
OLR Bill Analysis

sSB 447

AN ACT MODERNIZING THE STATE'S TELECOMMUNICATIONS LAWS.

SUMMARY:

This bill reduces, from 180 to 150 days, the period the Siting Council has to act on application for a certificate for a cell phone tower. It facilitates the siting of telecommunication towers in state parks and forests, and on other state property and watershed land.

The bill allows a telephone company to withdraw from providing a competitive telecommunications service by providing notice to, rather than getting approval from, the Public Utilities Regulatory Authority (PURA). There are two telephone companies in the state, Verizon, which serves part of Greenwich, and AT&T, which serves the rest of the state. By law, telecommunications services are classified as competitive, emerging competitive, or noncompetitive.

The bill also:

1. eliminates a floor on certain telephone company charges;
2. starting July 1, 2012, allows telecommunications companies to exempt themselves from any requirement to file or maintain tariffs with PURA for intrastate competitive or emerging competitive services offered or provided to retail customers;
3. reduces auditing requirements for certain telecommunications (including cable television) companies;
4. with several exceptions, exempts voice-over Internet protocol (VOIP) service from state and local regulation; and
5. exempts certain out-of-state telecommunications technicians from state registration requirements during an emergency.

With regard to cable t.v. companies, the bill:

1. requires PURA to conduct a performance review of such companies and
2. establishes funding requirements and options regarding town-specific access programming.

The bill allows electric, gas, and water companies and municipal utilities, electric suppliers, and telephone companies to terminate service by providing the notice required by law by e-mail rather than first class mail if the customer authorizes this and can withdraw the authorization at any time (§8).

Finally, the bill specifies when documents submitted to PURA are considered to be filed and limits the number of paper copies that must be filed. It also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage for the provisions dealing with funding for town-specific cable t.v. access programming and July 1, 2012 for the remaining provisions.

TELECOMMUNICATIONS TOWERS

Siting Council (§ 13)

By law, a Siting Council certificate is required to build a wide range of energy and telecommunications facilities. Generally, the council can grant a certificate only if it finds that there is a public need for the facility and that this need outweighs the environmental harm the facility may cause.

The bill establishes a presumption, in the case of cell phone tower certificate applications, that there is a public need for the tower and limits the council's consideration of need to the specific need for the proposed tower to provide personal wireless services. It also reduces the period the council has to review such applications from 180 to 150 days.

By law, when the council is reviewing an application for a cell

phone or cable TV tower, it must consider, among other things, whether the tower is proposed to be built in a relatively undisturbed area with scenic quality. Under current law, the council can deny an application if it finds that the proposed tower will substantially affect the area's scenic quality and public safety concerns do not require that it be built there. The bill modifies this provision, allowing the council to deny an application if (1) the proposed tower will substantially affect the area's scenic quality or (2) no public safety concerns require that a tower owned or operated by a state agency be built there. (By law, the council has siting jurisdiction over state agency towers.)

State Parks and Forests (§§ 14-16)

By law the commissioner of Energy and Environmental Protection (DEEP) may grant:

1. revocable licenses for public purposes to any person for the use of any portion of any state forest or state park,
2. rights-of-way or other easements on or with respect to any state park or state forest; and
3. leases for public purposes to any public authority for any portion of any state forest or state park.

In each case, doing so requires that the commissioner find that these actions are not in conflict with park or forest purposes.

The bill deems that construction of any telecommunications tower, or any other telecommunications equipment, owned or operated by the state, a utility company or a certified telecommunications provider, or used in a cellular system to be a public purpose that does not conflict with park or forest purposes. The bill also allows the DEEP commissioner, with the governor's approval, to grant leases to any public authority or any other entity for the construction of any telecommunications tower or other telecommunications equipment.

Other DEEP Land (§ 18)

By law, the DEEP commissioner may rent buildings or property in

the department's custody or control to any person if he considers it in the state's interest. The bill specifies that the construction of any telecommunications tower or other telecommunications equipment, owned or operated by the state, a utility company, or a certified telecommunications provider, or used in a cellular system is in the state's interest.

Leasing State Land for Telecommunications Towers (§ 19)

By February 1, 2013, the bill requires the governor or his designee prescribe procedures by which each state agency makes available on a fair, reasonable, and nondiscriminatory basis, any property (including rights-of-way and easements) under its control to place new wireless facilities that depend, in whole or in part, on using federal spectrum (radio wave) rights to transmit or receive personal wireless services (e.g., cell phone service). The procedures will establish a presumption that any request to use the property to build these facilities should be granted, if the facility's construction does not directly conflict with the agency's current or planned use for the property. The bill allows the state to charge any reasonable fee for the use of the property.

