

SENATE BILL 577

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5lr1119
CF 5lr2835

By: **Senator Pugh**

Introduced and read first time: February 6, 2015

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Utilities – Telecommunications Law – Modernization**

3 FOR the purpose of providing that a telephone company is not required to file with the
4 Public Service Commission a certain tariff schedule for certain retail services except
5 under certain circumstances; requiring a telephone company to post on a certain Web
6 site certain rates and charges for certain retail intrastate wireline telephone
7 services; limiting the types of services for which a telephone company may not
8 establish a new rate or change in rate under certain circumstances to only rates for
9 services that the telephone company files in a certain tariff schedule; allowing a
10 telephone company to discontinue or abandon a certain regulated retail service
11 under certain circumstances after providing certain notice; providing that prior
12 authorization of the Commission is not required for certain transactions involving a
13 certain franchise, capital stock, or obligations or liabilities between a certain
14 telephone company and a certain entity under certain circumstances; prohibiting the
15 Commission or any other State unit or local government from restricting in a certain
16 manner a telephone company's choices to use a certain technology or facility to
17 provide services; allowing a telephone company to satisfy certain statutory and
18 regulatory obligations through the use of certain technology or facility of its choosing;
19 providing that the use of certain technology or facility by a telephone company to
20 provide certain services may not confer a certain jurisdiction or authority; defining
21 certain terms; and generally relating to modernizing the telecommunications law for
22 services provided by telephone companies.

23 BY repealing and reenacting, with amendments,
24 Article – Public Utilities
25 Section 4–202, 4–203, 5–103, 5–202, 5–203, and 6–101
26 Annotated Code of Maryland
27 (2010 Replacement Volume and 2014 Supplement)

28 BY adding to
29 Article –Public Utilities

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 8–502
2 Annotated Code of Maryland
3 (2010 Replacement Volume and 2014 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
5 That the Laws of Maryland read as follows:

6 **Article – Public Utilities**

7 4–202.

8 (a) **[A] EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, A**
9 public service company shall file with the Commission a tariff schedule of its rates and
10 charges for its regulated services and for standard offer service as provided in § 7–505(b)(8)
11 of this article.

12 (b) As ordered by the Commission, a public service company shall:

13 (1) plainly print the tariff schedule of its rates and charges for its regulated
14 services;

15 (2) make available the tariff schedules for public inspection; and

16 (3) post the tariff schedules to make the tariff schedules readily accessible
17 to and convenient for inspection by the public.

18 **(C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**
19 **MEANINGS INDICATED.**

20 **(II) “INMATE” HAS THE MEANING STATED IN § 1–101 OF THE**
21 **CORRECTIONAL SERVICES ARTICLE.**

22 **(III) “PUBLIC SAFETY ANSWERING POINT” HAS THE MEANING**
23 **STATED IN § 1–301 OF THE PUBLIC SAFETY ARTICLE.**

24 **(2) (I) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS**
25 **SECTION, § 4–501 OF THIS TITLE, OR ANY OTHER LAW TO THE CONTRARY, EXCEPT**
26 **AS PROVIDED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, A TELEPHONE**
27 **COMPANY IS NOT REQUIRED TO FILE WITH THE COMMISSION A TARIFF SCHEDULE**
28 **OF ITS RATES AND CHARGES FOR ITS RETAIL SERVICES, INCLUDING A RETAIL**
29 **SERVICE THAT IS REGULATED USING AN ALTERNATIVE FORM OF REGULATION**
30 **UNDER § 4–301 OF THIS TITLE.**

31 **(II) SUBSECTIONS (A) AND (B) OF THIS SECTION SHALL APPLY**
32 **TO:**

1 **1. A REGULATED RETAIL TELEPHONE SERVICE OF A**
2 **TELEPHONE COMPANY TO AN INMATE; AND**

3 **2. A REGULATED SELECTIVE ROUTING, AUTOMATIC**
4 **NUMBER IDENTIFICATION, AND AUTOMATIC LOCATION IDENTIFICATION SERVICE**
5 **OF A TELEPHONE COMPANY TO A PUBLIC SAFETY ANSWERING POINT.**

6 **(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
7 **PARAGRAPH, A TELEPHONE COMPANY IS REQUIRED TO POST ITS RATES AND**
8 **CHARGES FOR ITS RETAIL INTRASTATE WIRELINE TELEPHONE SERVICES ON A**
9 **PUBLIC INTERNET WEB SITE.**

10 **(II) A TELEPHONE COMPANY IS NOT REQUIRED TO POST ITS**
11 **RATES AND CHARGES FOR ITS VOIP SERVICES DESCRIBED UNDER TITLE 8,**
12 **SUBTITLE 6 OF THIS ARTICLE.**

13 4-203.

