OLR RESEARCH REPORT

June 10, 2013 2013-R-0240

STATE JURISDICTION OVER TELECOMMUNICATIONS SERVICES CHARGES

By: Kevin E. McCarthy, Principal Analyst

You asked for a discussion of the state's regulatory jurisdiction over installation and related charges imposed by telecommunications companies (including cable companies and Internet service providers). Specifically, you were interested in learning whether the state can bar a company from charging for an equipment installation before the service it supports goes into effect. The Office of Legislative Research is not authorized to provide legal opinions, and this report should not be considered one.

Federal law significantly restricts the state's ability to regulate such companies. As discussed in OLR Report 2010-R-0290, federal law largely preempts economic regulation of these companies, most notably regarding wireless service and telecommunications services using voice over internet protocol technologies, which companies such as Vonage and many cable companies use. Federal law (47 USC § 541 et seq.) also sharply restricts the ability of the state and other franchising authorities to regulate cable rates. In addition, to date, the Federal Communications Commission has treated internet service providers as enhanced service providers, rather than common carriers. As a result, they are not subject to economic regulation, e.g., restrictions on installation charges, by federal or state agencies. The U.S. Supreme Court upheld this policy in *National Cable & Telecommunications Assn. V. Brand X Internet Services*, 545 U.S. 967 (2005). PURA's consumer protection page website notes that it does not regulate, among other things, telephone equipment,

Sandra Norman-Eady, Director
Phone (860) 240-8400
FAX (860) 240-8881
http://www.cga.ct.gov/olr

Connecticut General Assembly
Office of Legislative Research

Room 5300
Legislative Office Building
Hartford, CT 06106-1591
Olr@cga.ct.gov

anything to do with the Internet, interstate telephone companies and rates, and false advertising claims.

On the other hand, federal law does not preempt state consumer protection laws. For example, false or misleading advertising for a telecommunications service, e.g., one that misled a customer as to when a charge would be applied, might be subject to sanctions under the Connecticut Unfair Trade Practices ACT (CUTPA). CUTPA allows the Department of Consumer Protection to issue investigate complaints, issue cease and desist orders, order restitution in cases involving less than $5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to $5,000 for willful violations and $25,000 for violating a restraining order.

KM:ro