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SENATE CONSUMER PROTECTION AND PROFESSIONAL LICENSURE COMMITTEE

SENATE COMMUNICATIONS & TECHNOLOGY COMMITTEE

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Pennsylvania  
Telephone Association

*"The Communications  
Leader in Pennsylvania"*

A graphic element consisting of a series of horizontal lines of varying lengths, creating a stylized, modern representation of the state of Pennsylvania. The lines are arranged in a way that suggests the outline of the state, with the right side tapering off.

Good Morning Chairman Tomlinson, Chairman Folmer, Chairwoman Boscola and Chairman Farnese, and members of the Senate Consumer Protection and Professional Licensure and Senate Communications and Technology Committees. It is a pleasure to appear before you today and, on behalf of all of the rural incumbent landline telephone companies in Pennsylvania, I appreciate the opportunity to update members of both committees on the progress that the industry I represent has made regarding broadband deployment in the Commonwealth and on the other significant provisions of the Act which have appropriately been highlighted as deserving of legislative scrutiny.

I have testified many times since the passage of Act 183 on the status of broadband deployment and I am always pleased to do so because the Pennsylvania General Assembly enacted a progressive statute, and the PTA member companies have either already met, and continue to meet or have exceeded, the aggressive broadband deployment provisions of that statute.

Act 183 was a compact between the Legislature, the Pennsylvania Public Utility Commission (PUC) and the regulated telephone companies which promised decreased regulation in exchange for universal broadband deployment throughout the Commonwealth. From a deployment perspective specifically, Act 183 has been an unmitigated success.

#### Broadband Deployment

Virtually all of the PTA Member Companies which fall under Act 183, committed to, and achieved universal broadband deployment within their service territories by December 31, 2008. Two companies opted for, and are deploying broadband in accordance with a December 31, 2013 deadline.

Windstream-PA and CenturyLink have both deployed broadband to approximately 96% of their customers and both companies have significantly surpassed the interim broadband deployment

mandates as set forth in the Act. The Act defines universal broadband availability as access to 1.544 mbps downstream and 128 kbps upstream to any retail customer of a local exchange telephone company.

But simply meeting the letter of the law is not good enough in today's ultra-competitive telecommunications marketplace where my companies are in a daily battle with unregulated, or lesser regulated entities such as cable companies, wireless carriers and other broadband providers. Many of the PTA companies, both large and small, are offering speeds well in excess of what Act 183 requires and at very competitive prices.

Take South Canaan for example. A small, 2,500 access line company covering 75 square miles in Wayne County. South Canaan offers speeds up to 5 mbps at a competitive price. Or Laurel Highland Telephone Company in Fayette and Westmoreland Counties. Laurel Highland has 4,725 access lines in a 175 square mile service territory, and offers broadband speeds of up to 20 mbps with the capability of providing 100 mbps if the customer requested it. Yukon Waltz Telephone Company has 700 customers in a 10 square mile service territory and can offer the same services. Both companies are covered with fiber-to-the-premises facilities.

Windstream-PA and CenturyLink both offer a full suite of broadband services to their Pennsylvania customers. These services far exceed the bandwidth mandates set forth in Act 183 because that is precisely what today's marketplace is demanding. Both companies offer services in excess of 10mbps that are available as either stand-alone products or as part of bundled services offerings designed to meet the unique demands of customers.

Needless to say, complying with the 100 percent broadband deployment mandate has required significant capital expenditures from the PTA Member Companies. These companies have invested hundreds of millions of dollars in private capital to meet Act 183 mandates with a significant portion of

this expense accruing in areas of the state where there is very little actual or anticipated return on that investment. For instance, CenturyLink recently deployed broadband in its State Line and Hewitt exchanges in southern Bedford County. With only 426 customers residing in those two exchanges and using an average adoption rate of 30 percent, it is anticipated that it will take CenturyLink nearly 45 years to recover that investment. So, despite the meaningful benefits the Act has brought to Pennsylvania consumers, it cannot and should not go unrecognized that the very companies that are so diligently meeting the mandates of the Act are doing so in the face of significant capital risk.

I mentioned that Act 183 was a compact, the conditions of which the affected telcos have met or are meeting. Within that compact however, is a risk-reward scenario focused on some of the specific programs/funds which I know the members of the committees are interested in analyzing.

The risk/reward framework established in Act 183 is simple: telcos are given three deployment options of increasing risk or commitment and, the greater the risk the better the rewards.

As I mentioned earlier, the majority of my member companies believed that they were in a position to choose Act 183's Option 1; committing to accelerate broadband availability to 100 percent of its customers by year-end 2008. Other companies with significantly more rural customers and related deployment expense chose Option 2; committing to universal broadband deployment to their customers by year-end 2013. Verizon chose Option 3, universal deployment by year-end 2015.

