OLR Bill Analysis
sSB 847 (File 369, as amended by Senate "A")*

AN ACT CONCERNING THE REGULATION OF VOICE SERVICE PROVIDERS.

SUMMARY

This bill exempts all telecommunications services from rate regulation and alternative forms of rate regulation under the Public Utilities Regulatory Authority (PURA). Current law only exempts telecommunications services that are competitive services. The bill eliminates various requirements for telecommunications providers generally, and certain requirements specific to telephone companies, which, by law, are telecommunications providers that provide at least one noncompetitive service.

Current law subjects telecommunications services to varying levels of regulation based on the service’s degree of competitiveness and the type of company providing the service. Generally, it requires (1) more stringent regulation of rates, tariffs, disclosures, and practices of telephone companies (i.e., legacy utility phone companies) providing noncompetitive services (e.g., basic landline service, network access services) and (2) less stringent regulatory requirements for telecommunications providers providing competitive services. The bill largely eliminates this regulatory framework, including PURA’s ability to designate services as competitive, emerging competitive, and noncompetitive. (In practice, PURA does not anticipate reclassifying services going forward, as telephone companies have not proposed a reclassification in over 10 years.)

Instead, the bill requires telephone companies to maintain tariffs (detailed rules for rates and products) for (1) interstate network access services with the Federal Communications Commission (FCC) and (2) intrastate network access services with PURA.
The bill eliminates provisions related to unbundling services to make them available to other telecommunications providers, but retains PURA’s jurisdiction under federal law related to agreements for such services.

For all telecommunications companies, the bill eliminates, among other things:

1. requirements to file tariffs with PURA for competitive and emerging competitive services;

2. a requirement to cooperate with the telephone company to create a statewide directory assistance database;

3. provisions that generally criminalize unauthorized procuring, selling, or receiving of telephone records; and

4. procedures telecommunications companies, their affiliates, and authorized representatives must follow when selling telecommunications services over the phone.

It also makes conforming changes and deletes obsolete provisions.

*Senate Amendment “A” adds provisions requiring telephone companies to maintain tariffs for network access services with the FCC and PURA.

EFFECTIVE DATE: October 1, 2019

§§ 1-11, 14 & 17 — RATES AND TARIFFS

Rate Deregulation

The bill exempts all telecommunications services from rate regulation and alternative forms of rate regulation and largely eliminates the regulatory structure in current law for competitive, noncompetitive, and emerging competitive services. However, it maintains references to these terms (see COMMENT).

It makes conforming changes by eliminating:
1. rate restrictions on a telephone company’s competitive services and related PURA procedures;

2. prohibitions on including certain advertising costs as operational expenses for rate-setting purposes;

3. requirements applying to telephone companies and telecommunications companies to file tariffs for competitive and emerging competitive intrastate telecommunications services and

4. PURA’s ability to investigate competitive and emerging competitive tariffs.

The bill instead requires, beginning October 1, 2019, telecommunications providers and telephone companies to make their rates, terms, and conditions for services offered or provided to residential end users available in a clear and conspicuous manner that is apparent to a reasonable residential end user on the company’s website.

The bill also requires telephone companies to maintain tariffs (detailed rules for rates and products) for (1) interstate network access services with the FCC as required by the FCC and (2) intrastate network access services with PURA as required by PURA. Tariffs must contain the terms, conditions, and rates for each service provided. Under the bill, network access services are services provided to (1) certified telecommunications companies or (2) telecommunications providers that provide service outside a local calling area. Network access services allow companies to access the telephone company’s network in order to provide telecommunications services.

Under current law, telecommunications providers and telephone companies may elect to be exempt from requirements to file tariffs for services offered to business retail end users, provided the companies meet other requirements on posting rates. The bill instead eliminates the filing requirement and extends to all companies the rate posting requirements that, in current law, apply to those companies that elect
to be exempt from filing requirements. Companies must make the rates, terms, and conditions for services offered or provided to business retail end users available to such users in a clear and conspicuous manner either (1) in a customer service guide, (2) on the company’s website, or (3) in a contract between the business retail end user and the company.

