



STATEMENT OF AT&T CONNECTICUT

John Emra, Regional Vice President

Regarding Raised House Bill No. 6402

AN ACT MODERNIZING THE STATE'S TELECOMMUNICATIONS LAWS

Before the Committee on Energy and Technology

February 21, 2013

Proposal:

The legislation updates and modernizes the state's telecommunications laws to better reflect today's highly competitive communications market in a number of ways, including: eliminating Connecticut's single state audit requirement for certain companies under certain circumstances, eliminating PURA authority to reclassify certain services, eliminating Connecticut's price floor, making tariffs for retail competitive services permissive, allowing telephone companies to simplify their product and service offerings, limiting the application of service standards to non-competitive services and customers, and deleting two obsolete and unnecessary statutory requirements.

Comments:

AT&T strongly supports Raised House Bill No. 6402, thanks the Committee for introducing the legislation and urges its adoption.

In 1994, the General Assembly opened up Connecticut's local phone market to competition. That action has been an unmitigated success for the consumers of the state. Today, consumers have more choices, are receiving cutting-edge products and services and, in fact, are getting better functionality and overall value for their dollar relative to days past. Consider that, in 1994, nearly every home in the state had a traditional TDM phone from AT&T or Verizon, but today only 28 percent of the state's homes do. The number of access lines AT&T has in service in the state has declined by over 1.4 million since just the year 2000, and each and every month more than 10,000 additional access lines are disconnected in this state.

The 1994 law rightly started to reduce the level of regulation of providers as the state moved to a competitive market. Follow-up laws in 1999 and 2006 – again considering the degree to which competition had taken hold – also moved to reduce unnecessary regulation. AT&T strongly believes given the level of competition present in the marketplace that it is time again for the legislature to take the next logical step and to update the state's telecommunications law by eliminating more unnecessary and burdensome regulations. The legislation which is before you does so in a number of important ways.

Section One: Elimination of the Single State Audit

Section 16-32 of the Connecticut General Statutes, which was first enacted in 1949, requires public service companies to have an annual audit of their finances. This requirement made

sense and still makes sense when a public service company is not otherwise audited. However, AT&T Connecticut, for example, is part of a much larger corporation which has all of its finances and operations otherwise audited as a requirement under various federal laws and regulations. As a result of this separate audit requirement, AT&T spends nearly \$1 million annually, in addition to the costs of the federal audit, to have a separate Connecticut audit performed. Connecticut is the only state of the 22 states in which AT&T operates as an incumbent local exchange carrier, which requires such a separate audit and, to our knowledge, is the only state in the country that has such a requirement. Neighboring New York eliminated its separate mandatory audit requirements for telephone companies more than 15 years ago.

The legislation before you would eliminate this separate auditing provision for a telephone company which is also a public service company as well as community antenna television companies so long as the company's parent company operations were audited under federal law. The language in the proposal before you mirrors the existing law which exempted from the auditing provision any telegraph or express company subject to the jurisdiction of the Interstate Commerce Commission, since they are likewise subject to audit under those rules.

While the language eliminates the auditing provision, it does require that any company no longer subject to the auditing provision provide any information to the PURA at their request. This represents an agreement reached between the company and PURA.

The proposed language in Section One of the bill will help to eliminate outdated, unnecessary and expensive requirements found in the law while ensuring that the oversight envisioned in the law continues.

Section Two: Reclassification Authority

Under current law, the PURA may reclassify a "competitive service" as non-competitive; language in this section would remove this authority since it has never been exercised by the PURA since it was written nearly twenty years ago and is no longer appropriate given today's highly competitive communications marketplace. Removing such language will provide regulatory certainty to companies under the PURA's jurisdiction that the rules and regulations on their services will be consistent.

Section Three: Elimination of the Imputation Standard

When the General Assembly wrote the 1994 law opening the local phone market to competition it believed, as did most parties to those proceedings, that most competitors to local phone companies would purchase, on a wholesale basis, access to the incumbent's network in order to compete. As a result of this reasoning, the General Assembly established a requirement in the law which prohibits AT&T from offering any service at a retail price which is lower than the wholesale price of purchasing the piece parts of AT&T's network. However, the underlying assumption in this law ended up being quite flawed. Nearly all of the competition to AT&T comes not from competitors purchasing wholesale access to its

network but instead from competitors utilizing their own networks to compete. As a result of this flawed assumption, AT&T is prevented from openly competing for some business because its competitors can and do under price its offerings. Artificially setting a floor by which some providers may not lower their retail prices hurts not only those providers who are restricted from actively competing but ultimately consumers of such services whose choices are more limited and who are paying a higher price than they might otherwise pay.

