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OFFICE OF PEOPLE'S COUNSEL**

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BILL NO.: **Senate Bill 207**
Telephone Companies – Streamlined Regulatory Requirements

COMMITTEE: **Finance**

HEARING DATE: **March 10, 2015**

SPONSOR: **Senator Klausmeier**

POSITION: **Support with Amendments**

Senate Bill 207 would permit the Public Service Commission (PSC or Commission) to significantly reduce its oversight over the rates and services provided by telephone companies by permitting selective de-tariffing. Additionally, the PSC would no longer be required to examine and give its prior approval of certain transactions including mergers, stock transfers, financing instruments, internal reorganizations, and changes in ownership interest involving a telephone company and its parent company. Finally the Bill would permit the Commission to allow a company to withdraw “retail service,” *other than basic local exchange service*, after giving certain notices to the Commission and customers. For reasons that will be discussed below, the Office of People’s Counsel can support this Bill with clarifying amendments designed to protect residential customers’ access to reasonably priced and reliable basic local exchange service.

BACKGROUND

Basic local exchange service, also known as wireline local telephone service, or “Plain Old Telephone Service” (POTS), has been regulated by the Public Service Commission for almost a hundred years to ensure the quality, availability and reliability of telecommunications services that also are affordable and reasonably priced. Access to reasonably priced, reliable telecommunications service by residential customers is of obvious importance for health and safety reasons. In this State, Verizon Maryland is the predominant regulated telephone company, the incumbent local exchange carrier (ILEC). Verizon Maryland provides basic local service through copper and in some areas fiber, lines. Verizon has made no secret of the fact that it would like to be freed from the bounds of state regulation of its services and prices. It is also no secret that the companies like Verizon, which operate the local exchange (or landline) network, want to abandon their copper-based services, which continue to provide generally reliable telephone service to millions of consumers. Through public statements, it is clear that Verizon desires to replace as much copper wire service as possible by using either fiber –optic communications (FIOS) or wireless offerings. However, these newer services are not comparable to wired basic local exchange service in terms of reliability and function. Newer services require a source of back-up power while a copper line can maintain an electric charge for days or weeks in the event of widespread power outages. Some of the wireless substitutes are incompatible with medical alert and health monitoring services, fax and credit card machines, relay services, DSL or dial up modems, and home security systems. OPC believes that care must be taken to ensure

that statutory changes designed to lift some regulatory “burdens” do not inadvertently expose Maryland residential consumers to potentially less regulated and less reliable service over time.

THE DE-TARIFFING PROVISION

As drafted, the Bill grants the Commission wide discretion to decide whether it is “in the public interest” to allow a telephone company to provide a regulated service without the need to file a tariff schedule of its rates and charges. Tariffs are considered the “contract terms and conditions” between a company and its customers. In the absence of tariffs, customers would either have to enter into direct bi-lateral contracts with the company or agree to a set of “Terms and Conditions.”

OPC does not object to the provision in the Bill which requires the Commission to make a public interest determination before allowing detariffing of specific regulated services. However, OPC believes the bill should be amended to include the following additional provisions:

*The Commission should be required to base its determination on an evidentiary record after notice and hearing. This would allow OPC and other stakeholders an opportunity to weigh in on the question of whether a request is in the public interest.

*Detariffing for basic local exchange services should be prohibited. This is the basic “no frills” landline service.

*An express statement that even if a service is detariffed, it still remains a regulated service subject to Commission jurisdiction.

*An express statement that even if a service is detariffed, a telephone company is required to post the rates, terms and conditions for the services in a clear, conspicuous and understandable manner on a separate Maryland page for its website, and to develop and file with the Commission a Customer Service Guide listing the terms and conditions for the detariffed service.

THE CORPORATE TRANSACTIONS PROVISIONS

OPC has been informed that the changes to Sections 5-203 and 6-101 of the Public Utilities Article are meant to apply to certain transactions of companies under a single holding company structure, i.e., companies under a common parent. However, as currently written, it is not clear that the changes would be limited to those circumstances. OPC understands that other parties will be proposing amendments to clarify this concept. OPC will review those amendments.

WITHDRAWAL OF CERTAIN RETAIL SERVICES

Retail services, as defined in the Bill, include basic local exchange service as well as other discretionary services provided by a telephone company. The Bill treats basic local exchange service differently from other services for purposes of notice and withdrawal of service.

Retail service with no customers. The Bill would allow a telephone company to withdraw offering a retail service (defined as services other than exchange access telephone service) on 14 days' notice to the Commission if it has *no* customers for that service. OPC does not object to this provision.

Retail service with customers. The Bill would allow a company to withdraw a retail service on 30 days' notice to customers and the Commission in other cases. OPC recommends the Bill be amended to clarify that the notice must be "written" notice. OPC understands that residential customers with "bundled" services (that is, a combination of basic local exchange service and other discretionary services such as Caller ID) have monthly agreements with telephone companies.

Prohibition on withdrawal of basic local exchange service. The Bill would prohibit a telephone company from withdrawing "basic local service to an exchange" without prior

Commission authorization. OPC recommends that the Bill be amended to establish a standard for Commission authorization of such a withdrawal as follows:

The Commission may not authorize a telephone company to withdraw from basic

Local service to an exchange unless the Commission finds that the withdrawal:

- i. protects customers by ensuring that affordable and reasonably priced service is available in all parts of the State; and
- ii. is in the public interest.

OPC also recommends that the Bill be amended to clarify that the Commission must provide notice and evidentiary hearing, for any request to withdraw offering basic local exchange service.