14 **(a) THIS SECTION APPLIES TO A TELEPHONE COMPANY ONLY WITH**
15 **RESPECT TO THE RATES OF SERVICES THAT THE TELEPHONE COMPANY FILES IN A**
16 **TARIFF SCHEDULE UNDER § 4-202(C) OF THIS SUBTITLE.**

17 **(B)** Unless otherwise ordered by the Commission, a public service company may
18 not establish a new rate or change in rate unless the public service company:

19 (1) provides to the Commission notice of the new rate or change in rate at
20 least 30 days before the new rate is established or current rate is changed; and

21 (2) publishes the new rate or change in rate in accordance with § 4-202 of
22 this subtitle during the entire 30 day notice period in new schedules or plainly indicated
23 amendments to existing schedules.

24 **[(b)] (C)** The public service company shall plainly set forth in the notice and
25 publication:

26 (1) the changes that it proposes to the rate schedules currently in force;
27 and

28 (2) the effective date of the changes.

29 5-103.

1 (a) (1) The Commission may require a public service company to continue any
2 service that the public service company renders to the public under any franchise, right, or
3 permit, after any applicable expiration date.

4 (2) Unless authorized by the Commission, a public service company may
5 not discontinue or abandon a service under a franchise, right, or permit.

6 (3) The Commission may authorize a public service company to discontinue
7 or abandon a service under a franchise, right, or permit if the Commission finds that the
8 present or future public convenience and necessity allows the discontinuance or
9 abandonment.

10 (4) Denial of authorization to discontinue or abandon a service under a
11 franchise, right, or permit does not preclude subsequent reapplication.

12 **(B) (1) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, § 5-202**
13 **OF THIS TITLE, OR ANY OTHER LAW TO THE CONTRARY, EXCEPT A LAW THAT**
14 **REQUIRES A TELEPHONE COMPANY TO OFFER A SPECIFIED TELEPHONE SERVICE, A**
15 **TELEPHONE COMPANY MAY DISCONTINUE OR ABANDON A REGULATED RETAIL**
16 **SERVICE:**

17 **(I) 14 DAYS AFTER PROVIDING WRITTEN NOTICE TO THE**
18 **COMMISSION; AND**

19 **(II) 30 DAYS AFTER PROVIDING WRITTEN NOTICE TO**
20 **CUSTOMERS OF THE REGULATED RETAIL SERVICE.**

21 **(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT RESTRICT**
22 **WHETHER AND THE MANNER IN WHICH A TELEPHONE COMPANY MAY DISCONTINUE**
23 **A REGULATED RETAIL SERVICE TO A CUSTOMER THAT HAS BREACHED THE TERMS**
24 **OF SERVICE.**

25 **[(b)] (C) (1) Whenever the Commission authorizes the abandonment or**
26 **discontinuance of a franchise, right, or permit, as a whole or in part, that involves any**
27 **service to or from a suburban community, the Commission:**

28 (i) shall consider all applications to acquire the franchise, right, or
29 permit to render the service; and

30 (ii) shall grant the application to the best qualified applicant.

31 (2) An abandoned or discontinued right that extends between mid-city and
32 suburban termini shall continue to extend between the mid-city and suburban termini if
33 the abandoned or discontinued right:

1 (i) as acquired by the abandoning or discontinuing public service
2 company or its predecessor, extended from mid-city to suburban termini; or

3 (ii) was operated between the mid-city and suburban termini during
4 most of its existence or for an aggregate of at least 15 years.

5 5-202.

6 (A) THIS SECTION DOES NOT APPLY TO ANY TRANSACTION BETWEEN A
7 TELEPHONE COMPANY AND ANOTHER ENTITY THAT IS NOT A GAS COMPANY OR AN
8 ELECTRIC COMPANY IF A COMMON PARENT ENTITY DIRECTLY OR INDIRECTLY
9 CONTROLS MORE THAN 50% OF BOTH OF THE TELEPHONE COMPANY AND THE
10 OTHER ENTITY.

