



Senate Bill 577

Public Utilities – Telecommunications Law - Modernization

MACo Position: **SUPPORT**

To: Finance Committee

WITH AMENDMENTS

Date: March 10, 2015

From: Natasha Mehu

The Maryland Association of Counties (MACo) **SUPPORTS SB 577 WITH AMENDMENTS**. This bill sets broad and vague restrictions on a local government's already limited ability to regulate telephone companies. Counties seek to amend out this broad preemption.

Under current law, the Public Service Commission (PSC) largely regulates the activities of telephone companies. For instance, the PSC authorizes telephone companies to provide new service offerings and restricts when they are able to discontinue or abandon regulated retail services. The PSC also requires telephone companies to file a tariff schedule of its rates and charges for their regulated services and for standard offer services with the PSC. Telephone companies are required to notify the PSC before they can change the rates for its services. Telephone companies are also limited in their ability to enter into, abandon, assign, lease, or transfer the rights to any franchise agreements without PSC approval.

SB 577 reduces much of the regulatory controls the PSC has over telephone companies. The bill authorizes telephone companies to discontinue or abandon certain regulated retail service under specified conditions. Telephone companies would be able to provide most regulated services without filing a tariff schedule with the PSC. They could also change rates without prior notice to PSC for services in which there is no tariff filed. Telephone companies would largely not need PSC approval for matters involving franchise agreements or for certain securities transactions.

MACo does not have concerns with the provisions of the bill that alter the regulatory controls PSC has over telephone companies. However, MACo does have concerns with the provisions under § 8-502 which govern a telephone company's use of technology and the bill's potential impact on franchise agreements.

Section 8-502 expressly limits a local government's ability to restrict, through an order, a regulation, a rule, a resolution, or an ordinance or in any other manner, a telephone

company's choices to use any otherwise lawful technology or facility to provide its services. Furthermore, telephone companies are authorized to use any lawful technology or facility to meet their statutory and regulatory requirements, but may not be restricted or regulated by a local government in doing so.

The broad nature of this bill language is troubling. Local governments must retain their authority to regulate through zoning ordinances, easements, rights of way, and consumer protection laws. While telephone companies largely control technology medium for the delivery of services (e.g. fiber, copper wires), the delivery has traditionally been done through "buried utilities" which are laid in the local government's rights of away. Furthermore, local governments must be able to ensure their residents are receiving quality service and proper assistance from their telephone companies when issues arise. This includes when residents want to keep copper phone lines or have them fixed, or if coaxial cables need to be upgraded to fiber. This is a public safety concern as recent power outages have shown that fiber is not reliable and the battery packs given to subscribers are only good for less than 8 hours. The bill should be amended to ensure current local government authority remains intact.

MACo is also concerned with how the bill will impact franchise agreements. For instance, through an 1889 franchise agreement, Verizon is authorized to construct and use their own telephone service conduits in Baltimore City. This agreement is through an ordinance and it limits the type of services provided by Verizon in the conduit to telephone services only. Under the agreement, Verizon cannot sublease or transfer its franchise rights to a related company (like Verizon Wireless) or any other party. This bill would seemingly allow them to do so. The broad language in this bill would undermine the agreement and restrictions in place, without appropriate local input.

Additionally, some local governments have franchise agreements that control cable TV services. Historically, a company such as Verizon has been listed as a "telecommunication company," however the company has since entered into the "cable television" arena. Changes to the telecommunication laws should not upend laws imposed on companies that provide cable TV service and should not impede the ability for a local government to collect related franchise fees.

SB 577's overly expansive restrictions under § 8-502 and potential impacts on local government franchise agreements are of great concern. Provisions preempting local governments should be removed. For these reasons MACo requests a **FAVORABLE with AMENDMENTS** report on SB 577.