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OFFICE OF THE GOVERNOR  
COMMONWEALTH OF PENNSYLVANIA

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Governor's Press Office ? Room 308, Main Capitol ? Harrisburg, PA 17120 ? 717-783-1116 (Phone) ? 717-772-8462 (Fax)

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*EDWARD G. RENDELL, Governor*

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**CONTACT:**

Kate Philips  
717-783-1116

## GOVERNOR RENDELL SIGNS HOUSE BILL 30

**HARRISBURG** -- Governor Edward G. Rendell today signed House Bill 30, "An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for residential telephone service rates based on duration or distance of call and for local exchange service increases and limitations; adding and repealing provisions relating to alternative form of regulation of telecommunications services; establishing the Broadband Outreach and Aggregation Fund; providing for Voice Over Internet Protocol; and making a repeal."

The Governor's sent the following message to the House of Representatives:

TO THE HONORABLE HOUSE OF REPRESENTATIVES  
OF THE COMMONWEALTH OF PENNSYLVANIA

I have the honor to inform you that I have this day approved and signed House Bill 30, Printer's No. 4778 entitled "An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for residential telephone service rates based on duration or distance of call and for local exchange service increases and limitations; adding and repealing provisions relating to alternative form of regulation of telecommunications services; establishing the Broadband Outreach and Aggregation Fund; providing for Voice Over Internet Protocol; and making a repeal."

In 1993, the General Assembly enacted telephone deregulation legislation that became known as Chapter 30 of the Public Utility Code. This legislation put into effect a basic agreement that in exchange for establishing a framework for stimulating competition in local and long distance telephone services and implementing a more predictable rate setting process, the then monopoly local telephone companies would agree to ensure that every Pennsylvanian would have access to affordable, quality basic telephone service and to provide every Pennsylvanian with access to broadband telecommunications service by no later than 2015. Chapter 30 expired on December 31, 2003.

Today I am signing into law House Bill 30, which re-enacts and expands Chapter 30.

This legislation authorizes several ambitious initiatives.

First, it will substantially increase the investment in telecommunications infrastructure within the Commonwealth. This will accelerate deployment of broadband services by:

- ? Hastening the deployment of high-speed broadband services before the 2015 deadline established under the original Chapter 30. In some rural areas, broadband will be universally available by the end of 2008.
- ? Providing financial assistance to school districts to support our goal of ensuring that every school in the Commonwealth has access to broadband and high-speed Internet service.
- ? Recognizing the importance of telecommunications infrastructure to economic development by creating a mechanism for DCED to accelerate broadband deployment.
- ? Establishing a special program to help communities aggregate the demand for broadband service and requiring local telephone companies to respond to the demand for service in a more timely fashion.

Secondly, House Bill 30 ensures that every Pennsylvanian has access to affordable, basic telephone service by:

- ? Making it easier for more low-income Pennsylvanians to enroll in federal Lifeline service, which will help them install phones and pay their monthly bills.
- ? Protecting access to basic telephone services even in the most rural and economically depressed areas of the state.
- ? Limiting the price increases for basic service, particularly in harder to serve rural areas.
- ? Ensuring that the PUC retains its authority to oversee the quality of local telephone service.

### **EDUCATION TECHNOLOGY**

The bill will help accelerate broadband deployment to schools through two distinct mechanisms. First the bill requires local telephone companies to provide broadband service at a discounted rate—the lower of 30% off its usual and customary rate or the actual incremental cost of getting the service from the street to the school building. While it is difficult to accurately estimate the impact of this discount, it probably will save school districts between \$25 and \$40 million a year. In addition, the bill provides that Verizon will contribute at least \$7 million a year and all ILECS will contribute 10% of any inflationary increase in their charges to a special Education Technology Fund (E-Fund). We believed that schools should be guaranteed at least \$10 million year to accomplish our goal of bringing broadband service to every school. The language of House Bill 30 only guarantees \$7 million a year. Consequently, Verizon has now agreed to make additional contributions in fiscal years 2006-2007 through 2010-2011 of up to \$3 million to ensure that at a minimum \$10 million a year will be made available to support our goal of ensuring that every school has access to broadband service. This agreement is encompassed in a letter from Verizon to me.

