

Addendum

[Cong. Rec. pp.]

[St. Paul Pioneer Press Clipping]

We all know that changes need to be made in our 60 year old communications law. But we should be concerned about the process under which this bill is being brought to the floor tonight. Not only has a manager's amendment been developed out of the public's eye, but it was done after the committee with jurisdiction overwhelmingly reported quite a different bill.

We should all be concerned about the process under which a bill with huge economic consequences and implications for consumers and business interests is being rushed through the House. The testimony of over 40 Members before the Rules Committee demonstrates the complexities involved in this legislation.

Mr. Speaker, we hope that the final version of this bill does balance the introduction of competitive markets, with measures designed to protect consumers. We have heard from all sides involved, and every industry has valid points to make. I do hope, however, that we do not lose sight of the consumer in this process, and of the need to protect the people from potential monopoly abuses.

Mr. Speaker, we oppose the rule—not only because it is restrictive, but because it does not go far enough in ensuring that enough time is given to this important debate, and because it does not protect the right of Members to offer amendments pertaining to all of the major issues of this very complicated piece of legislation.

Mr. LINDER: Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON: Mr. Speaker, let me just say to the gentleman from California [Mr. BEILENSEN] I really am surprised at his testimony here. As my colleague knows, first of all we have 8½ hours allocated for this piece of legislation. We extended that for another hour to take into consideration the gentleman from Michigan [Mr. CONYERS], our good friend, because he is a ranking Member, and he was entitled to his major amendment.

Mr. BEILENSEN: Of course he was.

Mr. SOLOMON: Now we expanded it for 1 hour. That meant we were spending 9½ hours on this bill. It puts us here until 2:30 in the morning today, and many of us will stay here while many of our colleagues leave, and we will finish that part of the bill.

Now, if we had made in order all of those amendments that the gentleman just read off, we would be 19 hours. I figured out the time, 19 hours.

Now the gentleman knows we are going to be here until 6 o'clock in the morning tomorrow night and into Friday, and my colleague and other Members have asked me from the gentleman's side of the aisle to tighten things down, let us take care of the major amendments. We negotiated with the majority, we negotiated with the gentleman from Michigan [Mr. DINGELL], we negotiated with the gentle-

man's Democratic leadership. Everyone was happy, and all of a sudden we come on this floor here now and nobody is happy.

□ 2400

Let us stick to our points. If we make a deal upstairs in the Rules Committee, let us live by it.

Mr. LINDER: Mr. Speaker, I would like to inquire as to how much time is remaining on both sides.

The SPEAKER pro tempore (Mr. EMERSON): The gentleman from Georgia [Mr. LINDER] has 17½ minutes remaining and the gentleman from California [Mr. BEILENSEN] has 22½ minutes remaining.

Mr. BEILENSEN: Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan [Mr. BONIOR], the minority whip.

Mr. BONIOR: Mr. Speaker, I regret that I will have a different view than my good friend the gentleman from Texas [Mr. BEILENSEN]. I rise in support of this rule. It makes in order the key amendments that the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from Michigan [Mr. CONYERS] and others have asked for.

Mr. Speaker, I also would have liked to have seen more debate on these amendments, but, on balanced, I think it is a fair rule and I urge my colleagues to support it.

If we are going to make technology work for our economy and for our country, and especially for our families, our laws have to keep pace with the changing times, and I believe the bill before us today will help bring this country into the 21st century. From the beginning, Mr. Speaker, telecommunication reform has been about one thing, it has been about competition.

We all know the more competition we have will lead to better products, better prices, better services and the better use of technology for everybody. Above all, competition helps create more jobs and better jobs for our economy. Studies show that this bill will help create 3.4 million additional jobs over the next 10 years and lay the groundwork for technology that will help to create millions more.

Let us be honest, Mr. Speaker, this is not a perfect bill before us today. There are lots of improvements that can be made, and I want to suggest a couple of them to you tonight.

First, we have an important amendment on the V-chip. Studies tell us that by the time the average child finishes elementary school he or she will have seen 8,000 murders and 100,000 acts of violence on the television. Most parents do all they can to keep their kids away from violent programming, but in this age of two-job parents and 200 channel televisions, parents need some help. Fortunately, we do have technology today that will help. The V-chip is a small computer chip that, for about 17 cents, can be inserted into a TV set and it allows the parents to block out violent programming.

This V-chip, Mr. Speaker, is based on some very simple principles: That parents raise children, not government, not advertisers, and not network executives, and parents should be the ones to choose what kinds of shows come into their homes.

Second, I believe we should do all we can to keep our airwaves from falling into the hands of the wealthy and the powerful. Current law limits the number of television stations, one per person or media company can reach, to 25 percent of the Nation's households. That rule was established to promote the free exchange of diverse views and ideas. The bill before us today, however, would literally allow one person, in any given area, to own two television stations, unlimited number of radio stations, the local newspaper and local cable systems. Instead of the 25 percent limit under this bill, Rupert Murdoch could literally own media outlets that reach to over half of America's households, Mr. Speaker. In other words, this bill allows Mr. Murdoch to control what 50 percent of American households read, hear, and see, and that is outrageous.

