

**STATE OF MARYLAND
OFFICE OF PEOPLE'S COUNSEL**

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BILL NO.: **House Bill 1221**
Residential Copper Landline Replacement –
Moratorium and Study

COMMITTEE: **Economic Matters**

HEARING DATE: **March 9, 2017**

SPONSOR: **Delegate Gutierrez**

POSITION: **Support with Amendments**

House Bill 1221 would prohibit certain telephone companies from replacing residential copper landline service with optical fiber cable or Voice over Internet Protocol (VOIP) service without written approval from customers. In addition, the Commission would be required to report to the Senate Finance Committee and the House Economic Matters Committee by December 1, 2021 on a comparison of landline service provided over copper, optical fiber and VOIP, and also report on ensuring that the removal of copper landline occurs on a uniform basis across the state. The Act would remain effective only through September 20, 2022.

Copper retirement by telephone companies¹ has been a real concern for telephone customers in Maryland and other states. The Public Service Commission (Commission), the Office

¹ The two telephone companies in Maryland are Verizon Maryland and Armstrong Telephone Company. Verizon is the predominant company providing basic landline service to customers.

of People's Counsel ("OPC") and consumer protection agencies have received consumer complaints over the past several years about the retirement of copper lines, migration to fiber or other services, and the maintenance of the copper network by the telephone company. OPC understands that these consumer concerns are the impetus for House Bill 1221, and supports its purpose. The Bill calls for a "time out" and greater oversight before a telephone company undertakes actions that could negatively impact residential users of landline (wireline) telephone services. However, it appears to OPC that recently adopted federal regulations governing replacement of copper networks with fiber optic cable place limits on certain state actions. Given both the consumer concerns and these federal constraints, OPC recommends consideration of certain amendments to the Bill.

In Maryland, Verizon is the predominant landline service provider. Verizon provides several voice services in Maryland: 1) telephone service (basic local exchange) over traditional copper landlines, 2) telephone service (basic local exchange) over its fiber optic network; 3) FiOS® digital voice, which is a specific type of Voice over Internet Protocol (VoIP), and is also provided over Verizon's optic fiber network; and 4) wireless (cell phone) voice, or Voice Link, which is provided over a wireless network. Basic local exchange service, whether over a copper or fiber network, is regulated by the Maryland Public Service Commission (Commission). Neither VOIP nor wireless services are regulated.

As in many other parts of the country, some Maryland communities are undergoing a transition from copper telephone networks to fiber optic networks. Verizon has deployed fiber in about half of the state (Montgomery, Anne Arundel, Baltimore and Howard Counties), while significant portions of Maryland—such as the Eastern Shore, Prince George's County, Baltimore City and Western Maryland-- have copper-only service.

Consumer groups, including the National Association of State Utility Consumer Advocates (NASUCA), and others have raised consumer protection concerns over the copper-to fiber transition in filings with the Federal Communications Commission (FCC). The FCC recently issued several new rules that permit telephone companies to transition from copper to comparable fiber networks, subject to certain consumer protection requirements, including comparability. These rules include the Copper Transition Order, 911 Continuity Order, and the Voice Replacement Order.²

It appears to OPC that these FCC rules constrain actions at the state level to prohibit the transition, and that Verizon is authorized to retire its copper telephone networks, as long it follows FCC rules and any additional rules provided by the Maryland Public Service Commission. As the FCC rules themselves acknowledge, there is still an important role for state agencies such as the Commission to play during the transition.

To that end, OPC has recently filed two petitions with the Commission: the *Petition of the Office of People's Counsel for an Investigation Into the Copper Retirement Notices Sent By Verizon, Maryland LLC to Maryland Retail Customers and Request for Immediate Suspension of Those Notices Pending an Investigation*, filed October 28, 2016; and *Petition of the Office of*

² In the Matter of Technology Transitions Policies and Rules Governing Retirement Of Copper Loops by Incumbent Local Exchange Carriers, Special Access for Price Cap Local Exchange Carriers AT&T Corporation, Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, GN Docket No. 13-5; RM-11358; WC Docket No. 05-25; and RM-10593, Tech Order (Rel. August 7, 2015) (“*Copper Transition Order*”); In the Matter of Ensuring Continuity of 911 Communications, PS Docket 14-174, FCC-15-98; (Rel. August 7, 2015) (“*911 Continuity Order*”); Declaratory Ruling, Second Report and Order, and Order on Reconsideration, FCC No. 16-90, (Rel. July 15, 2016) (“*Voice Replacement Order*”).

People's Counsel For An Investigation Into Verizon Maryland's Provision Of Basic Local Phone Service Over Copper Or Fiber Networks, filed January 13, 2017.

The end result of the *Retirement Notices* petition was a suspension of Verizon's notices and a subsequent resolution of the notice issues with OPC, Staff of the Commission and Verizon, reflected in a February 1, 2017 filing with the Commission. The parties are continuing to monitor that process during ongoing meetings.