This E-Fund will support deploying broadband services to individual schools, including the technology required to allow the school to make connections, as well as fostering interschool networks, other technology, distance learning and content that would enable schools to take advantage of broadband and the Internet.

Verizon has also agreed to offer discounts to Pennsylvania schools for equipment that they may need in order to bring broadband into their classrooms. This commitment will provide necessary equipment at a price not to exceed cost plus 5%. In addition, Verizon will provide eligible schools that purchase managed network services with a 20% discount from list prices. All told, over the next ten years, a minimum of \$350 million and perhaps as much as \$550 million will be made available to schools through House Bill 30 and related commitments.

This far outstrips any commitment made by local telephone companies to any other state. By way of contrast, New Jersey received \$230 million in assistance, mostly in the form of free equipment, from ILECs in that state.

### **ECONOMIC DEVELOPMENT**

The legislation establishes a process to allow DCED to accelerate broadband deployment in order to serve economic development projects. The legislation requires that broadband service be provided no later than a year after a request has been made. This program complements the Business in Our Sites program created under the economic stimulus program and the new PENNWorks program to be funded with the recently-approved water and sewer bond issue. Together these programs will help redevelop old industrial sites and support economic development efforts to create more jobs for Pennsylvania's working families. We can truly say that we will have business-ready sites for any type of business enterprise.

### **LIFELINE**

It is clear that basic telephone service is a necessity of modern life. Under federal law, telephone customers contribute funds to support Lifeline programs. These Lifeline funds assist low-income families to pay for phone installation and to pay their monthly phone bills. In the past, Pennsylvania has been a net exporter of Lifeline monies, paying out more to the federal government than Pennsylvanians receive in assistance.

House Bill 30 helps ensure that more low-income Pennsylvanians get the help that they need and that they are entitled to. The bill establishes a process to automatically inform every low-income Pennsylvanian applying for state assistance that they can get aid in paying their local phone bill. The federal lifeline program provides low-income households with a \$100 subsidy to cover the cost of installing a telephone and \$8 per month to help pay their monthly bill.

In addition, the bill removes one significant barrier to enrollment. The legislation allows these households to purchase vertical services (caller ID, voice mail, call waiting, call forwarding, etc.). Under current law, Lifeline participants cannot purchase vertical services; so if a low-income spousal abuse victim wanted caller ID, she could not receive the \$8 monthly subsidy. The bill removes that barrier.

### **DEPLOYMENT SCHEDULE AND INFLATION OFFSET**

Chapter 30 originally proposed full statewide deployment of broadband service by 2015. Through negotiations with the PUC, some companies have agreed to accelerate their schedules for

deployment. These companies will complete their modernization efforts by 2013. House Bill 30 allows for even faster deployment by some rural companies. Those companies that agree to fully deploy by 2008 are relieved of some additional regulatory requirements, including participating in the E-Fund program, the Bona Fide Retail Request Program and the economic development program.

In exchange for agreeing to full deployment by 2015, under Chapter 30, ILECs were given an alternative form of rate setting. Instead of filing formal tariff increase requests with the PUC, companies were allowed to raise their prices by the rate of inflation less a fixed amount that came to be known as the inflation offset. Verizon's inflation offset was set at 2.9%; all other ILECs had their inflation offset set at 2.4%.

Under House Bill 30, companies that continue to adhere to the Chapter 30 2015 deployment schedule would have their inflation offset reduced to 0.5%. Companies that move on a faster schedule would have their inflation offset eliminated. However, the bill does establish a penalty for companies that fail to meet their interim or final deployment targets. These companies would be required to make a refund to their customers based on the percentage by which it failed to reach its target date. They could also be subject to other fines and penalties by the PUC.

Frankly, I would have preferred a much stronger penalty for companies that fail to meet their interim and final deployment goals. But the inclusion of the "clawback" provision is recognition of the point that I made repeatedly throughout the debate over House Bill 30—namely, that there should be some combination of incentives, rewards and penalties in order to ensure that ILECs honored their commit to invest in the telecommunications infrastructure of our Commonwealth.

## **Other Issues**

The bill establishes a minimum uplink speed for broadband service. This will ensure that broadband users can take full advantage of most of the business services offered through the Internet, something that was missing in Chapter 30. House Bill 30 also establishes new safeguards for corporate whistle blowers.