Mr. Speaker, the gentleman from Massachusetts [Mr. MARKEY] will offer an amendment to set that limit to 35 percent, and, frankly, I don't think this amendment goes far enough. I believe we need to address broader issues, such as who controls our networks, who controls our newspapers, and who controls our radios.

In conclusion, Mr. Speaker, I would suggest that we would have liked to have seen a tougher amendment, but I urge my colleagues to support the Markey amendment on concentration, and, Mr. Speaker, this bill has been around a long time. It has been a long time in coming, and I urge my colleagues to support the rule.

Mr. LINDER: Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS], my colleague on the Rules Committee.

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS: Mr. Speaker, I want to thank the gentleman from Georgia [Mr. LINDER] and congratulate him for his fine work on an extremely complex rule that took a lot of work to get done, and the gentleman from New York [Mr. SOLOMON] as well, and I am delighted there is support on both sides of the aisle, for it deserves it.

Mr. Speaker, I urge support for the rule also, and I will use my time to indulge in a colloquy with the gentleman from Virginia [Mr. BLILEY], the honorable chairman of the Committee on Commerce, because two points have come up in discussion today regarding local government authority which I think can be clarified and need to be clarified.

Chairman BLILEY was Mayor BLILEY of Richmond, and this gentleman was mayor of a much smaller town, but they were both local governments and

there was a great concern among some of our local governments about some issues here, particularly two, as I have said. I want to address the issue of zoning.

Mr. Speaker, as to the cellular industry expanding into the next century, there will be a need for an estimated 100,000 new transmission poles to be constructed throughout the country. I am told. I want to make sure that nothing in H.R. 1555 preempts the ability of local officials to determine the placement and construction of these new towers. Land use has always been, and I believe should continue to be, in the domain of the authorities in the areas directly affected.

I must say I appreciate that communities cannot prohibit access to the new facilities, and I agree they should not be allowed to, but it is important that cities and counties be able to enforce their zoning and building codes. That is the first point.

Similarly, Mr. Speaker, I want to clarify that the bill does not restrict the ability of local governments to derive revenues for the use of public rights-of-way so long as the fees are set in a nondiscriminatory way.

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I am happy to yield to the gentleman from Virginia, the distinguished chairman of the Committee on Commerce.

Mr. BLILEY. Mr. Speaker, I thank the gentleman for yielding. I want to commend the gentleman and his colleagues and the chairman of the Committee on Rules for this rule. I wholeheartedly support it.

Let me say this. I was president of the Virginia Municipal League as well as being Mayor of Richmond, and I was on the board of directors of the National League of Cities. When legislation came to this body in a previous Congress for a taking of Manassas Battlefield, I voted against it because the supervisors of Prince William County had made that decision. I have resisted attempts by people to get me involved in the Civil War preservation of Brandywine Station in Culpeper County for the same reasons.

Nothing is in this bill that prevents a locality, and I will do everything in conference to make sure this is absolutely clear, prevents a local subdivision from determining where a cellular pole should be located, but we do want to make sure that this technology is available across the country, that we do not allow a community to say we are not going to have any cellular pole in our locality. That is wrong. Nor are we going to say they can delay these people forever. But the location will be determined by the local governing body.

The second point you raise, about the charges for right-of-way, the councils, the supervisors and the mayor can make any charge they want provided they do not charge the cable company one fee and they charge a telephone

company a lower fee for the same right-of-way. They should not discriminate, and that is all we say—Charge what you will, but make it equitable between the parties. Do not discriminate in favor of one or the other.

Mr. GOSS. Mr. Speaker, reclaiming my time, I thank the gentleman for that very clear explanation.

Mr. BLILEY. If the gentleman would continue to yield, the gentlewoman from Maryland has raised a point with me about access for schools to this new technology. Let me assure the gentlewoman that I know there is a provision on this in the Senate bill, and I will work with her and work with the other body to see that it is preserved and the intent of what she would have offered had she been able to is carried out in the final legislation.

Mr. GOODLATTE. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I have heard from a number of my local constituents, and I know the chairman is very strongly supportive of the rights of localities and strongly supportive of decentralized government. We have had some conversations about the process here, and I wonder if I may get a clarification.

Is my understanding correct that the gentleman is committed in the conference process to offer new language that will make it crystal clear that localities will have the authority to determine where these poles are placed in their community so long as they do not exclude the placement of poles altogether, do not unnecessarily delay the process for that purpose, do not favor one competitor over another and do not attempt to regulate on the basis of radio frequency emissions which is clearly a Federal issue? Is that an accurate statement of your intention?

Mr. GOSS. I am happy to yield to the distinguished chairman.

Mr. BLILEY. That is indeed, and I will certainly work to that end.

