A BAD DEAL FOR PENNSYLVANIA

Raising Phone Rates and Putting Telephone Service at Risk
What HB 1608 Will Do to Pennsylvania Consumers

NATHAN NEWMAN, PH.D.

A KEYSTONE RESEARCH CENTER REPORT

NOVEMBER 2013

The Keystone Research Center

The Keystone Research Center was created to broaden public discussion on strategies to achieve a more prosperous and equitable Pennsylvania economy.

As a research and policy development organization, the Keystone Research Center conducts original research, produces reports, and promotes public dialogue that addresses important economic and civic problems, and proposes new policies to help resolve those problems.

Established in 1996, Keystone operates through the collaborative efforts of Pennsylvania citizens drawn from academia, labor, religious and business organizations. Rather than simply outlining Pennsylvania's problems, the Keystone Research Center is dedicated to using research and collaboration to propose workable policy alternatives.

Over the last 16 years, the Keystone Research Center has become a leading source of independent analysis of Pennsylvania's economy and public policy.

About the Author

Nathan Newman has been analyzing and writing about telecommunications policy for nearly twenty years. Newman received a Ph.D. from UC-Berkeley where his dissertation, then book, *Net Loss: Internet Prophets, Private Profits and the Costs to Community*, detailed the relationship between telecommunications public policy and local economic development. *Harvard Business Review* described it as a "provocative case for business civic-mindedness" in the context of the information economy. He also received his J.D. from Yale Law School and has written regularly on the legal aspects of technology policy. From 1991-1996, Newman was co-director of UC-Berkeley's Center for Community Economic Research, where he wrote regularly about policy around the emerging Internet economy. From 1997-1999, Newman was Program Director at NetAction, a consumer watchdog group, where he was an early advocate for anti-trust scrutiny of Microsoft and other technology policy. Most recently, as Policy Director and the Executive Director of Progressive States Network from 2005-2010, he oversaw the creation of a Broadband Build-out and Technology Investments program to promote state telecommunications policies, including authoring a report on smart grids which was released on Capitol Hill in March 2010 in conjunction with a Capitol Hill press conference headlined by Congressman Ed Markey. His reports on telecommunications and technology policy have been published by multiple organizations and cited nationally in *The New York Times, Sacramento Bee, San Jose Mercury News, Baltimore Sun, Wired, Village Voice, ZDNet, CNet News, San Francisco Chronicle, TheStreet.com, Chronicle of Higher Education, MIT's Technology Review* and the *American Prospect.*

KEYSTONE RESEARCH CENTER

412 North 3rd Street

Harrisburg PA 17101

Main office: 717-255-7181

Communications: 717-255-7156

EXECUTIVE SUMMARY

HB 1608 is a part of a wave of phone deregulation bills introduced around the country in recent years. Like similar bills in other states, HB 1608 would increase the profits of telecommunications companies while raising phone rates and putting quality telephone service at risk in Pennsylvania.

The bill is a Christmas tree of provisions benefiting telecommunications companies, particularly Verizon, without a single provision that would benefit the public. The evidence from states around the country that have passed similar phone deregulation measures shows that consumer phone rates go up and service quality goes down when regulatory oversight goes away. These deregulatory changes will not jumpstart competition, innovation, and investment, as proponents claim. Rather, this is what the bill will do:

- **Increase Rates for Telephone Service.** Deregulation in other states has led to significant increases in rates. In neighboring Ohio, rates have increased $1.25 per month (the maximum rate allowed) since passage of the state's 2010 deregulation statute. In Illinois, another state similar to Pennsylvania, AT&T increased line charge rates by up to 63 percent following passage of a 2010 deregulation. In California, some rates increased by several hundred percent. In Pennsylvania, HB 1608 would allow telecommunications providers to raise rates with only one-day advance notice in cities and towns throughout Pennsylvania. In rural areas, it would remove all regulation of rates for basic telephone service in areas served by at least two other providers, such as a cable company, wireless carrier, or Skype.

- **Abandon Rural Communities.** Today, the local telephone company must serve all customers. The bill would allow carriers to eliminate service to consumers that they don't want to serve, beginning in the year 2018.

- **Eliminate Consumer Protections and Quality of Service Requirements.** The bill would eliminate critical consumer protections, reporting requirements that allow consumers to compare phone rates, auditing requirements that ensure phone company accountability, and quality of service benchmarks that require timely repair, installation, and answering of consumer calls to the telecommunications carrier.

- **Remove Public Oversight Over Telecommunications Companies' Mergers and Acquisitions.** By removing regulatory review over mergers and acquisitions, HB 1608 could cost customers and Pennsylvania taxpayers hundreds of millions, even billions of dollars, if Verizon sells off its landline business in the state. Where other states have been able to demand significant public investment as a condition of such sales, Pennsylvania regulators would lack the power to demand similar compensation for its consumers.