Eliminating the imputation standard will not harm competitors since they will still be able to resell AT&T's services. In addition to purchasing wholesale elements of AT&T's network, competitors under the law may resell AT&T's services by purchasing that service from AT&T's wholesale tariff at a 25.4 percent discount off the retail price of that service. This resale discount is among the highest discounts anywhere in the country. This means, for example, if AT&T were permitted to lower its price without respect to any imputation standard as we are requesting, any competitor could still purchase on a resale basis that same service for 25.4 percent off the price we are offering.

Section Four: Properly Defining Competitive Services and Elimination of Tariffs

Section Four of the legislation changes the definition of competitive services to include customers who purchase broadband services or who purchase toll services from a company other than a telephone company and eliminates the requirement that telephone companies like AT&T and Verizon, as well as those competitors of AT&T that are certified telecommunications providers, file tariffs for their competitive retail services with the PURA.

Today, customers are defined as non-competitive if they purchase basic local exchange service or basic local exchange service and intrastate toll services from a telephone company like AT&T or Verizon. Non-competitive customers have generally been thought of as "at risk" and therefore there is far more regulation on those customers than there are on "competitive" customers. While nothing in this legislation changes how non-competitive customers are regulated, language in this section does attempt to clarify that a customer should be competitive if they are purchasing basic local exchange service and broadband services or if they are purchasing basic local exchange service and toll service from another provider. These two changes will properly classify customers purchasing broadband as not "at risk" and also ensure that customers purchasing similar services but from multiple providers are classified as customers purchasing all their services from a telephone company.

Today, a small number of the providers in the marketplace file and maintain tariffs with the PURA which describe an individual service offering, the prices charged, and the terms and conditions for such an offering. These tariff requirements are a vestige of the monopoly era of telecommunications when the PURA was charged with overseeing and regulating monopoly providers. Today the marketplace is fully open to competition and most of the providers in the market, including the largest providers, are not required to file or maintain tariffs. These other providers instead have agreements between themselves and their customers.

Today's existing tariff requirements constitute a real burden on some providers and increase the cost of doing business with no benefit to the customer. AT&T maintains a tariff database containing general terms and conditions, and specific service descriptions and terms and conditions for all the regulated telecommunications services it provides, including even separate filings for individual case basis services provided to business customers. Anytime it introduces a new service or makes any change to terms and conditions, regulatory specialists review the service or change with product managers, draft appropriate language, create specially formatted tariff pages, file these pages with the PURA, and distribute them as appropriate. In addition, AT&T must maintain the electronic database housing the tariffs and ensure that it is accessible to the PURA. This process is parallel to, but must be coordinated with, the separate process undertaken for distinct employees to ensure adequate and timely customer communications.

Today, as a matter of good service, we communicate the parameters of the services our customers choose by means of scripts, welcome packages, bills, and other information. In fact, customers can obtain information about their services at any time at www.att.com. This information is far more accessible to customers than tariffs and more similar to the materials provided by our competitors, thus better facilitating competitive comparison. Drafting, filing, and maintaining tariff databases is an additional layer of communication not typically relied on by customers. In short, direct communication with customers which providers already undertake today is more relevant to customers than are tariffs. Not only are tariffs an administrative burden for the company, but they also slow us down in a competitive market. AT&T must file tariffs days in advance of making changes to its services, thus giving its competitors advanced notice of our plans.

This proposal does not change the role of the PURA or change existing consumer protections under Connecticut law and PURA regulation.

By eliminating tariffs for telephone companies and certified providers, Connecticut would be joining with the federal government and numerous other states which have taken such action. The federal government eliminated tariffs for interstate long distance service over fifteen years ago with no harm to consumers. Fourteen of the twenty-two states where AT&T provides local service have already eliminated tariffs entirely, and another four have dramatically limited their applicability.

Finally, and perhaps most importantly, most of AT&T's major competitors in the voice market do not file tariffs. This not only serves as an example of an unlevel regulatory playing field but also demonstrates how little consumer impact such a change will have. Providers not subject to the tariff filing rules are the very ones who have experienced the greatest gain in market share – this alone illustrates how tariffs are not important to the end user and their experience with their provider.