Mr. GOODLATTE. Thank you and I look forward to working with the chairman.

Mr. BEILENSEN. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, if this bill really deserves a full and open debate, as the gentleman from Georgia has suggested, then why are we taking it up at midnight?

Mr. Speaker, this is a bill that affects the telephone in every house and every workplace in this country. It is a bill that affects every television viewer in this country and a wide array of other telecommunications services, and when does this Congress consider it? At midnight, after a full day of debate on an appropriations bill.

Regardless of your view on this bill, and I think it has some merit, regardless of your view on the substance of

the bill, this sorry procedure ought to be voted down along with this rule. What an incredible testament to this new Republican leadership that they could take a bill of this vital importance to the people of America and not take it up until midnight.

You can roll the votes. That just means there will not be anybody here listening to the debate. You can roll them all night long, as you plan to do. The real question is whether you will roll the American consumer.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I want to rise in support of the rule. I think this is a good rule.

Mr. Speaker, I want to point out to my colleagues that if this were a software package that would be version 5 or 6. We have been working on this issue for the last 5 years in the Congress. We had a bill pass the House; we never went to conference with the Senate last year.

There is one amendment that has been made in order, a bipartisan amendment, the Stupak-Barton amendment, that deals directly with local access, local control of rights-of-way for the cities that is very bipartisan in nature, and I would urge support of that amendment if we can reach agreement on it, which we are still working on that.

So this is a good rule, I want to thank the Committee on Rules for making Stupak-Barton in order, and I would urge Members to vote for the rule.

Mr. BEILENSEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. DINGELL], the ranking member of the committee.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

□ 2315

Mr. DINGELL. Mr. Speaker, I rise in support of the rule. I urge my colleagues to vote for it. H.R. 1555 is a complex bill. It deals with a complex industry. It comprises a substantial portion of the American economy.

There are a lot of controversies in this legislation, and it should not be dealt with cavalierly. It is a matter of some regret to me we are proceeding late at night and that we have not had more time for this. But, nonetheless, the bill that would be put on the floor by the rule resolves many important questions, and it pulls out of a courtroom, where one judge, a couple of law clerks, a gaggle of Justice Department lawyers, and several hotel floors of AT&T lawyers, have been making the entirety of telecommunications policy for the United States since the breakup.

The breakup of AT&T was initiated by its president, Mr. Charley Brown, and it was done because he had gotten tired of having MCI sue him instead of

Watts (OK)	Wvden	Zeliff
Wolf	Yates	Zimmer
NOT VOTING—29		
Andrews	Maloney	Spratt
Bateman	McDade	Thurman
Collins (MI)	McIntosh	Towns
Condit	Moakley	Tucker
Cooler	Ortiz	Waxman
de la Garza	Owens	Williams
Filner	Rangel	Wilson
Hayes	Reynolds	Young (AK)
Heger	Rose	Young (FL)
Kaptur	Scarborough	

□ 0910

The Clerk announced the following pair:

On this vote:

Mr. Scarborough for, with Mr. Filner against

Mr. GILMAN, Mr. STOKES, and Ms. FURSE changed their vote from "aye" to "no."

Messrs. JONES, KIM, MFUME, BARCIA, HEFNER, and JEFFERSON, Ms. WOOLSEY, Mrs. KELLY, and Ms. MCKINNEY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. MALONEY. Mr. Speaker, I inadvertently missed rollcall vote 627. Had I been present, I would have voted "yes."

The CHAIRMAN. It is now in order to consider amendment No. 2-1 printed in part 2 of House Report 104-223.

AMENDMENT NO. 2-1 OFFERED BY MR. STUPAK
Mr. STUPAK. Mr. Chairman, I offer an amendment, numbered 2-1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2-1 offered by Mr. STUPAK: Page 14, beginning on line 8, strike section 243 through page 16, line 9, and insert the following (and conform the table of contents accordingly.)

SEC. 243. REMOVAL OF BARRIERS TO ENTRY.

(a) IN GENERAL.—No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications services.

(b) STATE AND LOCAL AUTHORITY.—Nothing in this section shall affect the ability of a State or local government to impose, on a competitively neutral basis and consistent with section 247 (relating to universal service), requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

(c) LOCAL GOVERNMENT AUTHORITY.—Nothing in this Act affects the authority of a local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of the rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

(d) EXCEPTION.—In the case of commercial mobile services, the provisions of section 332(c)(3) shall apply in lieu of the provisions of this section.

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. STUPAK] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Does the gentleman from Virginia rise to claim the time?

Mr. BLILEY. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Virginia [Mr. BLILEY] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I am offering this amendment with the gentleman from Texas [Mr. BARTON] to protect the authority of local governments to control public rights-of-way and to be fairly compensated for the use of public property. I have a chart here which shows the investment that our cities have made in our rights-of-way.

□ 0915

Mr. Chairman, as this chart shows, the city spent about \$100 billion a year on rights-of-way, and get back only about 3 percent, or \$3 billion, from the users of the right-of-way, the gas companies, the electric company, the private water companies, the telephone companies, and the cable companies.