11 (B) Without prior authorization of the Commission, a public service company may
12 not:

13 (1) assign, lease, or transfer a franchise or a right under a franchise;

14 (2) enter into any agreement or contract that materially affects a franchise
15 or a right under a franchise; or

16 (3) abandon or discontinue the exercise of a franchise or a right as a whole
17 or in part.

18 5-203.

19 (a) THIS SECTION DOES NOT APPLY TO ANY TRANSACTION BETWEEN A
20 TELEPHONE COMPANY AND ANOTHER ENTITY THAT IS NOT A GAS COMPANY OR AN
21 ELECTRIC COMPANY IF A COMMON PARENT ENTITY DIRECTLY OR INDIRECTLY
22 CONTROLS MORE THAN 50% OF BOTH OF THE TELEPHONE COMPANY AND THE
23 OTHER ENTITY.

24 (B) Subject to § 6-101 of this article, without prior authorization of the
25 Commission, a public service company may not purchase, acquire, take, or hold any part of
26 the capital stock of another public service company that operates in Maryland.

27 [(b)] (C) (1) This subsection applies to corporations that operate in Maryland.

28 (2) Except as provided in paragraph (5) of this subsection, without prior
29 authorization of the Commission, a public service company may not:

30 (i) assume or guarantee an obligation or liability with respect to
31 stocks, bonds, securities, notes, or other evidence of indebtedness that is payable as a whole
32 or in part to any person more than 12 months after the date of issuance; or

1 (ii) issue stocks, bonds, securities, notes, or other evidence of
2 indebtedness payable as a whole or in part more than 12 months after the date of issuance.

3 (3) Stocks, bonds, securities, notes, or other evidence of indebtedness
4 described under paragraph (2)(ii) of this subsection shall be issued in accordance with §§
5 6–102 and 6–103 of this article.

6 (4) The Commission shall take action on an application for authorization
7 under this section within a reasonable time after receipt.

8 (5) Prior authorization of the Commission is not required for an
9 assumption or guarantee under paragraph (2)(i) of this subsection or an issuance under
10 paragraph (2)(ii) of this subsection made by a gas company, electric company, or telephone
11 company whose gross annual revenues, for the most recent calendar year for which data
12 are available, are less than 3% of the total gross annual revenues of all public service
13 companies in the State during the same calendar year, if the gas company, electric
14 company, or telephone company:

15 (i) provides prior written notice to the Commission of the
16 transaction; and

17 (ii) obtains approval of the transaction from the entity in another
18 state that regulates the gas company, electric company, or telephone company.

19 6–101.

20 (a) **THIS SECTION DOES NOT APPLY TO ANY TRANSACTION BETWEEN A**
21 **TELEPHONE COMPANY AND ANOTHER ENTITY THAT IS NOT A GAS COMPANY OR AN**
22 **ELECTRIC COMPANY IF A COMMON PARENT ENTITY DIRECTLY OR INDIRECTLY**
23 **CONTROLS MORE THAN 50% OF BOTH OF THE TELEPHONE COMPANY AND THE**
24 **OTHER ENTITY.**

25 **(B)** (1) This subsection applies only to corporations that operate in Maryland.

26 (2) Except as provided in paragraph (4) of this subsection, a public service
27 company shall obtain authorization from the Commission before the public service
28 company:

29 (i) assumes or guarantees an obligation or liability with respect to
30 stocks, bonds, securities, notes, or other evidence of indebtedness of any person that is
31 payable wholly or partly more than 12 months after the date of the assumption or
32 guarantee;

33 (ii) issues stocks, bonds, securities, notes, or other evidence of
34 indebtedness that is payable wholly or partly more than 12 months after the date issued;
35 or

1 (iii) lends money to an affiliate, as defined in § 7-501 of this article,
2 at rates or on terms that are significantly more favorable to the affiliate than the rates or
3 terms that are otherwise commercially available to the affiliate.

4 (3) An issuance under paragraph (2)(ii) of this subsection shall conform to
5 §§ 6-102 and 6-103 of this subtitle.

