Examining the Role of State Regulators as Traditional Oversight is Reduced

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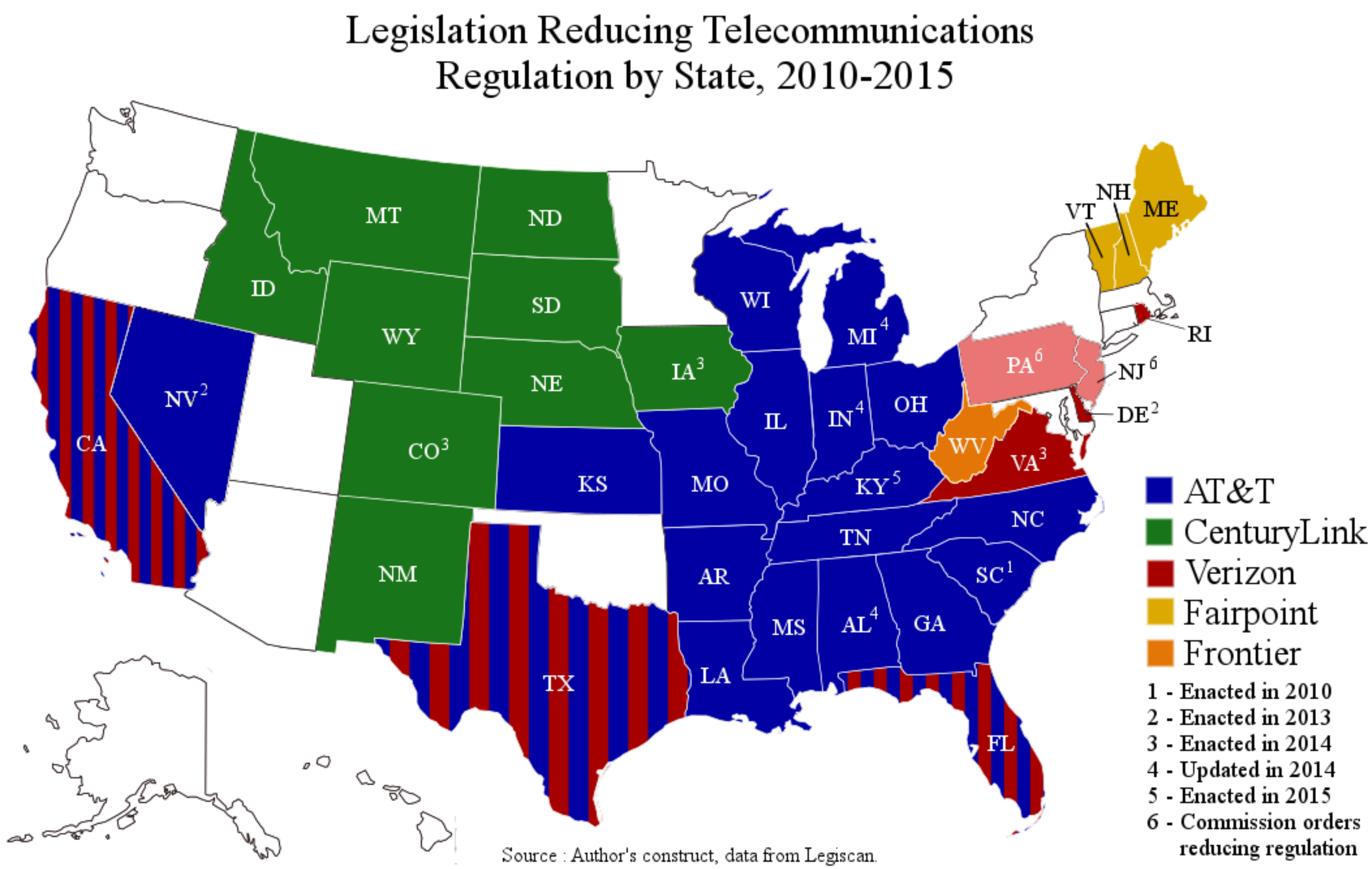
Telecommunications deregulation continued in 2015

- By July 2015, 36 states had legislatively eliminated or significantly reduced oversight of retail telecommunications, including basic local service
- 44 states had specifically eliminated oversight of VoIP and other IP-enabled services
- 2 State Commissions granted ILEC petitions for reduced oversight
  - Elimination of tariff requirements
  - Reduced oversight of “basic local service”
- 1 state defined VoIP as a “telecommunications service,” bucking the deregulatory trend
- 2 states began the process of determining how to manage the IP transition – including service discontinuance