You heard that the manager's amendment takes care of local government and local control. Well, it does not. Local governments must be able to distinguish between different telecommunication providers. The way the manager's amendment is right now, they cannot make that distinction.

For example, if a company plans to run 100 miles of trenching in our streets and wires to all parts of the cities, it imposes a different burden on the right-of-way than a company that just wants to string a wire across two streets to a couple of buildings.

The manager's amendment states that local governments would have to charge the same fee to every company, regardless of how much or how little they use the right-of-way or rip up our streets. Because the contracts have been in place for many years, some as long as 100 years, if our amendment is not adopted, if the Stupak-Barton amendment is not adopted, you will have companies in many areas securing free access to public property. Taxpayers paid for this property, taxpayers paid to maintain this property, and it simply is not fair to ask the taxpayers to continue to subsidize telecommunication companies.

In our free market society, the companies should have to pay a fair and reasonable rate to use public property. It is ironic that one of the first bills we passed in this House was to end unfunded Federal mandates. But this bill, with the management's amendment, mandates that local units of government make public property available to whoever wants it without a fair and reasonable compensation.

The manager's amendment is a \$100 billion mandate, an unfunded Federal

mandate. Our amendment is supported by the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the National Conference of State Legislatures and the National Governors Association. The Senator from Texas on the Senate side has placed our language exactly as written in the Senate bill.

Say no to unfunded mandates, say no to the idea that Washington knows best. Support the Stupak-Barton amendment.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BARTON], the coauthor of this amendment.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, first I want to thank the gentleman from Virginia [Mr. BLILEY], the gentleman from Texas [Mr. FIELDS], and the gentleman from Colorado [Mr. SCHAEFER], for trying to work out an agreement on this amendment. We have been in negotiations right up until this morning, and were very close to an agreement, but we have not quite been able to get there.

I thank the gentleman from Michigan [Mr. STUPAK] for his leadership on this. This is something that the cities want desperately. As Republicans, we should be with our local city mayors, our local city councils, because we are for decentralizing, we are for true Federalism, we are for returning power as close to the people as possible, and that is what the Stupak-Barton amendment does.

It explicitly guarantees that cities and local governments have the right to not only control access within their city limits, but also to set the compensation level for the use of that right-of-way.

It does not let the city governments prohibit entry of telecommunications service providers for pass through or for providing service to their community. This has been strongly endorsed by the League of Cities, the Council of Mayors, the National Association of Counties. In the Senate it has been put into the bill by the junior Republican Senator from Texas [KAY BAILEY HUTCHISON].

The Chairman's amendment has tried to address this problem. It goes part of the way, but not the entire way. The Federal Government has absolutely no business telling State and local government how to price access to their local right-of-way. We should vote for localism and vote against any kind of Federal price controls. We should vote for the Stupak-Barton amendment.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Chairman, I rise in strong opposition to this Stupak amendment because it is going to allow the local governments to slow down and even derail the movement to real competition in the local telephone

market. The Stupak amendment strikes a critical section of the legislation that was offered to prevent local governments from continuing their longstanding practice of discriminating against new competitors in favor of telephone monopolies.

The bill philosophy on this issue is simple: Cities may charge as much or as little as they wanted in franchise fees. As long as they charge all competitors equal, the amendment eliminates that yet critical requirement.

If the consumers are going to certainly be looked at under this, they are going to suffer, because the cities are going to say to the competitors that come in, we will charge you anything that we wish to.

The manager's amendment already takes care of the legitimate needs of the cities and manages the rights-of-way and the control of these. Therefore, the Stupak amendment is at best redundant. In fact, however, it goes far beyond the legitimate needs of the cities.

Last night, just last night, we had talked about this in the author's amendment and we thought we worked out a deal, and we tried to work out a deal. All of a sudden I find that the gentleman, the author of the amendment, renege on that particular deal, and now all of a sudden is saying well, we want 8 percent of the gross, the gross, of the people who are coming in. This is a ridiculous amendment. It should not be allowed, and we should vote against it.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS], the chairman of the subcommittee.

(Mr. FIELDS of Texas asked and was given permission to revise and extend his remarks.)

Mr. FIELDS of Texas. Mr. Chairman, thanks to an amendment offered last year by the gentleman from Colorado [Mr. SCHAEFER], and adopted by the committee, the bill today requires local governments that choose to impose franchise fees to do so in a fair and equal way to tell all communication providers. We did this in response to mayors and other local officials.

The so-called Schaefer amendment, which the Stupak amendment seeks to change, does not affect the authority of local governments to manage public rights-of-way or collect fees for such usage. The Schaefer amendment is necessary to overcome historically based discrimination against new providers.

In many cities, the incumbent telephone company pays nothing, only because they hold a century-old charter, one which may even predate the incorporation of the city itself. In many cases, cities have made no effort to correct this unfairness.