Section Five: Product Simplification of Competitive Services

During the 1999 update of the state's telecommunications laws, the legislature enacted a provision of the statutes which prohibits AT&T or Verizon from stopping to offer any competitive service without PURA approval. This section of the law was enacted because at the time there was a plan whereby a ballot would be sent to all consumers to allow them to choose their telecom provider, and the requirement was included to ensure that companies would not stop offering services before that balloting took place. That plan eventually did not move forward for several reasons. But this unnecessary requirement remains in place for AT&T today, impeding its ability to make changes in response to the rapidly changing communications market.

Over the years, AT&T has introduced thousands of service plans and products for our customers and, as new plans came to market, old offerings were rarely removed. Today, for example, there are still hundreds of products related to our traditional phone service (e.g., local, vertical services, LD, etc.), yet we proactively market only a subset of such services.

We want to improve customer service and reduce costs in our business by streamlining and consolidating existing offerings into a more unified and enhanced customer experience. It is critical that companies have the flexibility to remove products and services on a streamlined basis as consumer demands change instead of as old regulations dictate. While removing products and services is common for many companies in our industry and many other industries, AT&T must seek and obtain regulatory approval even though we are not even the majority provider in the marketplace. This sustains an unlevel playing field given that our competitors are free to discontinue their offerings based solely on business considerations. Imagine a grocer having to seek regulatory approval every time she wanted to remove a food item from her shelves that customers were no longer buying. Or think what would happen to a grocer's cost if a regulatory body made her keep stocking a food item on her shelves that only a handful of people bought once a year.

While we have not yet developed a list of services we would look to streamline, it is clear that doing so would make our overall product set more reflective of what we are currently offering and what consumers want. As this effort rolls out, our goal will be to ensure that our existing customers are as minimally impacted as possible. These are competitive services offered in a competitive environment so we have a very real incentive to do right by our customers. No doubt we would communicate in advance with customers about our plans to stop offering certain services and offer to them other alternatives which they could avail themselves of or not and of course they could decide to take their business to a competitor. These are the same steps that our competitors are free to take today.

Finally, it is important to note that this provision of the legislation does not impact our provisioning of non-competitive basic local exchange service here in the state. In fact, the legislation makes clear in lines 278-280 that all of the requirements with respect to filing of tariffs for non-competitive basic local exchange services remain in effect even after the passage of the legislation.

Section Six: Applying Quality of Service Rules to Non-Competitive Services

Under current law, AT&T and Verizon are required to meet certain quality of service regulations applicable to all of its telecommunications services. These rules do not apply to services offered by most, if not all of our competitors, including competitors with much larger market share than that of AT&T or Verizon. These rules are expensive to comply with, in some cases nearly impossible to meet, and most importantly not appropriate or necessary in a highly competitive marketplace, especially since they are not applied to all providers – and indeed can't be since the vast majority of providers and services offered in Connecticut are outside the jurisdiction and authority of the PURA.

The language in this section would not eliminate these rules entirely, but it would limit their applicability only to non-competitive services or customers; those historically seen as most “at risk” and in need of greater protection. We would suggest that the word “retail” be inserted in line 388 after the word “noncompetitive” and before the word “services” in order to be clear that this section is referencing retail products and services as it has always done historically.

Sections Seven, Eight, Nine and Ten

Conforming/clean-up changes added by LCO.

Section Eleven: Elimination of Reporting Requirement and Party Line Publishing Requirement

Section Eleven deletes two obsolete and unnecessary requirements in the law. First, it eliminates a burdensome and costly requirement that the PURA annually prepare and report to the General Assembly on the state of competition in the communications industry which was first called-for in 1994. While that reporting requirement made sense as Connecticut was just beginning the transition to a competitive market, it is no longer necessary. In addition, since the vast majority of providers and services offered in Connecticut are outside the jurisdiction and authority of the PURA, the report that it prepares annually while well intentioned is hopelessly incomplete and if anything provides a skewed view of the marketplace. AT&T and PURA each spend countless hours annually collecting information, answering interrogatories and preparing this report.

This section also deletes a 1957 law which requires companies which publish telephone directories to note in their directories the existence of C.G.S. Section 53-210 which

AT&T Connecticut Testimony
Raised House Bill No. 6402
Page 7
February 21, 2013

makes it a crime to fail to relinquish a “party line” in times of an emergency. Party lines are not offered in this state any longer and have not been for a number of years.

Conclusion:

AT&T thanks the Committee for raising Raised House Bill No. 6402 and urges its adoption.