

In recent testimony before the Senate Communications and Technology Committee, Vice President of the Pennsylvania Telephone Association, Steven J. Samara, advised against opening up Act 183 to amendments. “Act 183 represents a delicate balance of interests and yet remains true to its goal of being good not only for our state’s local telephone companies but for consumers as well,” Samara said. The committee held a hearing on November 7 on Act 183 and municipal Wi-Fi networks. Samara’s complete testimony is below.

**SENATE COMMUNICATIONS AND TECHNOLOGY COMMITTEE  
PUBLIC HEARING ON ACT 183 AND MUNICIPAL WI-FI NETWORKS**

**NOVEMBER 7, 2005**

**TESTIMONY OF  
STEVEN J. SAMARA  
VICE PRESIDENT  
PENNSYLVANIA TELEPHONE ASSOCIATION**

**Chairman Wonderling and members of the committee, thank you for this opportunity to address the relevant and topical issue of municipal Wi-Fi networks, and how the recently enacted Chapter 30 legislation relates to these initiatives.**

**Before we take a look at specific relevant provisions in Act 183 however, I would like to take just a moment to discuss the Act 183 process and why re-opening the Act would not be a good idea.**

**Whenever a new law is passed and questions about it arise, inevitably there are questions about the process.**

**I can tell you, that in my twenty years in Harrisburg, I have not been witness to a more open and inclusive process than that involved with the passage of Act 183.**

**And, that open and inclusive process yielded numerous amendments to appease the interested parties.**

**As a matter of fact, the two things I want to discuss here today were both subject to amendments as the Legislature addressed House Bill 30.**

**Because the process was so open and so many parties had the opportunity to participate, Act 183 represents a delicate balance of interests and yet remains true**

**to its goal of being good not only for our state's local telephone companies but for consumers as well.**

**Speaking of being good for consumers, the Pennsylvania Telephone Association represents all 37 incumbent local exchange carriers (ILEC) in the Commonwealth who, both large and small, are spending an enormous amount of money to aggressively deploy advanced broadband networks in all corners of this state. Pennsylvania's ILECS take the deployment mandates of Act 183 very seriously.**

**At the risk of losing my audience, let me begin by telling you what I am not testifying about today.**

**I will not be offering ILEC industry opinions on whether municipal Wi-Fi networks are good, bad, or somewhere in between.**

**Today, you will hear success stories and horror stories regarding these networks.**

**Those of us in the industry have read the media reports, heard anecdotal evidence, and even had up close and personal exposure to what is happening in municipalities in Pennsylvania and across the nation.**

**Rather, what I would like to do is two things: first, clear up one major misconception about what Act 183 actually says regarding municipal telecommunications networks, and second, use Act 183 to help frame the debate on this topic going forward.**

### **The Municipal “Prohibition”**

**Part of the reason we are here today and part of the reason that the media has been so active on this subject is the perception that Act 183 prohibits municipalities from building Wi-Fi networks.**

**This is simply not true.**

**While there are numerous instances where the successful implementation of a new law can be thwarted by questionable interpretations of that law, this should not be one of them.**

**Section 3014(h) of Act 183 is rather explicit and establishes a process whereby a municipality may indeed offer advanced or broadband services if it has submitted a written request for the deployment of that service to the local telephone company and the company, within the very brief turn-around time of only two months, has not agreed to provide the service. If it has agreed, the company must deploy the requested service within 14 months of the receipt of the request.**

**The language regarding municipal broadband networks is very similar to the Bona Fide Retail Request (BFRR) program contained in Act 183. The BFRR empowers consumers to demonstrate demand for advanced services and directs the local telephone company to build the network which will deliver these services by a date certain. With regard to the municipal broadband network language of the Act, the consumer is a local government entity demanding advanced telecommunications services, presumably for itself or its residents, by way of presenting a request for services to the local telephone company.**

### **The Act 183 Mandate**

**Not a day goes by where we don't hear about a local government that is exploring the establishment of its own telecommunications network. From Philadelphia to San Francisco and a few points in between, municipalities are weighing their options in this regard. These municipal forays are new, exciting, and often characterized as David trying to do for himself what Goliath has denied him.**

**But this committee, and all of Pennsylvania's public policy makers, must be cognizant of what Act 183 requires of all of the state's local telephone companies before jumping onto the municipal Wi-Fi bandwagon. The debate on these networks must be different here than in any other state in the nation.**

**Why? Because Act 183 requires universal broadband deployment in Pennsylvania.**

**Universal, as in everywhere to everybody and available within ten days of a customer request.**

**This statutory mandate begs the question: "Why are we debating the establishment of competing networks, when the phone company is going to build it anyway?"**

**I realize that some municipalities don't want to wait until the Act 183 broadband deployment deadlines, or may want speeds that the statute does not require. As I mentioned earlier, Section 3014(h) addresses these situations and I would urge the Committee to keep this provision in mind as the debate on this important matter unfolds in the coming weeks.**

**Finally, Mr. Chairman, let me address the 1-1-06 deadline and why there is no need to extend it.**

**First, since there is no municipal prohibition in Act 183, extending the deadline is unnecessary.**

**Second, if you don't have the grandfather provision, all you are doing is encouraging municipalities with an interest in broadband to engage in a discussion on the matter with their local phone company. This is good public policy because ILECS are going to build the network anyway under the statutory provisions of Act 183. I am not going to debate the questionable economics of having overbuilt networks, but I will tell you that deploying broadband is an expensive proposition and doing it twice is worthy of your review.**

**Lastly, how do you determine when the next deadline should be? I guarantee you that you will always have someone aggrieved by whatever date you choose.**