

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
PUBLIC UTILITIES REGULATORY AUTHORITY**

Public Hearing – March 20, 2012
Energy & Technology Committee
Testimony Submitted by Chairman Kevin DelGobbo

Senate Bill No. 447- AN ACT MODERNIZING THE STATE'S TELECOMMUNICATIONS LAWS

Thank you for the opportunity to submit testimony regarding Senate Bill No. 477 - An Act Modernizing the State's Telecommunications Laws. The Department of Energy and Environmental Protection's (Department or Agency) Public Utilities Regulatory Authority (PURA or Authority) welcomes the opportunity to offer the following testimony on specific sections enumerated below.

Senate Bill No. 447 would in part: (1) remove the requirements for telecommunications service providers and telephone companies to file certain tariffs with the Authority; (2) clarify for telecommunications companies when a document is considered filed with the Authority; (3) modifies the filing requirements for versions paper copies of submittals made to the Authority electronically; (4) clarify when audits are required; (5) remove the imputation standard (i.e., the requirement that competitive or emerging competitive services be priced at an amount that is not less than the sum of (a) the rate charged to another telecommunications company for a noncompetitive or emerging competitive local network service function used by that company to provide a competing telecommunications service and (b) the applicable incremental costs of the telephone company); (6) define interconnected Voice over Internet Protocol (VoIP) service and clarifies the extent it is regulated by the Authority; (7) require the same advance notice of service termination requirements on utility company customers that have elected to receive their mail by electronic means; (8) review certain video providers; (9) ensure funding for certain programming; (10) identify how certain funds provided for public access programming may be allocated; (11) enable out-of-state technicians to perform electrical work in the state during certain emergencies; and (12) expand the areas in which telecommunications towers may be located.

Section 1 of SB. 447 would remove tariff filing requirements with the Authority. Although the Authority supports the removal of tariff filing requirements for competitive and emerging competitive services as it is consistent with current state policy, the PURA believes that in some cases the listing of competitive and emerging competitive service rates, terms and conditions may not be sufficient. The Authority therefore recommends that the state's telecommunications services providers also be required to provide to their customers an Internet link to company websites where service information could be clearly presented. The Authority also recommends that the telecommunications companies be required to annually provide their customers with a description of the services that they purchase including the

rates, charges and terms and conditions. The annual descriptions to consumers could be through bill inserts or a separate mailing.

Section 2 of the proposed bill clarifies when a document is considered filed with the Authority. It also establishes the elimination of paper filings except for: three hard copies that are to be filed with the PURA; in the case of a party or intervenor in a specific docket requests the Authority to receive a paper copy from any other party or intervenor of any filings related to that docket if they do not have computer access; and when the Office of Consumer Counsel (OCC) requests up to three paper copies and such paper copies may be sent to the OCC by United States mail.

With regards to copies of electronic filings submitted on paper to the Authority, the PURA has no objections to these provisions. However, we note that the Authority is currently undergoing an evaluation of its Case Management System and applying LEAN¹ principles as to how the PURA accepts filings from all of its stake holders. Therefore, legislation proposed in this section concerning the provision of paper copies may be premature at this time in light of these ongoing initiatives.

Section 3 of the bill would require a comprehensive audit and a report of a telephone company, community antenna television companies, certified competitive video service providers, and holders of a certificate of cable franchise authority undergoing a federal audit. A federal audit, can in certain instances, satisfy the Authority's review obligations. The Authority would also recommend that language be added to require telephone companies, community antenna television companies, certified competitive video service providers, and holders of a certificate of cable franchise to respond to PURA inquiries concerning their Connecticut operations.

Section 4 of SB 477 deletes the imputation standard. The Authority welcomes the opportunity for further discussion of this issue. The imputation standard was implemented to ensure that the state's telephone companies experience the same cost floor as their competitors' and to ensure against a price squeeze for their services. A price squeeze occurs when a company competing in the marketplace sells an essential input to another company for more than it charges its own end users for the same service. While facilities-based competition in the state's telecommunications market has certainly increased since this standard was first introduced, the telephone companies' competitors are in a better position than the Authority to provide testimony concerning the continued need for this requirement. The Committee and the Authority may well find the views of the telephone companies' competitors a key resource in better understanding the potential impact that the removal of this requirement would have on the competitive offering of their services in the marketplace.

Section 7 of the proposed bill defines interconnected VoIP Service and the extent that the Authority may regulate the entry, rates, terms and conditions of interconnected VoIP Service. Interconnected VoIP services are considered to be Informational Services by the Federal Communications Commission (FCC) and are like other telecommunications services offered by other providers not subject to current FCC or state regulatory requirements as are. The PURA believes that this language clarifies the regulatory treatment of these services so that they are regulated consistently in Connecticut with the federal jurisdiction.

Section 8 of SB 477 requires that utility companies to observe the same advance notice requirements for customers that have elected to receive their mail through electronic means as if the customer were

¹ LEAN is a process improvement approach that identifies and minimizes wasted time and effort.

receiving such notification by first class mail. Given today's environment and consumer reliance on electronic mail, the proposed change is appropriate.

Sections 9 to 11 of the bill review certain video providers; ensures funding for certain programming; and identifies how certain funds provided for public access programming may be allocated. These sections appear to duplicate proposed legislation raised in House Bill No. 5473 An Act Concerning Public Access Operations and the Periodic Review of Video Providers, Sections 1 through 3. The PURA directs the Committee's attention to its written testimony presented during the March 15, 2012 hearing.

Section 12 of SB 447 would enable out-of-state technicians to perform electrical work in the state during certain emergencies. The Authority supports these changes but would recommend that additional language be included which would require the public service company or certified telecommunications provider employing such technicians, to be responsible for their work and to ensure that such work is fully in compliance with all applicable codes and standards, including the National Electrical Safety Code, and the National Electric Code, Occupational Safety and Health Administration standards and/or any other construction standards that are required for the telecommunications work.

Sections 13 to 18. The PURA notes for the Committee that this legislation may conflict with the Department's state park and forest policies and defers to DEEP for the following comments. While the Department recognizes the value that communication towers provide for public safety, their placement on state parks and forest lands poses considerable potential for legal entanglements and public conflicts. Most often, the department's parks and forests are acquired with open space bond funds, federal grants, and donations by philanthropic citizens. These acquisitions and bequests include restrictive language whether in the form of deed restrictions, easements, or federal or state legislation prohibiting uses that may conflict with the conservation of forest, fish, and wildlife.

The Department believes use of Agency parks and forests for purposes other than the original intended use breaches the public's trust and potentially exposes the department to considerable litigation.

Additionally, the legislation, as proposed, conflicts with the General Statutes of Connecticut §23-21 whereby the Commissioner may sell or exchange unencumbered land or any easement or interest in land, provided no land shall be sold or exchanged unless for additional land of at least equal fair market value and that is suited to reasonably equivalent use.

The PURA welcomes the opportunity to work further with the Committee on this bill to further address the concerns raised herein.

Thank you for the opportunity to submit testimony on this proposal. If you should require any additional information, please contact DEEP's legislative liaison, Robert LaFrance at 424-3401 or Robert.LaFrance@ct.gov