- **Eliminate Regulatory Tools that Have Made Pennsylvania the Most Successful State in Delivering First Generation Broadband to Rural Residents.** Under the provisions of Chapter 30 mandates, incumbent telecommunications carriers must complete full statewide deployment of first generation broadband by 2015.[1] According to the most recent public data, Pennsylvania telecommunications carriers have deployed first generation broadband to 93 percent of the state's rural population. This puts Pennsylvania at the top among states with large rural populations in the proportion of rural customers that have access to broadband service.

- **Leave Rural Pennsylvania and Smaller Cities on the Wrong Side of the Digital Divide.** But today, consumers and businesses need more than first generation broadband – they need high-speed. Yet, Verizon refuses to build its state-of-the-art high-speed FiOS fiber network outside of the Pittsburgh, Philadelphia, and Harrisburg metro areas. HB 1608 would eliminate the ability of regulators to encourage the deployment of next generation high-speed broadband throughout the state.

The bill ignores the reality that regulation does more than protect those dependent on landlines; it keeps telecom companies focused on long-term investments that serve the state's economy.

Effective regulation of basic landline local phone service remains critical to protect consumers and ensure that all residential and business customers in the state have access to quality, affordable service. Millions of Pennsylvania consumers continue to rely on basic wireline service. Alternatives such as wireless are more expensive and do not provide real price competition. Moreover, wireless service does not provide back-up power and is subject to congestion and cell tower outages in times of emergency. Wireless does not provide the affordable high-speed Internet connections that people need. Students can't do schoolwork and people can't fill out job applications from a wireless phone Internet connection.

The proposed HB 1608 will not promote competition. Rather, like many forms of rushed deregulation, HB 1608 will raise phone rates for consumers, undermine effective consumer protections, and take away the ability of state regulators to promote long-term investments by regulated companies that would be most likely to give Pennsylvania consumers competitive options over the longer-term.

HB 1608 WILL RAISE PHONE RATES FOR CONSUMERS

The bill will allow telephone companies in Pennsylvania to raise rates with only one day's advance notice. The bill does this by largely eliminating Public Utility Commission (PUC) oversight of basic telephone service in all Pennsylvania cities and towns. This is achieved by allowing telecommunications carriers to declare any non-rural exchange — areas with 300 people per square mile or more — "competitive" upon passage of the bill. The bill then eliminates nearly all regulatory oversight over rates, service, and consumer protections in these so-called "competitive" exchanges. (Sec. 3016(c)(1))

In rural areas, telecommunications carriers can declare an exchange "competitive" and free from regulation if there are at least two "alternative" phone service providers. Such alternative providers can include wireless services, cable telephony, and even a so-called "over-the-top" Voice Over Internet Protocol (VOIP) service like Skype (Sec. 3016(c)(2)) This means nearly every exchange in the state will be declared "competitive" under the law. The telecommunications company itself – not the Public Utility Commission - determines whether there are two "alternate" phone service providers in the exchange. Telecommunications carriers will then be able to raise rates at will in these rural areas.

After years of price stability for Pennsylvania telephone consumers, HB1608 will likely lead to severe price increases across the state.

PHONE RATES HAVE INCREASED SIGNIFICANTLY IN MOST STATES AFTER DEREGULATION

Industry lobbying for phone deregulation has accelerated across the country despite the fact that the evidence shows that deregulation has led to higher phone rates with little benefit to consumers.

Early deregulation in the early to mid-part of the last decade led to significant rate increases across states. A December 2009 survey of states by the National Association of State Utility Consumer Advocates (NASUCA) found that out of 20 states surveyed with deregulation in place, 17 of those states had seen rate increases. The reported increases ranged from eight percent to one hundred percent. The only decrease in phone rates for basic service occurred in the three states in which basic phone services are still fully regulated.[2]

In recent years, additional rounds of deregulation have led to further rate hikes. For example:

- In **California**, flat rates went up as much as 115 percent or $157 a year since deregulation in 2006, while monthly measured rates have more than tripled.[3]
- In **Illinois**, following a deregulation law passed in 2010, AT&T increased line charges by up to 63 percent.[4]
- In **Ohio**, rates increased $1.25 per month (the maximum rate allowed under the state's 2010 deregulation statute) every year since the law was enacted.[5]
- In **Texas**, rates will increase $8 per month (or $96 per year) over the next four years, a nearly 50 percent increase in basic phone rates for many Texas residents.[6]
- In **Florida** and **Georgia**, prices increased for basic and lifeline service, and some carriers in **Michigan** have eliminated stand-alone basic service all together.[7]

This list is not all-inclusive. It has become increasingly difficult to track phone rates in the states. As a result of deregulation, many state regulators stopped collecting rate and other important data. This helps deregulation advocates obscure its negative effects. As the National Regulatory Research Institute (NRRI) noted in a recent report, "the inability of commissions to track pricing changes may be one of the significant long-term effects of deregulation legislation across the country."[8]

CASE STUDY: DEREGULATION DELIVERED DRAMATIC RATE HIKES IN CALIFORNIA

California provides a stark example of the impact of deregulation on consumers. California largely deregulated phone rates beginning in 2006 and, unlike most states, there have been a number of studies tracking the effects of deregulation on rates.