OPC's *Basic Local Phone Service* investigation, which was based on its review of over 1,200 consumer complaints submitted to the Maryland Public Service Commission, as well as to the Office of the Attorney General of Maryland, Montgomery County Office of Consumer Protection, Howard County Office of Consumer Affairs, and Howard County Office of Cable Administration between 2011 and the present, has a broader sweep. OPC has requested that the Commission docket a proceeding to investigate whether Verizon is delivering adequate service quality to customers of its basic voice services over its copper network in both fiber and non-fiber communities of the state, whether the continuing allegations of Verizon's unauthorized migration to its fiber network violates Maryland law and/or new FCC rules; and whether Verizon's unauthorized migrations to and/or its activities promoting its unregulated digital voice (or wireless voice) service violate FCC rules and/or Maryland law. The Commission asked its Staff and other parties to comment on OPC's petition by May 1, 2017.

OPC's suggested amendments to H.B. 1221 would assist with those efforts. Among the complaints OPC reviewed, there were several alleging that Verizon migrated or attempted to migrate customers from regulated copper voice to unregulated FIOS digital voice (or, in a few instances, wireless, voice) in a misleading way or without their full knowledge or consent. For example, a man trying to establish new copper telephone service, without Internet, for his disabled

brother in Baltimore City submitted a chat transcript from November 2016 in which a Verizon representative told him that “our landline service is not eligible as a standalone product” and that “FiOS® digital voice is the only option.” Luckily, this consumer sought assistance before purchasing an expensive, unneeded and un-regulated product. In its Copper Transition Order, the FCC cited evidence in the record regarding the Verizon’s pressure on customers in Montgomery County, Maryland to switch services not just to fiber but to a package of digital services offered over the fiber network.³

OPC’s petition also cites a complaint from May, 2016, in which a rural Marylander reported experiencing “extremely loud” buzzing/humming noise on their phone line several times per year, frequently after a heavy rain. The home is in a part of the State without a fiber network. The repair technician “said it could not be fixed due to the old copper wiring and instead offered up Voice Link product,” which the customer did not want. Only after the Commission’s Office of External Relations intervened did Verizon dispatch a technician to repair the chronic problem.

Whether Verizon’s unauthorized migrations have been done intentionally or not, H.B. 1221 would help prevent such future occurrences by requiring clear written consent from consumers. This is especially important for vulnerable consumers, such as senior citizens, who may not fully understand telephone instructions or communications, who may be on fixed incomes, and who must rely on the life-saving capabilities of their essential telephone service.

³ Copper Transition Order ¶53 (citing a local NBC news story by Liz Crenshaw and Patti Petite, “Killing Copper? Customers Say They Felt Pressured Into FiOS” (Dec. 9, 2013) <http://www.nbcwashington.com/news/local/Verizon-Fios-Phone-Copper-Customers-Say-They-Felt-Pressured-Into-Fios-235098041.html>).

Neither FiOS digital voice (VOIP) nor wireless services are regulated by the PSC. These services lack the protections for reliability, service quality and pricing applicable to regulated basic telephone service, and that are available for customers who are migrated from a copper network to Verizon's regulated fiber voice option. Often, Verizon's FiOS voice service is also bundled with other Verizon services, such as Internet and TV, and lacks transparent pricing.

Wireless products pose other problems. In the past, Verizon's stated desire to replace copper voice service with its wireless product, Voice Link, became a source of controversy and consumer angst after Hurricane Sandy hit the States of New York and New Jersey in October 2012, when Verizon announced its intention not to fix the utility customers' copper-based services in certain areas after the storm, instead replacing those services with Voice Link. While consumer opposition, and that of the New York Attorney General, resulted in a change of Verizon's plan for Fire Island households, Maryland consumers do not have any such assurance. Complaints also have been made about the overall quality and reliability of the voice service itself, including the 911 connection.

With the amendments proposed by OPC, House Bill 1221 provides additional protections for Maryland consumers during Verizon's copper-to-fiber transition over the next several years by making sure that Verizon obtains clear consent before it migrates customers from regulated to unregulated voice services. Additionally, the reporting requirements will enable the General Assembly to stay informed about the copper to fiber transition and its impacts on customers, as well as the maintenance of the copper network in areas of the State without a fiber network.

For all these reasons, OPC recommends a FAVORABLE REPORT on House Bill 1221, with amendments.

**OPC Testimony on House Bill 1221
Proposed Amendments**

New PUA § 8-207

Section 1

On page 1, in line 19, before “service,” insert “**LOCAL EXCHANGE ACCESS**”

On page 2, in line 1, before “Voice over Internet Protocol,” strike “optical fiber cable or”

On page 2, in line 2, after “Voice over Internet Protocol,” insert “**OR WIRELESS LANDLINE TELEPHONE SERVICE**”

On page 2, in line 5, after “customer”, strike “or a group of customers”

On page 2, in line 8, strike “21” and substitute “18”

on page 2, beginning after line 10, add:

“(1) a telephone company’s provision of local exchange access service in areas of the state in which there is no fiber optic network deployed.

“(2) a telephone company’s provision of local exchange access service in areas of the state undergoing or scheduled for transition to a fiber optic network;”

On page 2, in line 12, strike “Voice over Internet Protocol”

On page 2, in line 15, strike “; and” and insert “.”

On page 2, strike beginning with (2)” in line 16 down through “State.” In line 17.