**Telephone Companies’ Disclosure to Business Customers (§ 14)**

Conforming to the elimination of tariffs, the bill eliminates a requirement that telephone companies provide business customers, at their request, a list of tariffed equipment and associated charges that indicates (1) the number of telephones and lines, and the types of service the customer is being billed for and (2) the charge for each such telephone, line, and service.

The bill instead requires telephone companies to comply with existing federal law that broadly requires that charges and practices for communications services are just and reasonable.

**§ 16 — ANNUAL DISCLOSURE ON PROMOTIONS AND DISCOUNTS**

The bill eliminates requirements that telephone companies and telecommunications providers make written disclosures related to promotional offerings and discounts to their customers annually and when the customer subscribes. Under current law, companies must disclose:

1. that the offering is a promotion and will be in effect for a limited period of time, for any promotional offering filed with PURA on or after October 1, 2002, and

2. whether a removal of or change in service will result in the loss of a discount or other rate change for any service the customer subscribes to or uses.

The bill instead requires the companies to comply with existing federal law that generally requires that charges and practices related to communications services be just and reasonable.
§§ 8 & 17 — UNBUNDLED NETWORKS AND RATES

Current law requires PURA to unbundle a telephone company’s network, services, and functions to allow other telecommunications companies to compete with the local telephone company by having reasonable and nondiscriminatory access to the network. It requires PURA to determine rates for interconnection and unbundled network elements based on respective forward looking long-run incremental costs.

The bill eliminates this requirement and related provisions requiring telephone companies to provide reasonable and nondiscriminatory access to and pricing for all telecommunications services, functions, and unbundled network elements necessary to provide telecommunications service to customers. The bill also generally eliminates requirements that PURA determine telephone company rates for such services. But, it requires rates for interconnection and unbundled network elements to be consistent with any applicable PURA decisions issued on or before June 30, 2019.

Under the bill, these provisions do not limit PURA’s jurisdiction under federal law to, among other things, approve or arbitrate agreements for interconnection, services, and network elements.

It also eliminates obsolete requirements related to a telephone company’s operations support systems.

§ 12 — DIRECTORY ASSISTANCE

The bill eliminates a requirement that telecommunications companies cooperate to create a statewide directory assistance database. Instead, it requires the companies to meet applicable federal requirements. Current law requires each telecommunications company that provides local service in the state to provide its published listings for Connecticut customers to a telephone company with more than 100,000 customers (Frontier). The telephone company, its agent, or affiliate, must (1) compile the listings with the company’s own published listings in a directory assistance database and (2) make listings in the database available to directory assistance providers.
The bill also eliminates related provisions requiring the telecommunications providers to (1) connect customers at no charge to entities that provide directory assistance if the telecommunications provider does not provide such assistance and (2) indemnify the telephone company for any damages caused by the provider’s negligence in misidentifying a nonpublished customer.

Instead, the bill requires companies to comply with existing federal law that requires telecommunications companies that provide local service to provide subscriber list information on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions to anyone upon request for purposes of publishing directories in any format (47 U.S.C. 222(e)). Under federal law, subscriber list information is any information that (1) identifies subscribers’ listed names, telephone numbers, addresses, or primary advertising classifications and (2) a carrier or affiliate has caused to be published in any directory format identifying subscribers’ listed names (47 U.S.C. 222(h)(3)).

§ 13 — UNAUTHORIZED PROCUREMENT OF TELEPHONE RECORDS

The bill eliminates provisions generally prohibiting anyone from unauthorized procuring, selling, or receiving telephone records (see BACKGROUND) and associated penalties for violating this prohibition.

The bill eliminates provisions that, with certain exceptions, prohibit anyone from knowingly:

1. procuring, attempting to procure, soliciting, or conspiring with others to procure any state resident’s telephone record without the resident’s authorization;

2. selling or attempting to sell a state resident’s telephone record without the resident’s authorization; or

3. receiving a state resident’s telephone record obtained (a) without the customer’s authorization or (b) by fraudulent, deceptive, or
false means.