After deregulation in California, flat rate telephone prices among the various providers as much as doubled between 2006 and 2013, while measured per-minute rate plans more than tripled for many state residents. (See Figures 1 and 2) AT&T monthly flat rate service increased 115 percent from $10.69 per month in 2006 to $23 per month in 2013, while Verizon's flat rate service increased 27 percent from $17.25 per month to $22 per month.[9]

A California State Senate 2010 analysis, using data gathered by the state Public Utilities Commission on AT&T, Verizon, Frontier, and SureWest landline rate changes after deregulation found "that no rates dropped and some *increased by several hundred percent* (italics added). Moreover, these increases were implemented on limited notice and with no immediate opportunity for protest or comment by the public."[10]

FIGURE 1. California Monthly Flat Rates After Deregulation, 2006-2013

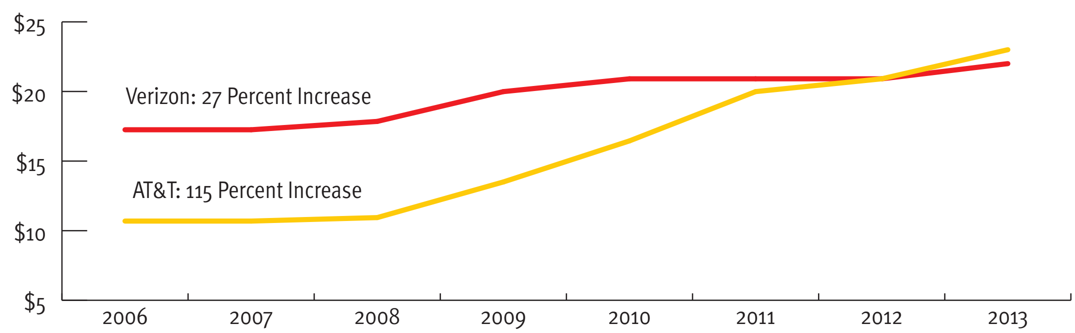
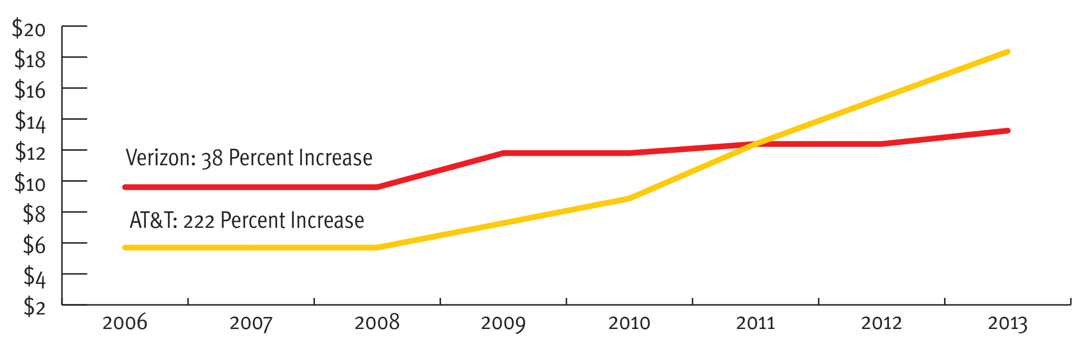


FIGURE 2. California Monthly Measured Rates After Deregulation, 2006-2013



Source: Toward Utility Reform Now (TURN)

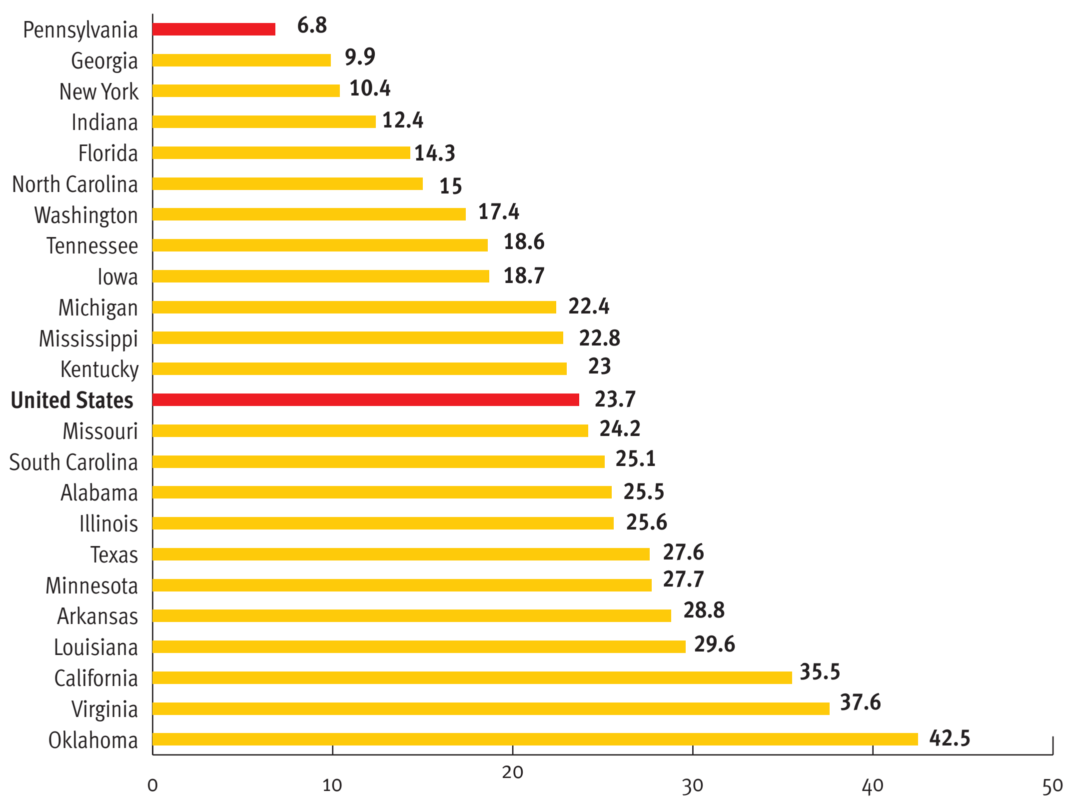
REGULATION HELPED BRING FIRST-GENERATION BROADBAND TO MOST PENNSYLVANIA RESIDENTS, BUT DEREGULATION WILL HALT PROGRESS EXPANDING HIGH-SPEED BROADBAND AND WILL WIDEN THE DIGITAL DIVIDE