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.

Earlier versions of House Bill 30 also virtually eliminated PUC oversight of local telephone service. The final version, while streamlining and in some cases weakening the regulatory role of the PUC, allows the Commission to retain significant authority over quality service standards and basic telephone service. This will allow the Commission to determine when competitive services are available and review and approve network modernization plans.

## **PROBLEM AREAS**

Finally, House Bill 30 has two problem areas. In the days since House Bill 30 was passed, my administration has been actively working to correct these issues. One is the issue of whether municipalities and municipal authorities can own and operate telecommunications systems. The other revolves around the role of the PUC in determining the circumstances under which a competing telephone company can use the network of the incumbent or dominant local phone company to deliver services to consumers.

### **MUNICIPAL BAN**

There are communities across the state, such as Kutztown, which have taken the initiative to develop an integrated telecommunications network that provides advanced telephone and cable television service. There are other communities, ranging in size from Perryopolis to Philadelphia that are attempting to launch wireless networks—Wi-Fi networks as they are known in the industry—which will enable their residents to have high speed connection to the Internet.

Early versions of House Bill 30 precluded communities from developing their own networks. The final version of the bill allows existing municipal systems to continue to operate and provides local governments and authorities a one-year window to develop these networks. Municipalities that are providing telecommunications service through a municipally owned or created network as of January 1, 2006 can continue to offer and provide the services “to the extent and scope” that these services were provided before that date. After that window closes, municipalities must offer the incumbent telephone company the right of first refusal to provide the proposed service. Then, the municipality can proceed with its proposed network only if the ILEC waives its right of first refusal under this act.

Verizon has already agreed to waive its right of first refusal in regard to Philadelphia’s proposed municipal Wi-Fi network guaranteeing that that particular project can proceed. They have done so in a signed agreement with the City. We will work with other municipalities on projects that they have established or propose to establish in order to ensure that, to the extent that they are now viable, they will also have the opportunity to succeed.

### **THE ROLE OF THE PUC IN LOCAL COMPETITION**

Competition over both local and long distance service is at the core of both Chapter 30 and the federal Telecommunications Act of 1996. Rather than requiring competing telephone companies to replicate the existing networks established by the ILECs, both laws allow regulators to “unbundle” the components of these networks and require ILECs to offer these unbundled network elements, or UNEs, to their competitors at a just and fair price. However, the federal law, court decisions and FCC rulings have clearly limited, but not entirely eliminated, the ability of state utility commissions to determine which elements can be unbundled and what the ILECs can charge for using these elements.

Currently, there are cases in the federal courts that may clarify the role of state commissions in this area. One of these pending cases involves the PUC. The changes in House Bill 30 will not materially affect the outcome of the cases, but they can help delineate the role of the Commission. In addition, the FCC appears to be on the verge of issuing new rules that may clarify the role of the state agencies in this area. In the mean time, my office has worked with all of the parties—ILECs, CLECs and the PUC—to clarify our understanding that the existing rulings, orders and tariffs adopted by the PUC will remain in effect until and unless they are changed by the courts, the FCC or the PUC.

We were concerned that the removal of the PUC from this process could potentially hurt competition in the Commonwealth. As a result, we have negotiated with Verizon a proposal that will foster competition by allowing CLECs to use Verizon's network. Verizon will be joining with the Commonwealth to announce pricing agreements that will be available to competing telephone companies at discounts of up to 40% below market rates. These agreements will be available to any CLEC, at rates well below the existing rates for these services. These deep discounts will be a major factor in stimulating local telephone competition in Pennsylvania.

Finally, in signing this legislation I would be remiss if I didn't mention, in addition to the PUC, the broad coalition actively participating in the debate over this legislation, including those who have worked on the bill and are now urging me to sign it into law. They include virtually every school group in Pennsylvania—PSEA, the Pennsylvania Association of Rural and Small Schools, the School Board Association, the School Administrator's Association and the Intermediate Unit Executive Directors among others, economic development organizations and Chambers of Commerce from across the state, unions—including both the AFL-CIO and the Communications Workers of America and Pennsylvania's Consumer Advocate, Sonny Popowsky.