If local governments continue to discriminate in the imposition of franchise fees, they threaten to Balkanize the development of our national telecommunication infrastructure.

For example, in one city, new competitors are assessed up to 11 percent of

gross revenues as a condition for doing business there. When a percentage of revenue fee is imposed by a city on a telecommunication provider for use of rights-of-way, that fee becomes a cost of doing business for that provider, and, if you will, the cost of a ticket to enter the market. That is anticompetitive.

The cities argue that control of their rights-of-way are at stake, but what does control of right-of-way have to do with assessing a fee of 11 percent of gross revenue? Absolutely nothing.

Such large gross revenue assessments bear no relation to the cost of using a right-of-way and clearly are arbitrary. It seems clear that the cities are really looking for new sources of revenue, and not merely compensation for right-of-way.

We should follow the example of States like Texas that have already moved ahead and now require cities like Dallas to treat all local telecommunications equally. We must defeat the Barton-Stupak amendment.

Mr. STUPAK. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

(Ms. PELOSI asked and was given permission to revise and extend her remarks.)

Ms. PELOSI. Mr. Chairman, I rise in strong support of the Stupak-Barton amendment, which is a vote for local control over zoning in our communities.

Mr. STUPAK. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Chairman, I rise in support of Stupak-Barton, that would ensure cities and counties obtain appropriate authority to manage local right-of-way.

Mr. STUPAK. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. CONYERS].

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, I congratulate my colleague from Michigan [Mr. STUPAK] on this very important amendment.

Mr. STUPAK. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we have heard a lot from the other side about gross revenues. You are right. The other side is trying to tell us what is best for our local units of government. Let local units of government decide this issue. Washington does not know everything. You have always said Washington should keep their nose out of it. You have been for control. This is a local control amendment, supported by mayors, State legislatures, counties, Governors. Vote yes on the Stupak-Barton amendment.

Mr. BLILEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, first of all, let me say that I was a former mayor and a city councilman. I served as president of the Virginia Municipal League, and I served on the board of directors of the National League of Cities. I know you have all heard from your mayors, you have heard from your councils, and they want this. But I want you to know what you are doing.

If you vote for this, you are voting for a tax increase on your cable users, because that is exactly what it is. I commend the gentleman from Texas [Mr. BARTON]. I commend the gentleman from Michigan [Mr. STUPAK] who worked tirelessly to try to negotiate an agreement.

The cities came back and said 10 percent gross receipts tax. Finally they made a big concession, 8 percent gross receipts tax. What we say is charge what you will, but do not discriminate. If you charge the cable company 8 percent, charge the phone company 8 percent, but do not discriminate. That is what they do here, and that is wrong.

I would hope that Members would defeat the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. STUPAK].

The question was taken, and the Chairman announced that the ayes appeared to have it.

Mr. BLILEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Michigan [Mr. STUPAK] will be postponed until after the vote on amendment 2-4 to be offered by the gentleman from Massachusetts [Mr. MARKEY].

It is now in order to consider amendment No. 2-2 offered by the gentleman from Michigan [Mr. CONYERS].

PARLIAMENTARY INQUIRY

Mr. NADLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. NADLER. Mr. Chairman, can the Chair simply state if it plans to roll other votes? Some of us were waiting around for this vote.

The CHAIRMAN. It is the intention of the Chair to roll the next two votes on the next two amendments, 2-2 and 2-3, until after a vote on 2-4. We will debate the first Markey amendment.

Mr. NADLER. Could the Chair use names, please?

The CHAIRMAN. We will roll the next two amendments, the Conyers and Cox-Wyden amendments, until after the vote on the first Markey amendment.

AMENDMENT 2-2 AS MODIFIED OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer a modified amendment.

McKeon
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Mineta
Molinaro
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Orton
Ortiz
Parker
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Portman
Prce
Quillen
Quinn
Radanovich

Andrews
Bateman
Coburn
Hutchinson

Ramstad
Rangel
Richardson
Riggs
Roberts
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Schroeder
Seastrand
Sensenbrenner
Shade
Shaw
Shuster
Siskiy
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns

NOT VOTING—11

Moakley
Ortiz
Reynolds
Scarborough

□ 1133

Messrs MONTGOMERY, MARTINEZ, PAYNE of New Jersey, and BEVILL changed their vote from "aye" to "no."

Mrs MEEK of Florida and Mr. HASTINGS of Florida changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 2-1 offered by the gentleman from Michigan [Mr. STUPAK], Amendment No. 2-2 as modified, offered by the gentleman from Michigan [Mr. CONYERS], and Amendment No. 2-3 offered by the gentleman from California [Mr. COX].