While advocates for more deregulation argue that such policies will encourage innovation and investment in new technologies, the reality is that, while much more needs to be done, Pennsylvania under Chapter 30 mandates has delivered greater access to first-generation broadband than most states—particularly in rural areas. The question is why Pennsylvania would want to emulate deregulation polices from states with demonstrably worse results?

Overall, while six percent of the U.S. population lacks access to fixed broadband (as defined by the Federal Communications Commission)[11] , only 1.7 percent of Pennsylvania residents lack broadband access (defined by the FCC as speeds of at least 4 Mbps download and at least 1 Mbps upload). Under Chapter 30, Verizon and other incumbent carriers are required to provide full deployment statewide by 2015.

Pennsylvania has a higher rate of broadband access in rural areas (93.2 percent) than the nation as a whole (76.3 percent). Only the largely urban states of Massachusetts, New Jersey and Rhode Island provide broadband access to a higher percentage of their rural residents than Pennsylvania. Pennsylvania has the smallest percentage of residents without access to broadband among states with at least one million rural residents. (*See Figure 3.*)

FIGURE 3. States with Rural Populations Over One Million People: Percent of Rural Residents without Fixed Broadband Access



Source: Federal Communications Commission, *Eighth Broadband Report*

EFFECTIVE REGULATION HAS BEEN CRITICAL TO PENNSYLVANIA'S SUCCESS

Notably, states that radically deregulated their telephone industries, such as California and Virginia, have far higher numbers of rural residents without broadband access. As a report by the state of Pennsylvania detailed in 2009, progress in Pennsylvania was based on a long history of regulatory requirements that spurred providers to deploy broadband broadly, mostly based on the requirements in the "Chapter 30" requirements as amended by Act 183 of 2004 (P.L. 1398).[12]

Georgia, the rural state with the next best performance in delivering broadband to rural residents, actively intervened more than two decades ago to achieve those goals. Georgia's success is attributed to policy support for broadband deployment dating to a 1995 law and deployment linked to building communications infrastructure for the 1996 Summer Olympics, as well as commitment to Georgia's Statewide Academic & Medical System (GSAMS) for distance learning, healthcare and teleconference facilities.[13]

Removing powers from the Commission means that carriers will have little incentive to deploy the next generation of broadband to less profitable regions of the state. Pennsylvania has made better progress than other states in deploying first-generation broadband (measured by the Federal Communications Commission as at least 4 megabits per second (Mbps) downstream and 1 Mbps upstream).[14] However, in a world where speeds 250 times that fast are becoming the new benchmark for competitive broadband, Pennsylvania should not abandon the regulatory tools that are needed to spur increased investment in upgrading infrastructure speeds throughout the state.

HB 1608 DESTROYS CONSUMER PROTECTIONS THAT HAVE WORKED FOR PENNSYLVANIA FAMILIES FOR DECADES

HB 1608 is a laundry list of provisions that will eliminate nearly every consumer protection for consumers and nearly all corporate transparency currently required of Verizon and other telecommunications companies in Pennsylvania.

Pennsylvania already has relatively weak protections for consumers compared to many other states, yet this bill would eliminate almost all the remaining basic protections. The bill includes the following anti-consumer provisions:

- The Public Utility Commission is barred from hearing consumer complaints for any service other than what the bill labels "protected services" (Sec 3019(b)(ii))—which will apply essentially to no services if this bill is enacted.

- There can be no regulation of unfair or deceptive billing practices for "competitive" services. (Sec. 2019(c)(iv))

- The local telephone company would no longer be held accountable for timely repairs, installation, and answer of calls.

