, providers of commercial mobile radio
77 services, as defined in 47 CFR 20.3, voice over the Internet protocol

78 providers and other services provided by means of alternative
79 technologies;

80 [(3) The financial viability of each company providing a functionally
81 equivalent service in the relevant market;]

82 [(4)] (3) The existence of barriers to entry into, or exit from, the
83 relevant market;

84 [(5) Other indicators of market power which the department deems
85 relevant, which may include, but not be limited to, market penetration
86 and the extent to which the provider of the service can sustain the
87 price for the service above the cost to the company of providing that
88 service;

89 (6) The extent to which other telecommunications companies must
90 rely upon the service to provide their telecommunications services;]

91 [(7)] (4) Other factors that may affect competition; and

92 [(8)] (5) Other factors that may affect the public interest.

93 (e) Each certified telecommunications provider and each telephone
94 company shall file with the department a new or amended tariff for
95 each competitive or emerging competitive intrastate
96 telecommunications service authorized pursuant to section 16-247c, as
97 amended by this act. A tariff for a competitive service shall be effective
98 on five days' written notice to the department. A tariff for an emerging
99 competitive service shall be effective on twenty-one days' written
100 notice to the department. Notwithstanding the classification of an
101 intrastate telecommunications service offered by a telephone company
102 under this section, a tariff filing from a telephone company for a new
103 residential service that includes three or more telecommunications
104 services, not more than one of which is a telephone or telephone-
105 related service, and a tariff filing from a telephone company for a new
106 business service shall be effective on five days' written notice to the
107 department. A tariff filing for a competitive or emerging competitive
108 service shall include (1) rates and charges which may consist of a

109 maximum rate and a minimum rate, (2) applicable terms and
110 conditions, (3) a statement of how the tariff will benefit the public
111 interest, and (4) any additional information required by the
112 department. A telephone company filing a tariff pursuant to this
113 section shall include in said tariff filing the information set forth in
114 subdivisions (1) to (4), inclusive, of this subsection, a complete
115 explanation of how the company is complying with the provisions of
116 section 16-247b and, in a tariff filing which declares a new service to be
117 competitive or emerging competitive, a statement addressing the
118 considerations set forth in subsection (d) of this section. If the
119 department approves a tariff which consists of a minimum rate and a
120 maximum rate, the certified telecommunications provider or telephone
121 company may amend its rates upon five days' written notice to the
122 department and any notice to customers which the department may
123 require, provided the amended rates are not greater than the approved
124 maximum rate and not less than the approved minimum rate. A
125 promotional offering for a previously approved competitive or
126 emerging competitive tariffed service or a service deemed competitive
127 pursuant to section 16-247f shall be effective on three business days'
128 written notice to the department.

129 (f) On petition or its own motion, the department may investigate a
130 tariff or any portion of a tariff, which investigation may include a
131 hearing. The department may suspend a tariff or any portion of a tariff
132 during such investigation. Not later than seventy-five days after the
133 effective date of the tariff, unless the party filing the tariff, all statutory
134 parties to the proceeding and the department agree to a specific
135 extension of time, the department shall issue its decision, including
136 whether to approve, modify or deny the tariff. If the department
137 determines that a tariff filed as a new service is, in fact, a
138 reclassification of an existing service, the department shall review the
139 tariff filing as a petition for reclassification in accordance with the
140 provisions of subsection (c) of this section.

141 (g) The provisions of this section shall not prohibit the department
142 from ordering different tariff filing procedures or effective dates for an

143 emerging competitive service, pursuant to a plan for an alternative
144 form of regulation of a telephone company approved by the
145 department in accordance with the provisions of section 16-247k.

146 Sec. 3. Section 16-247p of the general statutes is repealed and the
147 following is substituted in lieu thereof (*Effective July 1, 2005*):

148 (a) Not later than April 1, 2000, the Department of Public Utility
149 Control shall, by regulations adopted pursuant to chapter 54, establish
150 quality-of-service standards that shall apply to all telephone
151 companies and certified telecommunications providers and to all
152 telecommunications services. Such standards shall include, but not be
153 limited to, measures relating to customer trouble reports, service
154 outages, installation appointments and repeat problems as well as
155 timeliness in responding to complaints or reports. The department
156 shall include with the quality of service standards methodologies for
157 monitoring compliance with and enforcement of such standards. Such
158 monitoring shall include input from employees of telephone
159 companies and certified telecommunications providers, including
160 members of collective bargaining units.