Current law includes exceptions to this prohibition for law enforcement officers in connection with their official duties; anyone acting under a valid court order, warrant, or subpoena; and telephone companies acting reasonably and in good faith and in certain other circumstances.

In eliminating the prohibition, the bill also eliminates associated penalties. Under current law, any violation of the prohibition described above is an unfair or deceptive trade practice under state law. Current law punishes violations involving:

1. a single record as a class C misdemeanor,

2. between two and 10 records as a class B misdemeanor, and

3. more than 10 records as a class A misdemeanor.

By law, unchanged by the bill, each telephone company that maintains a state resident’s telephone records must establish reasonable procedures, as defined in federal law, to protect against the records’ unauthorized or fraudulent disclosure that could result in any customer’s substantial harm or inconvenience.

§ 15 — TELEMARKETING AND “SLAMMING”

Change Order Confirmation

State and federal law requires telecommunications companies to take certain steps to prevent unauthorized switching of a customer’s telecommunications carrier (i.e., “slamming”). Under current state law, a telecommunications company cannot submit an order to change a customer’s primary, local, or intrastate interexchange carrier unless it authorizes the change through verbal authorization confirmed by an independent third party or written authorization of the change from the customer. The bill instead allows such change orders to be authorized in compliance with federal law, which, among other things, allows companies to verify change orders electronically and in the ways permissible currently under state law (47 CFR § 64.1120(c)).
Unlike current state law, federal law does not require the change order or third-party verification record to identify the individual with whom the telemarketer confirmed authorization.

The bill also eliminates requirements for telecommunications companies that have received confirmation of such change orders to send customers notice that their carrier has changed and a post card or toll-free number they can call to deny authorization for the change order. It also eliminates related provisions requiring the company, if a customer denies authorization, to (1) adjust the customer’s bill so the customer pays no more than he or she would have paid had the carrier not been switched and (2) pay related charges to the previous carrier.

**Other Telemarketing Procedures**

The bill eliminates other procedures telecommunications companies, their affiliates, and authorized representatives must follow when selling telecommunications services over the phone (i.e. telemarketing). The bill eliminates requirements that telemarketers conducting such calls:

1. identify themselves, the telecommunications company providing proposed services, the name of the business for whom the call is made, if different from the telecommunications company;

2. state that only the customer may authorize a change in service;

3. confirm they are speaking to the customer;

4. clearly explain the proposed services in detail and explain that an affirmative response will change the customer’s telecommunications carrier; and

5. obtain from the customer an affirmative response that the customer agrees to a change in his or her primary, local, or intrastate interexchange carrier.

**BACKGROUND**

*Telephone Records*
By law, a telephone record is information, retained by a company providing commercial telephone services to a customer, related to:

1. a phone number dialed by the customer, or someone using the customer’s phone with the customer’s permission;

2. the incoming number of a call directed to a customer or someone using the customer’s phone; and

3. other call-related data typically contained in a customer’s telephone bill, including start and end times for calls, the time calls were made, and any charges applied.

By law, telephone records do not include information collected and retained by or on behalf of a customer using caller identification or a similar technology (CGS § 16-247u(a)(1)).

COMMENT

Conforming Changes

The bill eliminates provisions on how services are classified as “competitive,” “noncompetitive,” and “emerging competitive” but retains references to such classifications. In practice, PURA does not anticipate reclassifying services going forward, as telephone companies have not proposed a reclassification in over 10 years. However, the retained references make certain provisions unclear under the bill. For example, under CGS § 16-247a, in the bill and in current law, competitive is defined in part as telecommunications services deemed competitive in accordance with CGS § 16-247f, but under the bill, CGS § 16-247f no longer contains any language describing how services are deemed competitive.

By law, telephone companies are regulated by PURA as public service companies (CGS § 16-1(a)(3)) and defined as telecommunications companies that provide noncompetitive services (CGS § 16-1(a)(17)). Ambiguity in the definition of the term “noncompetitive service” could present regulatory ambiguity to the extent such provisions are not duplicated in federal law.
COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable
Yea 14 Nay 11 (03/19/2019)