- The telecommunications company can raise phone rates with just one day's advance notice to consumers (Sec. 3016(d)(4)). The commission cannot review rate increases in "competitive exchanges" and can only review rate increases in "non-competitive exchanges" for only the most limited classification of services (Sec. 3016(d)(4)(iii)).

- Telecommunications companies can move consumers to Voice Over Internet Protocol (VOIP) service for their basic phone service. The Commission is barred from any regulation of call quality or other problems that might develop for consumers under the new technology. (Sec. 3019(c)(1)(i)) VoIP service does not have the same network reliability in times of power outages as a copper-based landline service that is hard-wired into an independent power source in the telecom companies' central offices. HB 1608 forecloses the ability of the Commission to investigate these and other public safety issues as they develop.

HB 1608 WILL ALLOW TELEPHONE COMPANIES TO ABANDON SERVICE AND REDUCE LIFELINE SERVICE FUNDING

The single most devastating provision of HB 1608 would allow any large telecommunications company to terminate any service it chooses for any reason beginning in 2018. (Sec. 3016(c)(3))) This will end the most basic protection consumers take for granted, namely that there will be basic telephone service available in some form no matter what.

The bill subverts even this minimal guarantee of service through 2018 by allowing providers to require consumers to purchase a "bundle" of other services in order to get basic voice service. This will make basic voice service unaffordable for many consumers who only want and depend on basic voice landline service.

The proposed law also eliminates the Commission's authority to re-evaluate the situation if competition disappears in a local exchange and to impose consumer protections as needed. (Sec. 3018(c)) The irony is that this provision could foster the creation of new monopolies – or even worse, no service at all -- if companies withdraw service from customers.

The bill also sunsets the universal service fund as of Jan. 1, 2019 (Sec. 3019(b.1)(1)) and reduces lifeline service funding for all competitive exchanges.(Sec. 3019(b.1)(1)(ii) and Sec. 3019(b.1)(3)). Lifeline provides subsidies to low-income consumers and the Commission will be barred from making any changes or expansions to the universal service fund no matter the need. (Sec. 3019(b.1)(1)(v)).

VERIZON'S VOICE LINK IS NOT A SUBSTITUTE FOR WIRELINE SERVICE

Verizon has announced that it will stop investing in its copper landline network.[15] In metro Pittsburgh, Philadelphia, and Harrisburg, Verizon has built its state-of-the-art all fiber FiOS network capable of delivering high-quality voice, video, and fast Internet service. But in the rest of the state , Verizon has refused to deploy FiOS. Rather, Verizon has begun to substitute a fixed wireless service, called Voice Link, instead of repairing and properly maintaining the landline service.

Voice Link is an inferior technology. Voice Link does not support Internet connections, medical alert devices, alarm systems, and fax machines. The voice quality is full of static. Unlike wireline service, which continues to function even when customers lose electric power, Voice Link's battery backup allows only a brief period of use during black-outs.

After Superstorm Sandy devastated the coastline in New York, Verizon replaced damaged copper lines with Voice Link in the western portion of Fire Island. Consumers, public safety officials, small business owners, unions, elected officials, the AARP, and the state Attorney General opposed the move, and voiced concern and outrage over the inferior service. Eventually, Verizon backed down and agreed to build FiOS on Fire Island. But Verizon has not abandoned plans to substitute Voice Link for copper landline service in Pennsylvania and other states.

HB 1608 WILL UNDERMINE TRANSPARENCY AND PUBLIC ACCOUNTABILITY

The bill will eliminate almost all current reporting requirements by telecommunication firms. Companies will not be required to report rates they charge customers (Sec. 3015(f)(1)), which will make comparison-shopping harder for existing customers. The bill will eliminate a year-to-year record of rate changes and undermine the ability of policy makers to evaluate the effects of deregulation going forward. If promoting competition is really a goal of the bill, collecting and publishing rate information from more players in the telecom sector is necessary to assist consumers in making informed choices.

The bill also eliminates most other filing requirements, including network modernization plans after a company certifies it has filed reports under section 3014(b) certifying broadband availability (Sec. 3015(e)(1)) and eliminates all other financial, annual service and annual access line reports.(Sec. 3015(e)(2), 3015(e)(3), 3015(e)(6)). Contracts with municipalities also will no longer have to be publicly filed. (Sec. 3016(d)(2))

The bill eliminates Commission authority to audit transactions between carriers' affiliates (Sec. 3019(c)(vi)). Instead of having an accounting for a company's operations specifically in Pennsylvania, the only information policymakers will have are national audits without any state specific information.