161 (b) Not later than April 1, 2000, the department shall, by regulations
162 adopted pursuant to chapter 54, establish comprehensive performance
163 standards and performance based reporting requirements for functions
164 provided by a telephone company to a certified telecommunications
165 provider, including, but not limited to, telephone company
166 performance relating to customer ordering, preordering, provisioning,
167 billing, maintenance and repair. Such service standards shall be
168 sufficiently comprehensive to ensure that a telephone company meets
169 its obligations under 47 USC 251. Such regulations may also contain
170 provisions the department deems necessary to prevent anticompetitive
171 actions by any telephone company or certified telecommunications
172 provider.

173 (c) The department shall not unreasonably discriminate between
174 telephone companies and certified telecommunications companies in
175 the implementation of the service and performance standards and

176 reporting requirements of this section.

177 Sec. 4. Section 16-262d of the general statutes is repealed and the
178 following is substituted in lieu thereof (*Effective July 1, 2005*):

179 (a) No electric, electric distribution, gas, telephone or water
180 company, no electric supplier, no certified telecommunications
181 provider with respect to the provision of single line residential service
182 and no municipal utility furnishing electric, gas or water service may
183 terminate such service to a residential dwelling on account of
184 nonpayment of a delinquent account unless such company, electric
185 supplier, certified telecommunications provider or municipal utility
186 first gives notice of such delinquency and impending termination by
187 first class mail addressed to the customer to which such service is
188 billed, at least thirteen calendar days prior to the proposed
189 termination, except that if an electric, electric distribution or gas
190 company, electric supplier or municipal utility furnishing electric or
191 gas service has issued a notice under this subsection but has not
192 terminated service prior to issuing a new bill to the customer, such
193 company, electric supplier or municipal utility may terminate such
194 service only after mailing the customer an additional notice of the
195 impending termination, addressed to the customer to which such
196 service is billed either (1) by first class mail at least thirteen calendar
197 days prior to the proposed termination, or (2) by certified mail, at least
198 seven calendar days prior to the proposed termination. In the event
199 that multiple dates of proposed termination are provided to a
200 customer, no such company, electric supplier or municipal utility shall
201 terminate service prior to the latest of such dates. For purposes of this
202 subsection, the thirteen-day periods and seven-day period shall
203 commence on the date such notice is mailed. If such company, electric
204 supplier or municipal utility does not terminate service within one
205 hundred twenty days after mailing the initial notice of termination,
206 such company, electric supplier or municipal utility shall give the
207 customer a new notice at least thirteen days prior to termination. Every
208 termination notice issued by a public service company, electric
209 supplier, certified telecommunications provider or municipal utility

210 shall contain or be accompanied by an explanation of the rights of the
211 customer provided in subsection [(c)] (d) of this section.

212 (b) No such company, electric supplier, certified
213 telecommunications provider or municipal utility shall effect
214 termination of service for nonpayment during such time as any
215 resident of a dwelling to which such service is furnished is seriously ill,
216 if the fact of such serious illness is certified to such company, electric
217 supplier, certified telecommunications provider or municipal utility by
218 a registered physician within such period of time after the mailing of a
219 termination notice pursuant to subsection (a) of this section as the
220 Department of Public Utility Control may by regulation establish,
221 provided the customer agrees to amortize the unpaid balance of his
222 account over a reasonable period of time and keeps current his account
223 for utility service as charges accrue in each subsequent billing period.