Watershed Lands (§ 17)

By law, a Department of Public Health permit is required for a private, municipal, or regional water utility to sell or lease its watershed lands or change their use. Current law prohibits most sales, leases, and changes of use of class I land (that located closest to wells or other water supply sources) and only allows such transactions for class II land (on a watershed but more distant from a water supply source) under limited circumstances. Less restrictive provisions apply to class III land.

The law provides that these restrictions do not preclude leasing watershed land for radio towers. The bill extends this provision to telecommunications towers or other telecommunications equipment that is (1) owned or operated by the state, a utility company, or certified telecommunications provider or (2) used in a cellular telephone system.

TELECOMMUNICATIONS COMPANIES

Withdrawal from a Telecommunications Service (§ 5)

Under current law, a telephone company with 75,000 or more customers can apply to PURA to stop providing a retail telecommunications service that is considered competitive. The application must specify (1) the service that the company wishes to drop, (2) the area or areas where it proposes to no longer provide the service, and (3) the number of its customers who will be affected. The application must also include a discussion of ways to mitigate the impact. Current law specifies the factors PURA must consider in making its decision whether to approve the application. If PURA approves the application, it must develop a method to allow customers receiving the service from the telephone company to choose a new service provider of the service, although it may not order the allocation or assignment of any customer. PURA must act on the application in a contested case. These provisions do not apply to a telephone company serving fewer than 75,000 customers.

The bill instead allows all telephone companies, starting July 1, 2012, to withdraw such services after providing 30 days' notice to PURA. The notice must describe the service and the area or areas where the company proposes to cease providing the service. The bill eliminates the requirement that the applicant develop a method to address existing customers of the service.

Floor on Telephone Company Charges (§ 4)

The bill repeals a provision requiring the rate a telephone company charges for a competitive or emerging competitive telecommunications service to be no less than the sum of (1) the rate the telephone company charges another telecommunications company for a noncompetitive or emerging competitive local network service function used by that company to provide a competing telecommunications service and (2) the telephone company's applicable incremental costs.

Tariffs (§ 1)

Under current law, certified telecommunications providers and telephone companies must file a new or amended tariff with PURA for each new competitive or emerging competitive intrastate telecommunications service. In this context, a tariff is a detailed description of the service's rates, terms, and conditions. The tariffs are effective within five and 21 days, respectively, after filing. PURA can investigate the tariff and suspend it during the investigation.

Starting July 1, 2012, the bill allows a provider or company to exempt itself from any requirement to file or maintain tariffs with PURA for intrastate competitive or emerging competitive services offered or provided to residential or business retail customers. The provider or company must (1) notify PURA in writing of its action and (2) give its customers information on rates, terms, and conditions for the service in a customer service guide or other way as it determines. The provider or company must annually file a copy of the guide or other document listing the rates, terms, and conditions for the affected service with PURA. The bill requires that tariff requirements for noncompetitive services, including the residential basic local exchange service as of July 1, 2012, remain in effect.

The bill eliminates PURA's ability to order different tariff filing procedures or effective dates for an emerging competitive service under a PURA-approved alternative regulation. It also eliminates PURA's ability to reclassify a service in conjunction with its investigation of a tariff.

Audits (§ 3)

Under current law, all utility companies (other than those regulated by the Interstate Commerce Commission) must have an annual comprehensive audit and report of their accounts and operations by independent public accountants satisfactory to PURA. The bill additionally exempts telephone and cable TV companies, directly or indirectly owned, by a parent company whose accounts and operations must be audited annually under federal law. PURA can order a company to provide additional information in order to perform its duties. The bill does not affect PURA's ability to conduct

management audits.

Regulation of VOIP Services (§ .7)

The bill generally bars state agencies and political subdivisions from enacting, adopting, or enforcing any law or other provision having the force of law that regulates, or has the effect of regulating, the entry, rates, terms, or conditions of VOIP service.

Under the bill, a VOIP service is one that (1) enables real-time, two-way voice communications that originate or terminate from the user's location using an Internet protocol or a successor protocol; (2) uses a broadband connection from the user's location; and (3) permits users to receive calls that originate on the public telephone network and to terminate calls on this network. VOIP service providers include companies such as Skype and Vonage. In addition, AT&T provides its U-Verse service using VOIP.