While the bill does not eliminate lifeline service, it specifically eliminates any requirement that carriers inform consumers that lifeline service exists. As a result, many lower-income residents will end up paying more out of ignorance of their option to receive subsidized phone service. (17Sec. 3019(f)(4) eliminated)

TELEPHONE QUALITY PROBLEMS IN STATES WITH DEREGULATION

As a result of deregulation, many states have lost an effective regulator who can enforce consumer rights. There have been multiple reports from states of declining quality of service in the wake of deregulation as maintenance of copper lines has declined or been abandoned, according to the National Regulatory Research Institute.[16]

As the California Senate Rules Committee outlined in their report on California deregulation: "Once telephone companies are detariffed, the Consumer Affairs Branch has problems getting them to resolve differences" with consumers over quality of service problems.[17] The California Public Utilities Commission in 2011 found serious decline in telephone service quality by most providers in the state, including AT&T and Verizon. A California Public Utilities Commission staff report found that AT&T and Verizon had failed in every month of the previous year to make repairs in a timely manner, noting in particular that many customers were left without service for over 30 days after one major storm. The report identified deferred or total lack of maintenance as the cause of these problems.[18]

Regulatory agencies provide an essential protection for consumers, since legal rights that can only be enforced through court proceedings are largely empty for low-income consumers suffering violations that cannot be prevented in a cost-effective way through the courts. Because regulatory agencies can act to sanction companies for violations of consumer rights on a more comprehensive level than litigation, they end up being a far more effective tool for consumer protection.

The overall result of HB 1608 will be higher rates paid by consumers, few consumer protections, and less transparency and information about the problems created for consumers by passage of the bill.

VERIZON'S TRACK RECORD ON ASSET SALES SHOWS THE NEED FOR REGULATORY VIGILANCE

HB 1608 would largely take away the Public Utility Commission's authority to review telecommunications companies' mergers, acquisitions, and asset sales (Sec. 3019(4) and Sec. 3019(5)) in order to protect the public interest. Verizon's promotion of HB1608 should alert Pennsylvania policymakers to the need to plan for possible sale by Verizon of its local landline phone service. Verizon has sold parts of its wireline network in eighteen states in recent years. In addition, Verizon has made it clear that it does not intend to invest in its copper networks,[19] making much of Pennsylvania a potential target for divestiture.

In light of these facts, it is essential that Pennsylvania retain regulatory oversight over any sale in order to protect the public interest in quality telephone service and high-speed broadband deployment. But HB 1608 would leave state regulators without the authority to prevent disinvestment in Pennsylvania's telephone and broadband networks if Verizon or any other telephone company reaches agreement to sell its wireline network.

BANKRUPTCIES AND SERVICE FAILURES IN WAKE OF VERIZON'S INITIAL ASSET SALES

Verizon's network sales in other states brought handsome profits to Verizon, but the new owners were so loaded with debt that the result was bankruptcies, deteriorating service, reduced investment in broadband networks, employment cuts and several shareholder and creditor lawsuits. This track record underscores the need for regulatory vigilance to protect the public interest.

- Verizon's sale of its assets to Hawaii Telecom in 2005 loaded that company with $1.6 billion in debt. Hawaii Telecom went bankrupt in December 2008.

- Verizon sold its yellow page business to Idearc in 2006, transferring $9.5 billion in debt. Idearc filed for bankruptcy in 2009.

- Verizon sold its assets in Vermont, New Hampshire, and Maine to FairPoint Communications in 2008. FairPoint financed the deal with $2 billion in debt, and filed for Chapter 11 bankruptcy protection in March 2010. Shareholders, creditors and ratepayers condemned Verizon for the financial manipulations behind these deals.[20] Customers in these regions suffered poor customer service, massive billing errors, outages, and higher fees as a result of the financial problems left behind by Verizon's maneuvers. When FairPoint switched from Verizon's computer systems to its own network, it was plagued with customer-service, order-fulfillment, and billing problems.[21] These included 9-1-1 (2008)[22] and DSL service outages that lasted nearly a week (2009).[23]

STRONG REGULATORY SUPERVISION OF LANDLINE ASSET SALES PARTIALLY PROTECTED CONSUMERS, WORKERS, AND COMMUNITIES IN OTHER STATES

The results of Verizon's asset sales in these states would have been far worse if state regulatory commissions – particularly in Maine, New Hampshire, Vermont, West Virginia, and Washington -- had not imposed important obligations upon both Verizon and the purchasing companies to protect consumers. These Commissions maintained oversight to ensure enforcement of those obligations.

- The Maine regulatory commission required FairPoint to extend broadband to 87 percent of its customers within five years.[24]

- The Vermont regulatory commission required FairPoint to deploy broadband to 90 percent of Vermont households (which they achieved in mid-2011).[24]

- The New Hampshire regulators required FairPoint to deploy broadband to 85 percent of New Hampshire households (achieved in early 2011[25]).

Learning the lessons from FairPoint's regulatory experience, regulators in a number of states reviewing the sale of Verizon landline assets to Frontier Communications in 2010 demanded even tougher conditions.

- In West Virginia, regulators required Frontier to invest $216 million in the network, to extend broadband to at least 85 percent of households in the state, to cap regulated rates, and to maintain staffing levels.