224 (c) No such company, electric supplier, certified
225 telecommunications provider or municipal utility shall effect
226 termination of service to a residential dwelling for nonpayment during
227 the pendency of any complaint, investigation, hearing or appeal,
228 initiated by a customer within such period of time after the mailing of
229 a termination notice pursuant to subsection (a) of this section as said
230 Department of Public Utility Control may by regulation establish;
231 provided, any telephone company or certified telecommunications
232 provider during the pendency of any complaint, investigation, hearing
233 or appeal may terminate telephone service if the amount of charges
234 accruing and outstanding subsequent to the initiation of any
235 complaint, investigation, hearing or appeal exceeds on a monthly basis
236 the average monthly bill for the previous three months or if the
237 customer fails to keep current his telephone or telecommunications
238 account for all undisputed charges or fails to comply with any
239 amortization agreement as hereafter provided.

240 (d) Any customer who has initiated a complaint or investigation
241 under subsection (c) of this section shall be given an opportunity for
242 review of such complaint or investigation by a review officer of the

243 company, electric supplier, certified telecommunications provider or
244 municipal utility other than a member of such company's, electric
245 supplier's or municipal utility's credit department, provided the
246 Department of Public Utility Control may waive this requirement for
247 any company, electric supplier or municipal utility employing fewer
248 than twenty-five full-time employees, which review shall include
249 consideration of whether the customer should be permitted to
250 amortize the unpaid balance of his account over a reasonable period of
251 time. No termination shall be effected for any customer complying
252 with any such amortization agreement, provided such customer also
253 keeps current his account for utility service as charges accrue in each
254 subsequent billing period.

255 (e) Any customer whose complaint or request for an investigation
256 has resulted in a determination by a company, electric supplier,
257 certified telecommunications provider or municipal utility which is
258 adverse to him may appeal such determination to the Department of
259 Public Utility Control or a hearing officer appointed by the
260 department.

261 (f) If, following the receipt of a termination notice or the entering
262 into of an amortization agreement, the customer makes a payment or
263 payments amounting to twenty per cent of the balance due, the public
264 service company, certified telecommunications provider or electric
265 supplier shall not terminate service without giving notice to the
266 customer, in accordance with the provisions of this section, of the
267 conditions the customer must meet to avoid termination, but such
268 subsequent notice shall not entitle such customer to further
269 investigation, review or appeal by the company, electric supplier,
270 municipal utility, certified telecommunications provider or
271 department.

272 (g) No electric distribution, gas, telephone or water company,
273 certified telecommunications provider, gas registrant or municipal
274 utility furnishing electric, gas or water service shall submit to a credit
275 rating agency, as defined in section 36a-695, any information about a

276 residential customer's nonpayment for electric, gas, telephone,
 277 telecommunications or water service unless the customer is more than
 278 sixty days delinquent in paying for such service. In no event shall such
 279 a company, certified telecommunications provider, gas registrant or
 280 municipal utility submit to a credit rating agency any information
 281 about a residential customer's nonpayment for such service if the
 282 customer has initiated a complaint, investigation hearing or appeal
 283 with regard to such service under subsection (c) of this section that is
 284 pending before the department. If such a company, certified
 285 telecommunications provider, gas registrant or municipal utility
 286 intends to submit to a credit rating agency information about a
 287 customer's nonpayment for service, it shall, at least thirty days before
 288 submitting such information, send the customer by first class mail
 289 notification that includes the statement, "AS AUTHORIZED BY LAW,
 290 FOR RESIDENTIAL ACCOUNTS, WE SUPPLY PAYMENT
 291 INFORMATION TO CREDIT RATING AGENCIES. IF YOUR
 292 ACCOUNT IS MORE THAN SIXTY DAYS DELINQUENT, THE
 293 DELINQUENCY REPORT COULD HARM YOUR CREDIT RATING".

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2005	16-247c
Sec. 2	July 1, 2005	16-247f
Sec. 3	July 1, 2005	16-247p
Sec. 4	July 1, 2005	16-262d

ET Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Public Utility Control, Dept.	CC&PUCF - None	None	None

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund

Municipal Impact: None

Explanation

The bill makes it easier for the Department of Public Utility Control (DPUC) to reclassify existing telecommunications services. The bill also makes other various changes, none of which have a fiscal impact.