While Option 1 companies have no obligations under the Bona Fide Retail Request (BFRR) program, the Business Attraction and Retention Program (BARP), the Business Outreach and Aggregation Fund (BOAF), or the Education Technology (E-Fund) program. Option 2 and 3 companies have all of those obligations.

## Option 2 and 3 Company Obligations

### The Bona Fide Retail Request Program (BFRR)

The BFRR is a customer-empowerment tool whereby individuals or entities such as local development districts may aggregate demand and, upon demonstrating that demand (defined as 50 retail access lines of 25 percent of the community, whichever is less), have the telco alter its broadband deployment plans to build-out the broadband network to the affected areas more quickly. Windstream has executed 53 BFRRs and has 21 pending. CenturyLink has executed 145 BFRRs with 16 pending.

### The Business Attraction and Retention Program (BARP)

The Business Attraction and Retention Program is essentially a BFRR program for the Department of Community and Economic Development. Option 2 and 3 companies were required to implement a BARP within 90 days of the effective date of their respective Act 183 network modernization plans and among other things, designate a single point of contact to receive deployment requests from DCED.

### The Business Outreach and Aggregation Program

The Broadband Outreach and Aggregation program was established to fund outreach programs to a variety of entities to explain the benefits of broadband and for grants to help communities aggregate demand. Under the provisions of Act 183, DCED is required to report annually to the PUC regarding payments to and expenditures from the Broadband Fund.

## The Education Technology Program (E-Fund)

The Education Technology Program (E-Fund) was established within the State Department of Education for the purpose of providing grants to school entities for four purposes: 1) purchase or lease of telecommunications services to provide broadband networks; 2) purchase or lease of telco network equipment and end-user equipment to enable the use of broadband service; 3) grants for distance learning initiatives, and; 4) technical support for all of the aforementioned activities.

Funding for the BOAF and the E-Fund comes from the Option 2 and 3 companies and began on June 30, 2005. These companies were assessed 20 percent of the first year's annual revenue effect of any rate increases permitted by the elimination of the productivity offset as a contribution to the Broadband Fund and E-Fund. The contribution rate was reduced from 20 to 10 percent when the E-Fund expired on June 30<sup>th</sup> of last year. The Broadband Fund remains in place until June 30, 2015 or full broadband deployment, whichever occurs first.

## Broadband Mapping

Act 183 provided for an inventory of available services which directed the DCED to compile, update and publish (including on its website) a listing of advanced and broadband services by general location. The PTA Member Companies believed the inventory provision to be a natural accompaniment to the aggressive deployment provisions contained in the act and cooperated with the Department accordingly.

Subsequent to the Act 183 inventory, Pennsylvania received funding from the American Recovery and Reinvestment Act to perform broadband mapping in the Commonwealth as well. And, while there were

a few hurdles to clear regarding non-disclosure and submission format, we now have tools at the state and national level to aid individuals in figuring out which broadband providers are offering service in their areas.

That being said, I think a public policy debate on how we educate individuals regarding broadband availability needs to continue and needs to focus on whether mapping is necessarily a key component of that education process. To the extent mapping is performed in an effort to educate individuals and businesses as to what broadband services are available and from which companies, it is a valuable public service tool. Any initiative focused on alternative end goals is questionable, especially in light of the deployment commitment of the Act 183 companies.

## Summary

Deploying broadband is expensive, especially in rural Pennsylvania, and adoption rates are not what they need to be to provide any significant return on that investment. South Canaan has a take rate of 35 percent, for example, and other companies are hovering anywhere between 30 and 50 percent for penetration rates. Simply put, the business model as outlined in Act 183 would not be the business model put forth by any of the PTA Member Companies. Despite what all of us read, and see on the news, not everyone is beating down our doors to subscribe to broadband services, even though, as we discussed earlier, many of the offerings are priced very competitively. We continue to work extremely hard to drive take rates up and are currently working with the Pennsylvania Public Utility Commission in that regard.

For instance, the PUC is currently rolling out a broadband education marketing initiative using the remaining revenues of the Council for Utility Choice, a utility-funded program designed initially to

educate consumers about choice and competition among electric, natural gas and telephone companies.

Putting all of these piece parts together leads the PTA to this perspective: any program, whether it be educational, prompting demand, aggregating interested individuals, or mapping to show available broadband services and providers, should be done with the realization that a robust, high-speed, affordable broadband network already exists in Pennsylvania, courtesy of the Act 183 companies.

Partnering with the deployers is better, cheaper and more likely to meet customer needs than other alternatives. What we've seen from the E-Fund and BOAF programs generally is a willingness to reach out to achieve that goal. The legislature should continue its scrutiny and ensure that this activity remains in place.

In closing, Act 183 has truly lived up to its moniker of landmark telecommunications legislation, and has laid the foundation for many of the impressive deployment figures mentioned here today.

Thank you again for the opportunity to testify, and I would be happy to answer any questions that you may have.