

The Energy & Technology Committee

February 24, 2011

Senate Bill 1024: AA Modernizing the State's

Telecommunications Laws

Testimony of

The Office of Consumer Counsel

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The Office of Consumer Counsel (OCC) has carefully reviewed this proposal and does not believe that this bill is actually intended so much to “modernize” telecommunications services in this state as much as it seeks to encourage further anti-consumer/ anti-competitive behavior by the state’s giant local exchange carrier, AT&T. Many aspects of this bill are truly dangerous for the telecom market in Connecticut and for the state’s most vulnerable low-income and senior citizen customers that get single-line, basic phone service from AT&T.

Further deregulation of AT&T at this time, proposed in this bill for both its retail and wholesale businesses, will in no way aid the sluggish business climate in CT. At a time of incredible state government budget deficits and individual financial challenges, this is a time when consumers and businesses alike should be given every chance to keep themselves solvent so they can expand business opportunity and increase revenues. This bill will short circuit that effort by the new administration and this General Assembly.

By removing retail rate and tariff rules for non-competitive single line basic services, the DPUC will have no oversight over AT&T and Verizon’s basic phone rates. Since the vast majority of customers that continue to receive these services from the phone company are either low-income or senior citizens, this bill disproportionately affects those most impacted by the financial crisis.

Although not perfect, competition exists in CT’s telecom marketplace. AT&T offers video service and cable providers offer voice service. While cable services are offered through an operator’s own plant and does not require access to the plant of other companies, phone service requires wholesale agreements

with incumbent carriers, such as AT&T that own and operate the bulk of the telephone system. Without wholesale access at reasonable rates, cable companies offering voice services and other competitive local exchange carriers cannot connect phone calls and are thus unable to compete with AT&T.

The phone competition that does exist in Connecticut would be virtually nonexistent without this vital wholesale access. This bill, however, purports to eliminate virtually all of the DPUC's authority over maintaining proper wholesale obligations imposed by current state law on the incumbent phone companies. Removing these obligations will derail competition and return incumbent phone companies back to monopoly status, while allowing them to further increase phone rates and restrict competition.

The corporate parent of SNET, AT&T, is a company that has consistently earned net income of \$12 billion each year for last few years. Most of that income generated in Connecticut has wound up paid to the parent company, based in Dallas, Texas, resulting in consistently reduced investment in Connecticut. The company has the right to shift and invest its earnings as it chooses, but the state of Connecticut also has the right retain the ability to monitor the financial and business dealings of this essential public utility generating immense profits in this state.

Clearly this is not the time for further deregulation of telecommunications services in this state. On the retail side, AT&T's services are already mostly deregulated, except for basic phone service, upon which many of our most vulnerable citizens, such as indigent seniors, rely. Such basic service should not be subject to price deregulation.

The competition on the wholesale side which the DPUC is statutorily obligated to foster and which is exemplified by in the recent transit decision (which AT&T is appealing), would essentially be eliminated. This bill is at best premature and will result in dangerous market conditions in Connecticut, in both the retail and wholesale markets at a time when the state can ill afford to create an "unregulated monopoly" of the size of AT&T.

Section by Section Comments:

Sections 1 & 4:

Due to the scope of AT&T's infrastructure and market share in this state, retail phone competition requires competitor access to AT&T's wholesale elements at reasonable prices. Current Connecticut law affords competitors such access, thus promoting phone competition in the state. All of these protections

are eliminated under this proposal, endangering the phone competition that currently exists in CT. Examples of important regulations that would be eliminated under this bill include tariff filings, rules that allow customers to port numbers, rules for handling interstate traffic, regulated rates for local and toll traffic. All these provisions are essential to allow competitors to offer phone choice in Connecticut; they will be unable to do so in the event this bill becomes law.

Section 2:

The OCC renews its request that if the DPUC does not require paper copies of filings any longer that the OCC be accorded the same number of courtesy copies authorized to be sent to the DPUC via first class United States mail.

Section 3:

The OCC was able to demonstrate in a DPUC docket that AT&T earns about a 40% return in Connecticut, but it was only because of the regulatory financial audit conducted under state law by the DPUC that the OCC was able to calculate that extraordinary rate of return. Additionally, the OCC was able to determine the huge dividends paid by the SNET affiliate to the Texas parent from its Connecticut earnings, as well as the royalty payments to an affiliate in tax-free Nevada. As admitted by AT&T in testimony to Chairman Nardello in last session's hearing on this issue, the books of AT&T no longer reveal any financial data specific to Connecticut. Thus, without the regulatory authority to conduct audits by the DPUC authorized by current state law, such information would remain secret. This information proved vital in causing the DPUC to impose a reasonable penalty last year of over a million dollars on AT&T for its continued deplorable quality of service to consumers consistently over a period of eight years without a single month of quality required by DPUC regulations.

In this period of repeated investigations of poor consumer quality of service at the DPUC and in the media, and when the economic condition of the country and the state's corporations are on the front page every day, this is hardly the time to reduce audit reports to scrutiny by the DPUC and the OCC.

The DPUC and the OCC are a part of an entire system of gatekeepers -- auditors, corporate boards, analysts, ratings agencies, investment bankers, lawyers and accounting standard-setters -- who operate and regulate the regulated markets, be they the financial markets so much in the news of late, or the public utilities in question in this bill. In this case, the confidence of public utility ratepayers depends on fully informed gatekeepers such as the DPUC and

the OCC. The basic financial audit lies at the heart of rate regulation and the proper maintenance of regulatory pressure on public utility conduct. That instrument must not be lost to the regulatory process.

Section 5:

It is certainly not a wise public policy choice for the General Assembly to allow a huge telephone company like AT&T to abandon (or more likely, sell) its retail operation in Connecticut at its own discretion, with no regulatory oversight at all. For instance, AT&T filed last year with the FCC for authority to abandon the “public switched telephone network” (PSTN), which is central to carriage of landline telephone calls, but also central to wireless calls, video, and Internet traffic. AT&T proposed to shift its operations entirely to a distinct and so-called Internet protocol network. This claim is an absurdity since there is in fact only one vast interconnected telecommunications network in the world, for which AT&T remains a player with responsibilities for proper maintenance of this seamless web.

Recall the recent unfortunate episodes resulting from Verizon’s sale in northern New England of its retail local exchange services and equipment in the public rights of way to a company that was not technically, financially, or managerially competent to operate the network. AT&T is most probably quite interested in such a sale as demonstrated in a recent CL&P rate case which revealed that there are many serious complications from the fact that CL&P/UI share infrastructure with AT&T, including hundreds of thousands of utility poles. Should this bill become law, there would no longer be an obligation for AT&T to consider the impact of this joint ownership – it can just walk away. In testimony before the DPUC in the rate case, CL&P reported that it was so concerned about the condition of the public rights of way that it had offered to buy AT&T’s equipment, an offer that was declined . . . for now.

Most importantly, under the bill there is no need for approval for abandonment or sale of retail service by the DPUC or any other agency representing state public policy concerns. The northern New England states had fully vetted the Verizon sales through the regulatory process and there were still huge disruptions, which continue to this day. It is vital that at the least, the state must retain its regulatory ability to oversee the conditions and process of any such retreat by AT&T from retail provision of telecom services.