- In Washington state, regulators imposed a wide-ranging set of conditions, including a freeze on telephone and DSL rates, funds to expand broadband, and guarantees to maintain service quality.[26]

The National Regulatory Research Institute (NRRI), in its report on the Verizon asset sale to FairPoint, emphasized the importance of regulators having tools to protect the public interest effectively. The NRRI concluded that "(e)ach condition must be within the Commission's statutory authority. It must also be enforceable in practice…The enforceability of a condition often requires that there be either a compelling inducement for compliance or an effective sanction for noncompliance."[27]

HB 1608 would take away Pennsylvania regulators' ability to impose conditions to ensure financial viability, investment, quality service, or reasonable rates after a merger or acquisition. While other states will be able to leverage such asset sales to protect consumers and secure investments in their state economies, Pennsylvania consumers will likely just see higher rates and lower quality. HB 1608 therefore could cost the state hundreds of millions of dollars in foregone economic development if regulators lack the authority to impose effective conditions on asset sales.

In sum, HB 1608 largely eliminates any place at the table for representatives of the public in review of a merger, sale, or acquisition, and limits the ability of the state to protect the interests of consumers, workers, and communities in the event of corporate sales or reorganization.

SMART REGULATION IS NEEDED FOR EFFECTIVE COMPETITION AND CONSUMER PROTECTION

Given the recent job-destroying recession that was largely caused by a rush to deregulate banking institutions, legislators should be skeptical of policies that eliminate strong regulatory oversight. As the recent Congressional Financial Crisis Inquiry Commission found:

> More than 30 years of deregulation and reliance on self-regulation by financial institutions…actively pushed by the powerful financial industry at every turn, had stripped away key safeguards, which could have helped avoid catastrophe.[28]

Good regulation does more than prevent disasters; it creates a framework for long-term economic growth and investments, as noted in a recent report by a leading public policy research institute:

> [G]ood rules also help create stable markets in which the energy and imagination of the business world are directed toward products and services of lasting value… Thus, the financial reforms of the New Deal era did not just end the avalanche of bank failures that had greeted President Franklin Roosevelt on his arrival in office. They brought an end to

> the era when many Americans thought it was safer to keep their money under the mattress. From the 1930s until the ag¬gressive deregulation of the 1980s and '90s, the banking and securities industries grew and prospered, unspectacularly but sustainably.[29]

Regulation of local telephone service is needed not just to protect those still dependent on those services, but to keep telecom companies focused on long-term investments for the future as we make the transition to a broadband-based economy.

MANY LANDLINE MARKETS DO NOT HAVE AFFORDABLE, COMPETITIVE CHOICES

The impulse behind HB 1608 is based on the false premise that there is sufficient competition for affordable local phone service to create a competitive model that can substitute for existing regulatory protection of consumer rights. Deregulation proponents point to the widespread diffusion of wireless and Voice over Internet Protocol (VoIP) service offered by cable or broadband providers (including Verizon's FiOS service).

While it is true that many consumers and businesses use wireless service, wireless is not an adequate substitute for existing landline services, either in providing an affordable alternative or in providing the services many landline users need.

Wireless plans are much more expensive than wireline services, so they do not provide a pricing constraint on landline services. Wireless coverage varies based on terrain, foliage and building structure and cannot guarantee calls made indoors. Signal strength varies for different locations.[30] Unlike traditional copper-based landline service, wireless does not have back-up power in weather emergencies and is subject to network congestion and cell tower outages. Wireless does not provide the high-speed Internet connectivity for data- and video-rich applications, and data caps make wireless Internet connections much more expensive. Finally, wireless is no substitute for a wired Internet connection to fill out a job application, apply for health insurance, or research a term paper.

Similarly, VoIP services provided over broadband services are not a cost-effective alternative for consumers dependent on landline services. Since VoIP services require electricity, they do not guarantee service during power outages that the legacy phone services do. While some cable VoIP services do often provide battery backup, they often have limitations. Many services requiring dial-up landline phones do not work with VoIP, including many alarm monitoring services and home health care monitoring systems.

CONCLUSION

Landline local phone deregulation has failed across the country—delivering higher costs to consumers and worse service. States that have implemented local landline deregulation have seen large increases in phone rates, often in the double-digits and for some services, prices have more than doubled following deregulation. Without regulatory enforcement, consumers have found that they have little recourse.

Competitive alternatives are not available everywhere and do not by themselves prevent price manipulation and ensure that all households and businesses throughout the state will receive quality, affordable service.. The experience in other states with telephone deregulation, coupled with debacles in banking and other industry deregulation efforts across the country, should make legislators cautious about sweeping, radical deregulation. Rather, smart regulation encourages competition, investment, and protects consumers from predatory behavior by companies.

Ultimately, HB 1608 is a bad deal for Pennsylvania that will replicate failed phone deregulation experiments around the country.

ENDNOTES

[1] *Verizon Pennsylvania Inc.'s Third Supplement To Network Modernization Plan Revised Pursuant To Commission Order Entered September 17, 2003, and Verizon Pennsylvania's Compliance with Ordering Paragraph 12 of Order Entered September 17, 2003*, Pennsylvania Public Utility Commission, Order August 3, 2004; http://bit.ly/HuP0VM

[2] "Testimony of David Bergmann, Office of the Ohio Consumer's Counsel before the House Utilities Committee." (Office of the Ohio Consumer's Counsel Residential Utility Consumer Advocate: December 1, 2009), p. 5. http://bit.ly/1bZuqXj

[3] Data provided to the author by The Utility Reform Network (TURN).

