

**BEFORE THE PENNSYLVANIA HOUSE  
CONSUMER AFFAIRS COMMITTEE**

**Testimony of**

**SONNY POPOWSKY  
CONSUMER ADVOCATE**

**Regarding**

**Senate Bill 1000**

**Harrisburg, PA  
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**Chairman Preston, Chairman Godshall  
and Members of the House Consumer Affairs Committee**

My name is Sonny Popowsky. I have served as the Consumer Advocate of Pennsylvania since 1990, and I have worked at the Office of Consumer Advocate since 1979. Thank you for inviting me to testify here today regarding Senate Bill 1000, which has passed the Senate, and is now pending before the House of Representatives.

SB 1000 would prohibit the Pennsylvania Public Utility Commission, or any other agency or political subdivision of the Commonwealth from regulating the rates, terms and conditions of a broadly defined category of “VoIP service or IP-enabled service.” My concern with this Bill is very specific, but it is fundamental to the protection of basic telephone service for Pennsylvania consumers.

My concern with SB 1000 as it passed the Senate is that, in my view, its enactment could eventually lead to the deregulation of even the most basic protected regulated telephone services in Pennsylvania. I do not believe that is the intent of the sponsors of the legislation. But unless SB 1000 is amended to clarify this point, I fear that may end up being the result.

Many of the members of this Committee will recall the passage in 2004 of House Bill 30, which became Act 183 of 2004, and established a new Chapter 30 of the Public Utility Code. That Act provided a path for deregulation of a large number of telephone services. The Act retained a category of non-competitive “protected” services, however, that remained subject to price-based regulation by the PUC. Protected services under Act 183 were defined to include the basic local residential and business services that are provided throughout Pennsylvania by the incumbent local exchange companies, such as Verizon.

In some of the earlier versions of House Bill 30, there was also a provision that was similar to the language in the current SB 1000, in that it would have prohibited the regulation of Voice over Internet Protocol, or VoIP service. In a September 2004 hearing before the Senate Communications and High Technology Committee, Chaired by Senator Corman, I testified against that provision of the Bill. I argued that the definition of VoIP was so broad, and that Internet technology was evolving so rapidly, that approval of the Bill as drafted could inadvertently lead to the deregulation of even basic telephone service. If that occurred, I testified, “then all the other protections contained in the Bill and in the Public Utility Code would become moot.” Subsequent to that hearing , but before House Bill 30 was passed, the VoIP deregulation language was removed from the Bill. That deletion proved to be significant and was specifically noted by Governor Rendell who, in signing Act 183 on November 30, 2004, stated:

The final version of the bill also represents an improvement over earlier versions in at least one significant way. Voice over Internet, or VoIP, which is still in its infancy, has the potential to revolutionize telecommunications by using the Internet to complete telephone calls. We want to foster this new technology, but the language that had been in earlier versions of House Bill 30 was extremely problematic. The definition of VoIP went far beyond that which has been established by the FCC. As a consequence, services that are not truly recognized as VoIP, including many aspects of traditional landline telephone service, would have been defined as VoIP in Pennsylvania. This would have created not only a backdoor to deregulation, but would also have caused a significant revenue loss for the Commonwealth. The final version of House Bill 30 eliminated all reference to VoIP.

Over the last several years, a number of VoIP providers – such as Vonage – have begun to offer telephone service over high speed Internet lines in the homes of thousands of

Pennsylvania consumers, and, to my knowledge, those services have not been subject to rate or service regulation by the Pennsylvania PUC. SB 1000 would make it clear that VoIP and other IP-enabled services will not be regulated by the PUC or by any other state agency in the future.

My concern in 2004 – and my concern today – is that the lines between Internet telephony and traditional landline telephone service are not clearcut and indeed are becoming increasingly blurred. For example, many landline telephone companies – including companies in Pennsylvania – utilize a form of “packet switching” in which voice communications are broken down into digital bits of information, assembled into “packets”, and transmitted over the telephone network. This is a type of “Internet Protocol” that was being used by certain incumbent local exchange companies in 2004, and in some instances is being used today to provide basic protected telephone service in Pennsylvania. Also, we know that our largest incumbent local exchange company, Verizon, is now providing basic voice telephone service to some customers over fiber optic “FiOS” service lines. While FiOS service currently does not meet the definition of VoIP or IP Enabled Service under SB 1000, FiOS service may soon include a VoIP component as part of a package of voice, high speed data, and video services. But what will happen in the future if Verizon or any of our other incumbent local exchange companies begin to provide **all** of their voice service through a network that employs Internet Protocol? Will basic telephone service continue to be “protected” under the Public Utility Code, or will that service be subject to the prohibitions against regulation in SB 1000?

I simply wish to ensure that if we prohibit regulation of all VoIP and IP-enabled services, that we do not inadvertently deregulate the basic voice telephone services that are protected today under the Public Utility Code. That is, customers should still be able to subscribe to basic protected voice telephone service under tariffs and regulations prescribed by the Public Utility

Commission pursuant to Chapter 30, even if that service is provided in the future over a network that utilizes Internet Protocol all the way to the customer's home or business. Customers who still wish to receive "plain old telephone service" at prices, terms and conditions that are tariffed and regulated by the PUC should be able to do so. We must be assured that the basic protected telephone service that residential and small business customers across Pennsylvania rely upon will not suddenly become deregulated simply because of a change in the technology over which that service is offered. Customers should not lose their protected service because of a change in technology over which they have no control.

Senate Bill 1000 should be amended by adding a provision to the Bill to make it clear that its regulatory prohibitions do not apply to the basic protected residential and small business telephone services that are currently tariffed under the Public Utility Code. I would respectfully request that this Committee consider the adoption of a "savings clause" which specifically states that:

Nothing in this act shall be construed to remove or expand regulatory authority under any other law that governs the rates, terms, or conditions of protected services provided under tariffs that are subject to approval by the Pennsylvania Public Utility Commission.

I believe this amendment would not detract from the stated goal of the legislation, which is to prevent regulation of true VoIP service, where a customer voluntarily switches from traditional landline basic telephone service and instead secures voice telephone service through a high-speed Internet connection that the customer chooses to place in the customer's home or business. During the Senate's final consideration of this legislation, the prime sponsor, Senator Wonderling, stated that it was not the intent of the legislation "to deregulate traditional telephone service in Pennsylvania" and that customers who take VoIP service "can always return to the

basic traditional telephone service as defined in Title 66 in this Commonwealth.” I support Senator Wonderling’s expressed intent in this regard, and I agree that SB 1000 would not deregulate traditional voice telephone service as it is currently provided in Pennsylvania. My concern is that the Bill could prevent continued regulation of basic telephone service in the future if and when that service is provided over a network that utilizes Internet Protocol.

I do not know what technology will be used to provide basic telephone service to Pennsylvania consumers in the future. I simply want to make sure that if that service is in fact provided through the use of Internet Protocol, that the passage of Senate Bill 1000 does not preclude the continued regulation of that service for the protection of Pennsylvania consumers. My proposed amendment would prevent a customer from losing basic service protections simply because a local exchange company chooses to provide basic service over a network that utilizes Internet Protocol. Adoption of this amendment would assure that basic protected services that are currently regulated under the Public Utility Code would continue to be regulated by the PUC even if that service is provided in a manner that utilizes Internet Protocol or some successor protocol in order to transmit those calls. With the clarification set forth in my amendment, I therefore would not oppose the passage of Senate Bill 1000.

Thank you for allowing me to testify on this important legislation. I would be happy to answer any questions you may have at this time.

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