OLR Bill Analysis

sSB 1097

**AN ACT CONCERNING REGULATION OF
TELECOMMUNICATIONS SERVICES****SUMMARY:**

This bill makes it easier for the Department of Public Utility Control (DPUC) to reclassify existing telecommunications services, thereby affecting how they are regulated. It establishes a rebuttable presumption that services offered by telephone companies (Verizon in parts of Greenwich, SBC elsewhere) to business customers should be reclassified as competitive and thus subject to less regulation. It reduces the amount of notice that a telephone company must give DPUC before introducing certain new services.

By law, DPUC cannot prohibit or restrict the competitive provision of services by a certified telecommunications provider, e.g., a long distance carrier, unless it finds that the competitive provision of the service would be contrary to the state's telecommunications policy or laws. The bill extends this provision to services that telephone companies provide to business customers.

By law, DPUC has to adopt performance and quality of service standards that apply to all telecommunications services, whether provided by a telephone company or a certified telecommunications provider. The bill bars DPUC from unreasonably discriminating between telephone companies and certified telecommunications providers in implementing these standards and associated reporting requirements.

The bill extends the same termination protections to certified telecommunications providers, with respect to their single line residential service, that currently apply to telephone companies' and other utilities' residential customers.

EFFECTIVE DATE: July 1, 2005

RECLASSIFICATION

By law, telecommunications services are classified as noncompetitive, emerging competitive, or competitive, with differing levels of DPUC regulation applying, depending on a service's classification. Services offered by a telephone company before July 1994 were, with limited exceptions, deemed to be noncompetitive and thus subject to the most extensive level of regulation. The law states that this initial classification is not a factual finding.

The law establishes a process by which DPUC can reclassify a service provided by a telephone company or a certified telecommunications provider, upon petition or DPUC's own motion. Current law requires DPUC to consider eight criteria in determining whether to reclassify a service. The bill modifies one of the criteria and eliminates three others.

Under current law, DPUC must consider the availability of functionally equivalent services in the relevant geographic area at competitive rates, terms, and conditions. The bill specifies that these services include those offered by certified telecommunications providers, cell companies and other commercial mobile radio services providers, voice over Internet protocol providers (e.g., Vonage), and other providers using alternative technologies.

The bill eliminates the requirements that DPUC consider:

1. the financial viability of each of these providers;
2. the existence of market power that DPUC considers relevant, other than barriers to firms entering and leaving the market; and
3. the extent to which other telecommunications companies must rely on the service to provide their own services.

The bill requires DPUC to provide an opportunity for a hearing on the case, rather than requiring it to hold a hearing. It allows DPUC to consider reclassification of more than one business service in a consolidated case. It establishes a rebuttable presumption that services that a telephone company offers to business customers should be reclassified as competitive.

NOTICE FOR NEW TELEPHONE COMPANY SERVICES

By law, telephone companies and certified telecommunications providers must file a new or amended tariff for each competitive or emerging competitive service. Under current law, a tariff for a competitive service goes into effect with five days written notice to DPUC; a filing for an emerging competitive service goes into effect with 21 days notice.

Under the bill, the tariff filing by a telephone company for certain new services goes into effect with five days notice, regardless of how it is classified. The provision applies to (1) all new business services and (2) new residential packages that include three or more services, no more than one of which can be a telephone or telephone-related service (telephone and other telecommunications companies also offer data, Internet, and video services).

TERMINATION REQUIREMENTS

The bill extends the same termination requirement to certified telecommunications providers, with respect to their provision of single line residential service, that currently apply to telephone and water companies with respect to their residential customers (similar requirements apply to electric and gas companies). These provisions:

1. require the company to give notice to the customer by first class mail, with an explanation of his rights, at least 13 days before the termination;
2. bar the company from terminating service to a seriously ill patient whose doctor certifies the illness to the company during a period established by DPUC by regulation;
3. bar the company from terminating service while a complaint, investigation, or appeal is pending (the law provides a limited exception to this provision for telephone companies, which the bill extends to certified telecommunication providers);
4. entitle a customer who has filed a complaint or initiated an investigation to a review by a company officer other than someone from its credit department;

5. allow customers aggrieved by the company's determination to appeal to DPUC; and
6. bar the company from terminating the customer without a second notice if the customer pays at least 20% of the balance due.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute
Yea 16 Nay 0