AMENDMENT NO. 2-1 OFFERED BY MR. STUPAK

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan [Mr. STUPAK] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 338, noes 86, not voting 10, as follows:

[Roll No. 629]
AYES—338

Abercrombie
Acnerman
Army
Baesler
Baker (LA)
Baldacci
Barcia
Barr
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilirakis
Bishop
Blute
Boehert
Bonilla
Bonior
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Burton
Calvert
Camp
Canady
Cardin
Chambliss
Chapman
Chrysler
Clay
Clayton
Clement
Clinger
Clivburn
Coble
Coburn
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooney
Costello
Covne
Cramer
Crane
Cubin
Cunningham
Danner
Davis
de la Garza
DeLauro
DeLuca
Dellums
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake

[Roll No. 629]

AYES—338

Flanagan
Foglietta
Foyie
Forbes
Ford
Fowler
Frank (MA)
Frelinghuysen
Frost
Funderburk
Furse
Gallagher
Gedensson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Girman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hastings (WA)
Haves
Hayworth
Heiner
Heineman
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hoyer
Hunter
Hyde
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Jonnston
Jones
Kantoriski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
LaFalce
LaHood
Lantos
LaTourette
Levin
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Lofgren
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy

Smith (WA)
Solomon
Spence
Spratt
Starrs
Stearns
Stenholm
Stockman
Stokes
Stupak
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas

Allard
Archer
Bachus
Baker (CA)
Ballenger
Barrett (NE)
Bilbray
Bliley
Boehner
Bono
Boucher
Bunn
Bunning
Burr
Buser
Callahan
Castle
Chabot
Chenoweth
Christensen
Coleman
Combest
Cox
Crapo
Cremens
Deal
DeLay
Deutsch
Dickey

Andrews
Bateman
Hutchinson
Moakley

Thompson
Thornton
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Trafiacant
Tucker
Lipton
Velazquez
Vento
Vasclosky
Volkmer
Waldholtz
Walsh
Wamp

NOES—86

Ewing
Fields (TX)
Fox
Franks (CT)
Franks (NJ)
Frist
Ganske
Gillmor
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Heley
Herger
Hostettler
Houghton
Inglis
King
Kolbe
Largent
Latham
Laughlin
Lazio
Leach
Lewis (CA)
Livingston
LoBiondo

NOT VOTING—10

Ortiz
Reynolds
Scarborough
Thurman
Young (AK)

□ 1142

Mr. FOX of Pennsylvania and Mr. SHADEGG changed their vote from "aye" to "no."

Messrs. ROBERTS, QUINN, and BILIRAKIS, and Mrs. SMITH of Washington changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2-2, AS MODIFIED, OFFERED BY MR. CONYERS

The CHAIRMAN. The pending business is the demand for a recorded vote on amendment 2-2, as modified, offered by the gentleman from Michigan [Mr. CONYERS] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 151, noes 271, not voting 12, as follows:

fully addressed in conference, and I have every confidence that that will take place, that we will make it clear that on local zoning decisions local governments will make those decisions, and we will also make it clear that in advancing this telecommunication policy we will not have restraints on the ability to make sure this is a national policy by insuring that every community will allow this telecommunications into the community, however we will not have a problem with the fact that local governments need to have that opportunity.

I urge support for this bill.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the able gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, I rise in support of the Conyers amendment to H.R. 1555. This amendment would require prior approval by the Attorney General before a Bell operating company may enter into long distance or manufacturing. Both the Justice Department and the FCC would review the State certification of "checklist" compliance.

Under the manager's amendment to H.R. 1555, the FCC must consult with the Department of Justice ["DOJ"] before it makes a decision on a BOC's request to offer long distance services—but DOJ has no independent role in evaluating the request.

Mr. Chairman, by depriving DOJ of an independent voice in the review process, this bill creates unnecessary risks for consumers and threatens the development of a competitive local and long distance telecommunications marketplace. The aim of deregulation was to spur phone and cable companies to enter into each other's markets and create competition. That in turn would lower prices and improve service.

Just the opposite would happen under H.R. 1555 in its current form. H.R. 1555 encourages local cable—phone monopolies. Cable and phone firms could merge in communities of less than 50,000. Therefore, nearly 40 percent of the nation's homes could end up with monopolies providing them both services and the public would not be protected from unreasonable rate increases.

Mr. Chairman, the Department of Justice is the best protector of competition by utilizing the antitrust laws of this country. The Conyers amendment will ensure that the Department of Justice has a meaningful role in the telecommunications reform, and, if it passes, consumers of America will benefit.

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

I would like to announce the benefit of the Members on the floor or in their offices that it is my intention to move that the Committee rise after general debate. There will be no debate or votes tonight on amendments.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTON].

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman and members, I rise in support of the bill. I think this is a very far-reaching telecommunications bill, the most far-reaching in the last 50 years. It will provide more competition for more industries for more consumers around this country. It will allow local telephone companies to get in long distance service. It will allow long distance telephone companies to get into local service. It will allow cable television providers to get into long distance and local service and vice versa. We will not have telephone companies, cable companies. We will have communications providers. The consumers will be the ultimate driver. They will have more choice.