This prohibition does not:

1. affect the attorney general's authority to enforce the Connecticut Unfair Trade Practices Act and other consumer protection laws of general applicability;
2. affect, mandate, or prohibit the assessment of enhanced 9-1-1 fees, telecommunications relay service fees, or lifeline service fees or PURA's ability to establish a universal service program; or
3. modify or affect PURA's rights, obligations, or authority to act under, or enforce the provisions of, relevant federal law regarding any applicable tariff, or any state law related to wholesale rights and obligations, including the PURA's authority.

The last item includes PURA's right to (1) enforce the rights, duties, and obligations of local exchange carriers (e.g., telephone companies) to interconnect and exchange voice traffic, including VOIP traffic; (2) enforce the above rights or obligations or any tariff through arbitration

proceedings or other available mechanisms and procedures; or (3) require the payment of switched network access rates or other intercarrier compensation rates, as applicable.

Telecommunications Technicians (§ 12)

By law, individuals performing electrical work generally need a license from the Department of Consumer Protection (DCP). But DCP, upon authorization of the Electrical Work Board, may issue a registration certificate to public service technicians employed by a utility company, telecommunications provider, or their affiliates. This certificate allows the worker to perform telecommunications electrical work, that is work that may be performed by holders of a limited electrical contractor's (T-1) license. The company, provider, or affiliate that employs the technician must certify to the board that the employee has obtained the training and experience the company, provider or affiliate considers necessary to perform telecommunications electrical work included in his or her job functions. The Department of Labor must biennially certify the content and duration of the training and experience programs.

During any disaster or emergency period, the bill alternatively allows any out-of-state public service technician to perform telecommunications electrical work without first obtaining the registration certificate. In order for the out of state technician to do such work, the company, provider, or affiliate that hires him or her must certify to the board that the technician has obtained the training and experience the company, provider, or affiliate considers necessary to perform the work. These technicians may perform the work (1) starting no later than 10 days after the governor declares that a state of civil preparedness emergency exists or the president declares a federal major disaster or emergency and (2) ending no later than 60 days after the emergency declaration.

The bill requires the company, provider, or affiliate that hires these technicians to notify DCP of such as soon as practicable. The notification must identify each technician's name, state of domicile, business address, and contact information, and the dates he or she

performed electrical work in the state. The notice must also certify that the technician has obtained the necessary training and experience. No electric work performed by these technicians during the disaster or emergency counts as establishing the technician's residency in the state.

CABLE TV COMPANIES

Performance Reviews (§ 9)

The bill requires PURA to conduct a performance review proceeding on all of the certified entities that provide cable TV service (i.e., holders of community antenna television, cable franchise authority, and video franchise authority certificates). PURA must do this to ensure compliance with the terms and conditions of the company's certificate. The review may cover issues relating to customer service, community access providers, outage management, service to handicapped and low-income customers, and cooperation with PURA. (Community access includes public, educational, and governmental access programming.) After the initial review, PURA must conduct reviews every five years.

Each review is an uncontested case that includes the opportunity for a public hearing. The attorney general and the Office of Consumer Counsel (OCC) must be parties and PURA must designate the applicable advisory council as intervenors in such proceedings.

Town-Specific Cable Programming (§§. 10 + 11)

By law, (1) companies providing cable service must financially support community access using subscriber fees and (2) a nonprofit organization can petition PURA to take responsibility for administering community access operations using these fees.

The bill allows any company or nonprofit organization that receives these fees, including municipalities, to use the revenue to create and develop town-specific access programming, including for labor and staff expenses.

The bill requires a nonprofit organization that (1) funded town-

specific programming and supplied original programming from locally run operations on January 1, 2008 and (2) is currently responsible for community access operations to continue to fund town-specific programming in the same proportion of its funding for original programming as it did on January 1, 2008. Thus, if one-third of an organization's budget for original programming went to town-specific programming on January 1, 2008, it must spend one-third of its current programming for town-specific funding in the future.

Under the bill, this requirement also applies to any "community antenna television company." However, all of the companies that previously held certificates as community antenna television companies have replaced them, as permitted by law, with cable franchise authority or video franchise authority certificates.

PURA FILINGS (§ 2)

Under the bill, each document submitted to PURA is considered filed on the date and at the time PURA first receives a complete electronic or paper version of it, so long as it is filed in accordance with relevant PURA regulations. If a fee must accompany the document, PURA may not consider a document filed until it receives the fee. If a document is electronically submitted outside of PURA's normal business hours, PURA must consider the document to be filed when its offices next open.

Under the bill, PURA may not require the filing of paper versions of electronic filings, other than (1) three paper copies sent by regular mail to PURA; (2) at its request, one paper copy mailed to a party or intervenor in a specific PURA docket who does not have computer access; and (3) up to three paper copies mailed to OCC at its request.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 20 Nay 1 (03/28/2012)