6 (4) Prior authorization of the Commission is not required for an
7 assumption or guarantee under paragraph (2)(i) of this subsection or an issuance under
8 paragraph (2)(ii) of this subsection made by a gas company, electric company, or telephone
9 company whose gross annual revenues, for the most recent calendar year for which data
10 are available, are less than 3% of the total gross annual revenues of all public service
11 companies in the State during the same calendar year, if the gas company, electric
12 company, or telephone company:

13 (i) provides prior written notice to the Commission of the
14 transaction; and

15 (ii) obtains approval of the transaction from the entity in another
16 state that regulates the gas company, electric company, or telephone company.

17 **[(b)] (C)** (1) Subject to the requirements of subsection **[(c)] (D)** of this section,
18 the Commission may authorize an act described under subsection **[(a)(2)] (B)(2)** of this
19 section if the Commission finds that the act is consistent with the public convenience and
20 necessity.

21 (2) Authorization under this subsection does not:

22 (i) revive a lapsed franchise, validate an invalid franchise, or add to
23 the powers and privileges in a franchise; or

24 (ii) waive a forfeiture.

25 **[(c)] (D)** (1) This subsection does not apply to the formation of a holding
26 company by a public service company in a corporate reorganization that involves an
27 exchange of stock of the public service company for stock in the holding company.

28 (2) In this subsection, a company controlling a public service company is
29 deemed a public service company of the same class as the controlled public service company.

30 (3) Without prior authorization of the Commission, a public service
31 company may not take, hold, or acquire any part of the capital stock of a public service
32 company that:

33 (i) operates in Maryland; and

1 (ii) is of the same class as the acquiring company.

2 (4) (i) Except as provided in subparagraph (ii) of this paragraph, a stock
3 corporation may not take, hold, or acquire more than 10% of the total capital stock of a
4 public service company that operates in Maryland unless:

5 1. the stock is acquired as collateral security; and

6 2. the Commission approves the acquisition.

7 (ii) The Commission may authorize a public service company of the
8 same class to take, hold, or acquire more than 10% of the total capital stock of a public
9 service company that operates in Maryland.

10 (5) A public service company may not be a party to a violation of this
11 subsection.

12 (6) Notwithstanding paragraph (2) of this subsection, § 6-105 of this
13 subtitle shall apply, and the provisions of this subsection do not apply, to the acquisition,
14 ownership, or disposition of any capital stock or voting securities of a company that controls,
15 directly or indirectly, a gas and electric company.

16 (7) Notwithstanding any other provision of this subsection, the
17 Commission may authorize, in accordance with § 6-105 of this subtitle, the taking, holding,
18 or acquiring of all or any part of the capital stock of a gas and electric company that operates
19 in the State by a stock corporation or a public service company that is not of the same class
20 as the gas and electric company.

21 **8-502.**

22 **(A) THE COMMISSION OR ANY OTHER STATE UNIT OR A UNIT OF LOCAL**
23 **GOVERNMENT MAY NOT RESTRICT, THROUGH AN ORDER, A REGULATION, A RULE, A**
24 **RESOLUTION, OR AN ORDINANCE OR IN ANY OTHER MANNER, A TELEPHONE**
25 **COMPANY'S CHOICES TO USE ANY OTHERWISE LAWFUL TECHNOLOGY OR FACILITY**
26 **TO PROVIDE ITS SERVICES.**

27 **(B) A TELEPHONE COMPANY MAY SATISFY ITS STATUTORY AND**
28 **REGULATORY OBLIGATIONS THROUGH THE USE OF ANY LAWFUL TECHNOLOGY OR**
29 **FACILITY OF ITS CHOOSING.**

30 **(C) THE USE OF ANY LAWFUL TECHNOLOGY OR FACILITY BY A TELEPHONE**
31 **COMPANY TO PROVIDE ITS SERVICES MAY NOT GRANT TO THE COMMISSION OR ANY**
32 **OTHER STATE UNIT OR A UNIT OF LOCAL GOVERNMENT ANY JURISDICTION OR**
33 **AUTHORITY OVER THE TECHNOLOGY, FACILITY, OR SERVICES BEYOND THE**

1 **JURISDICTION OR AUTHORITY THAT THE UNIT POSSESSES WITHOUT REGARD TO THE**
2 **USE OF THE TECHNOLOGY OR FACILITY.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2015.