□ 0130

I think it is a good bill. I think we should move it out of this body this week, move it to conference with the Senate so that we can have a modified version early this fall to pass and put on the President's desk.

Mr. Chairman, I want to speak specifically on the Stupak-Barton amendment that deals with local access for cities and counties to guarantee that they control the access in their streets and in their communities. The bill, as written, did not provide that guarantee. The Chairman's amendment does provide, I think, probably 75 percent, maybe 80 percent of that guarantee.

We are in negotiations this evening and will continue in the morning with the gentleman from Michigan [Mr. STUPAK] and the gentleman from Colorado [Mr. SCHAEFER] and myself, so that we should have an agreement that solves the issue to all parties' satisfaction, but we simply must give the cities and the counties the right to control the access, to control right-of-way, to receive fair compensation for that right-of-way, while not allowing them to prohibit the telecommunications revolution on their doorstep.

Mr. Chairman, the Stupak-Barton amendment will do that, and I am confident that we can reach an agreement with the gentleman from Virginia [Mr. BLILEY], the gentleman from Texas [Mr. FIELDS], and the gentleman from Colorado [Mr. SCHAEFER] tomorrow so that we can present a unanimous-consent agreement to the Members of the body later tomorrow afternoon.

I would support the amendment and support the bill and ask that the Members do likewise.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Oregon [Mr. WYDEN].

(Mr. WYDEN asked and was given permission to revise and extend his remarks.)

Mr. WYDEN. Mr. Chairman, I want to thank the gentleman from Michigan [Mr. DINGELL] and the gentleman from Massachusetts [Mr. MARKEY] for their many courtesies shown to me with re-

spect to the provisions I am going to discuss, and also the gentleman from Texas [Mr. FIELDS] and the gentleman from Virginia [Mr. BLILEY], who have been exceptionally patient.

I take this floor first to talk as the father of two young computer literate children who use the Internet. As a parent, I and other parents want to make sure that our youngsters do not get access to the kind of smut and pornography and offensive material that we now see so often on the Internet.

Tomorrow, the gentleman from California [Mr. COX] and I, who have worked together in a bipartisan way, will offer an amendment based on a very simple premise. Our view is that the private sector is in the best position to guard the portals of cyberspace and to protect our children. In the U.S. Senate, they have somehow come up with the idea that our country should have a Federal Internet censorship army designed to try to police what comes over the Internet.

I would say to our colleagues, and again, the gentleman from California [Mr. COX] and I have worked very closely together, that this idea of a Federal Internet censorship army would make the keystone cops look like Cracker Jack crime fighters. I look forward, along with Mr. COX, to discussing this more in detail with our colleagues tomorrow.

Second, Mr. Chairman, and very briefly, I would like to discuss an issue of enormous importance to westerners, and that is the problem with service in the U S West service territory. We learned today, for example, that there has been a 47 percent increase in delayed new service orders in the west. These are problems with waits for phone repairs, busy signals at the business offices, inaccurate information provided by company customer representatives.

An amendment I was able to offer, with again the help of the gentleman from Michigan [Mr. DINGELL], the gentleman from Texas [Mr. FIELDS], and the gentleman from Virginia [Mr. BLILEY], stipulates that local telephone companies have to meet certain service conditions as a factor prior to entering the long-distance market. This is a measure that will be of enormous benefit in the fastest growing part of our country, the U S West service territory.

Mr. Chairman, I want to thank our colleagues and the leadership on both sides for their patience.

Mr. Chairman, as telecommunications companies enter new fields, we must ensure current customers are not discarded and left without basic phone needs. The drive to streamline and downsize has subjected local telephone customers in my region of the country to poor customer service.

During Commerce Committee consideration of this legislation, I added a provision dealing with customer service standards. My amendment is in section 244 of the bill which outlines the conditions that local telephone companies must meet prior to entering the long distance

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Utility's fiber optics street work draws fire

Deck: 2 lines

City considers regulating employees of contractors

ANN BAKER STAFF WRITER

More streets were torn up in St. Paul during the past construction season than at any time in recent memory. The work disrupted traffic, disturbed businesses and dismayed local labor organizations.

Much of the work was done by non-union labor brought to St. Paul by Fishel Co., an Ohio company hired by Brooks Fiber Properties, a private telephone utility based in St. Louis.

Since June, Brooks paid its subcontractors to drill open 213 blocks of St. Paul streets, then fill them again. Work still is underway at a few locations in Lowertown, on Dayton's Bluff and near Children's Hospital.

City officials say the company moved at breakneck speed and dug numerous trenches to get its fiber optics cable into St. Paul's public right-of-way. It's the start of intense competition among telephone companies following federal telecommunications deregulation.

An ordinance coming to a vote Wednesday would attempt to curtail the confusion by requiring a private utility contractor's employees to be certified by the city as qualified to do the work. The measure also calls for a permit to be revoked if the contractor fails to report injuries or damage to other utilities or hires illegal workers.