[4] "AT&T Ups Cost of Home Phone Service, But CUB Alerts Consumers To Low-cost Plans That Freeze Prices, Protect Consumers from Hikes." Press Release by Citizens Utility Board, Jan 17, 2011. http://bit.ly/ezZvhb

[5] "Rates rise for select telephone customers: AT&T basic services costs $1.25 more in 16 exchanges." *The Columbus Dispatch*. Jan. 7, 2011. http://bit.ly/178Xmcx

[6] "PUC staff recommends approval of AT&T residential rate increase", *TR's State NewsWire*, December 21, 2012.

[7] Sheryl Lichtenberg, *Telecommunications Deregulation: Updating the Scorecard for 2013* (National Regulatory Research Institute, 2013), pp. 35-39. http://bit.ly/1gsdjmJ

[8] Ibid., p. 37

[9] Data and chart courtesy of TURN.

[10] John Adkisson, John Hill, Dorothy Korber, Nancy Vogel, *California Public Utilities Commission: Gaps Emerge in Telephone Consumer Protections*. (Rules Committee of the California State Senate: July 16, 2010); p. 3; http://bit.ly/1f43IPO

[11] *Eighth Broadband Progress Report* (Federal Communications Commission, August 21, 2012); http://fcc.us/SO1UgB

[12] *A Broadband Strategy For The 21st Century: High-Speed Access To Digital Information For All Pennsylvanians* (Pennsylvania Office of Administration, July 2009), pp. 13-14; http://bit.ly/1a8mqnx

[13] Rich Calhoun, *Georgia State-wide Broadband Strategy Position Paper: Version 2.0 "A Connected Georgia"* , (Georgia Technology Authority, December 2010), http://bit.ly/1fksJq6

[14] In the 2010 *Sixth Broadband Progress Report*, the FCC redefined sufficient broadband as "one that enable consumers to download content at actual speeds of at least 4 Mbps and to upload content at speeds of at least 1 Mbps over the broadband provider's network." *Sixth Broadband Progress Report* (Federal Communications Commission.2010); http://fcc.us/Hy7PI3

[15] Teresa Mastrangelo, "Verizon Getting Aggressive with Copper Plant Shutdown," *Broadband Trends*, http://bit.ly/LIrTmp

[16] NRRI (2013), p. 34

[17] Rules Committee of the California State Senate, p. 34.

[18] *Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modification to Service Quality Rules: RULEMAKING 11-12-001* (California Public Utility Commission, December 1, 2011); http://bit.ly/1hto1bs

[19] Phillip Dampler, "Verizon's Long Term Plan to Abandon Wired Landlines/Broadband in Non-FiOS Areas Begins," *Stop the Cap!*, March 21, 2013, http://bit.ly/15wiEPO

[20] Karl Bode."Verizon's Leaving A Trail Of Bankrupt Wreckage Behind Them." *DSLReports*. March 26, 2010. http://bit.ly/9MFbWe

[21] "Verizon deal sends FairPoint spiraling into Ch. 11 After purchasing Verizon's land line and Internet assets in northern New England for billions of dollars, FairPoint Communications filed for bankruptcy in New York Monday." *Associated Press*. October 26, 2009. http://bit.ly/1k52vn

[22] "State Blames Fairpoint For 911 Service Outage." *WMTV.com*, Dec. 18, 2008. http://bit.ly/1fksT0G

[23] "Bankruptcy Watch!: FairPoint's Service Outages Last Days, Not Hours." *Stop the Cap!* October 26, 2009. http://bit.ly/3iB2DR

[24] Dan O'Shea. "Maine hounds FairPoint over broadband availability." *Fierce Telecom*. December 1, 2011. http://bit.ly/ufN8go

[25] Samantha Bookman. "FairPoint extends its Vermont broadband reach, but is it enough to satisfy customers?" *FierceTelecom*. July 13, 2011. http://bit.ly/nZ57Gd

[26] "Utility commission approves sale of Verizon landline-telephone services." *Seattle Post-Intelligencer*. April 19, 2010. http://bit.ly/fkVMku

[27] Helen Golding, *A New Era in ILEC Transfers: Safeguarding Wireline Telecom Service* (NRRI Report, November 2009), p. 29. http://bit.ly/190a3WJ

[28] *Financial Crisis Reform Commission Report*. (U.S. Congress 2010), p. xviii. http://www.fcic.gov/report

[29] James Lardner, *Good Rules: Ten Stories Of Successful Regulation* (Demos. February 2011), p. 4, http://bit.ly/hHelBx.

[30] TURN report, p. 15.

The Keystone Research Center

KEYSTONE RESEARCH CENTER

412 North 3rd Street

Harrisburg PA 17101

Main office: 717-255-7181

Communications: 717-255-7156