Deregulation Continued in 2015



2015 legislation extends/refines deregulation

- Kentucky legislature passed HB 152, deregulating retail services
  - Final state in the AT&T ILEC footprint
  - Eliminates regulation of retail services in areas with >50K lines
  - Protects areas with <50K lines
  - Customers may "test drive" VoIP and wireless replacement products
  - State commission may "assist" in the adjudication of customer complaints
- Idaho defines VoIP as "not a telecommunications service" and removes regulation
  - No registration or CPCN requirement
  - State consumer protection rules continue to apply
- Nevada made wholesale performance metrics "optional"
- North Dakota eliminated pricing oversight of basic local service; deregulated VoIP and IP-enabled services
- Wyoming eliminated basic service oversight in competitive areas

2015 Commission decisions proactively address oversight requirements

- New Jersey – Settlement agreement reduces oversight
  - Deregulates pricing for basic service but schedules price increases
  - Retains service quality standards for 3 years
  - Retains commission oversight of customer complaints
- Pennsylvania – Order limits oversight in competitive areas
  - Reduces basic service oversight in competitive areas; retains oversight where competition is not sufficient to discipline the market
  - Eliminates service quality metrics in competitive areas, but requires re-evaluation in 5 years
  - Examines the definition of substitutable services
  - Does reduce or eliminate COLR requirements
- Minnesota defines VoIP as a telecommunications service
  - Complaint against Charter Communications
  - VoIP providers must follow MN retail telecom regulations, pay USF charges, contribute to state funds

Despite deregulation, key telecom decisions remain with the states

- At what point can/should traditional services be phased out?
  - State requirements vs. federal requirements for withdrawing service
  - Process for notifying customers, ensuring continued service
  - What services should remain?
  - Defining/identifying substitutable services
  - Examining the true level of competition
- Carrier of last resort requirements – anachronism or necessity?
  - Where and under what conditions are they needed
  - Is wired, landline service still a prerequisite for universal service
  - Broadband substitution
- Service availability and reliability
  - Can states ensure service quality without oversight
  - Should availability and reliability requirements be limited to emergency services?

Drawing a roadmap for service withdrawal

- Section 214 of the Telecommunications Act establishes the rules for withdrawing interstate services
  - Petition the FCC to show the availability of alternate suppliers, notify customers, notify competitors
  - FCC proceeding open to review substitution and notice requirements
- State rules generally track these requirements
  - ILECs have not rushed to propose the elimination of basic service
  - AT&T expected to pursue discontinuing some wireline services at the end of the IP transition trial
- Substitutable services must be defined before the process begins
- Michigan, Maryland, and Ohio addressing the discontinuance process
  - **Maryland** – by 9/15/15, identify areas where service could be withdrawn; develop a process to notify customers
  - **Michigan** – track the results of the AT&T trial; implement the FCC process
  - **Ohio** – establish a collaborative process to identify areas where customers will not have adequate choice and BLS must be retained; identify alternate suppliers or require ILEC to continue service

Carrier of last resort (COLR) requirements

- ILEC must traditionally offer service to all who request it
  - Build facilities to all areas. but may charge for construction
  - Receive SUSF monies (and FCC high cost funds) for areas that are costly to serve
  - Regulations do not apply to alternative suppliers
- Legislation has sought to rationalize COLR requirements by limiting them to areas without competition
  - Retains the requirement that the ILEC provide service
  - Allows service to be provided using “any technology” including wireless and, in some areas, satellite
- Multiple states addressing modifications to COLR requirements
  - Maine: option for transitioning COLR to other suppliers
  - Colorado, Wyoming, others: COLR for areas without competition; reductions in SUSF support

Service availability and reliability

- States retain oversight of service availability and reliability to the extent they affect emergency services
  - Day to day quality of service standards eliminated in deregulated states
  - State level quality standards for VoIP are yet to be developed
  - Outage reporting standards still in flux
- States examining service quality, including the need for battery back-up
  - DC studying copper maintenance – has the transition to fiber allowed traditional circuits to degrade?
  - New York studying service quality, competition, and availability
  - NJ: proposed legislation would require outage reporting

States retain a key role in telecommunications oversight

- Deregulation has set the stage for a reduction in oversight, but the states must determine how/when rules must be modified
  - Identify emergency service requirements
  - Manage the transition to new services
  - Develop new metrics where appropriate
- States must define/track competition to ensure it continues
  - State statutes give the commission authority to define competitive areas and competitors
  - But the definition of "substitutable services,“ particularly for residential customers, remains vague
- PAPUC order reducing regulation in competitive areas provides a key touchstone for state commissions:

  > Regulation does not exist for regulation's sake. Rather, regulation seeks to produce a competitive result where there is no competition to do the same. Where sufficient competition exists, regulation is not needed and should be reduced or perhaps even discontinued.