In November, the Council ruled that a single contractor can have no more than three contiguous blocks open at one time. It also set a penalty for keeping a trench open more than five days: fines could mount to more than \$400 a day.

Already, half a dozen other telecommunications firms have permit applications pending. Assistant City Engineer Tom Kuhfeld expects two or three will end up cutting open the streets again during the next two years before the dust of the new competition settles.

"It's a three-year explosion and there's two years to go: companies are trying to out-compete one another," said Kuhfeld, who manages the streets. "That's the nature of it. They don't want anybody to know they're doing it, and then they do it all at once."

A Brooks Fiber official said his company installed 100 miles of fiber optics cable across the Twin Cities area this year and plans to install another 100 miles next year, mostly in suburban areas.

In St. Paul, complaints about the Brooks project -- ranging from huge amounts of street being open at once to low wages paid to out-of-state, nonunion workers -- have brought the St. Paul City Council to consider controls on future tear-ups of the city streets by private utilities.

"They blitzed through the downtown," said Gary Erickson, a city engineer who manages street maintenance. "They had a massive amount of work. We aren't used to that. It was disrupting to everybody. I was very upset at the beginning.

"Once we got them on track, they followed our direction. I was generally pleased with their work," Erickson added.

But several city workers who helped restore the streets' blacktop said crews continued to fail to address construction and safety procedures, such as setting up warning lights around open trenches.

Equally upsetting to members of the 2,500-strong Construction and General Laborers Union Local 132 were workers' long hours and low-base pay. They fear that more such traveling crews may erode the wages unions have negotiated with local contractors.

Business agent Randy Parker said, "I walked up to a foreman, showed him my union card. He showed me his: 'Nonunion and proud of it.' They had trucks from Texas, Arizona, Ohio, California. I followed them. Some lived in apartments on Burns Avenue. Others lived at Mary Hall and ate at the Dorothy Day Center and Union Gospel Mission."

A Brooks official denied that any of the crew members stayed at shelters. "That's not true; those folks were put up in a hotel," said Tony Capers, vice president and general manager of Brooks Fiber Minnesota, which opened an office in Minneapolis six months ago.

Brooks subcontracted much of its work from Fishel Co. of Columbus, Ohio, which brought nonunion crews from Texas and other southern and western states. They typically worked seven days a week and 12 to 14 hours a day.

Some of the workers reportedly told local union members they were paid only \$7 to \$9 an hour, well below standard local union wages of \$17.35 an hour plus benefits for highway work, or \$14 plus benefits for fiber optics drilling.

Eric Smith, executive vice president at Fishel, said the current base pay is \$8 to \$10 for traveling laborers, plus benefits, \$30 a day for board and room and a profit-sharing plan that, this year, adds up to another \$2.30 an hour for workers who've been with the company for a year or more. Smith said nearly all those who came to St. Paul got the profit sharing.

Smith said he found rooms for the workers at a Woodbury motel, encouraging them to "double up, triple up, quadruple up to save their money."

As for a rumor that several Fishel workers were found to be illegal aliens and were deported, the immigration agents who were asked to investigate said they did four random checks but found no workers who were non-citizens or lacked work permits.

Some critics also complained that Fishel crews struck Northern States Power gas lines several times. Reports in the St. Paul Public Works Department show Fishel made six hits, at least two requiring evacuations. All were attributed to NSP having missing or misplaced gas line markings in the street.

Mueller Pipeline Co., a locally respected union firm that Brooks subcontracted with to do part of the labor, struck NSP lines four times. Utility experts in the Public Works Department said 10 hits in a season is not unusual considering the huge amount of work that was done.

So far, St. Paul has charged Brooks \$41,600 for permits. City authorities also are charging a restoration fee, which is being calculated block by block: restoration of the first 10 blocks is figured to cost about \$40,000.

"I'm guessing it will be up to \$500,000," Kuhfeld said.

He worries about damage to the streets from reopening and repatching, with more work yet to come from competitors. "When they don't leave the street in a good restored condition, I'm guessing what the city's future costs may be."

In March, the Minnesota Public Utilities Commission is expected to adopt new rules to protect local streets by allowing cities to charge damage fees.

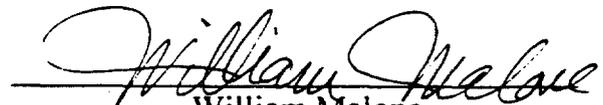
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**Certificate of Compliance
(FRAppP 32[a][7])**

This brief has been prepared using Microsoft Word 97. Times New Roman, 14 Point.

Exclusive of the corporate disclosure statement; table of contents; table of citations, statement with respect to oral argument, any addendum containing statutes, rules or regulations, and the certificate of service, the brief contains 13,244 words.

I understand that a material misrepresentation can result in the Court's striking the brief and imposing sanctions. If the Court so directs, I will provide an electronic version of the brief and/or a copy of the word or line print-out.


William Malone

August 2, 1999

Certificate of Service

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August 2, 1999