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COMMITTEE ON FEDERAL RELATIONS, ENERGY AND TELECOMMUNICATIONS

TESTIMONY OF THE MONTANA CONSUMER COUNSEL
2005 H.B. 539

FEBRUARY 14, 2005

Mr. Chairman and Committee members, my name is Mary Wright. I am an attorney with the Montana Consumer Counsel. The Montana Consumer Counsel is the Constitutional office that represents ratepayers of public utilities before the Public Service Commission and federal agencies and in the courts.

Consumer Counsel has studied H.B. 539, and appreciates the concerns about telecommunications providers' ability to have sales promotions. We have serious concerns about the rest of the bill, however, and like the Public Service Commission, the Montana Consumer Counsel must oppose it. Our main concern is that the restriction of regulation to a business or residence primary line, together with the promotions provisions, would allow a provider to evade any regulation, to the detriment of the customers.

In 1985, the Legislature enacted the Montana Telecommunications Act (69-3-801 et seq.). The Act provides a regulatory framework that allows for an orderly transition from regulation to competition in telecommunications. The law properly emphasizes an orderly transition. H.B. 539 does not provide that orderly transition.

Utilities' rates and services traditionally have been regulated because they have monopoly power. If competition is sufficient, then competition can replace regulation and consumers are not worse off. If competition is not sufficient to protect the public, then regulation should continue. It is the state of the market, not whether a line is primary or not, that should determine whether it is regulated. By combining the primary line provisions with the new authority to have promotions, completely at the discretion of the service provider, the bill essentially deregulates local service and exposes local service customers, both business and residence, to whatever rates the phone company wishes to charge, and which could change with no prior notice. This is bad for customers and would harm businesses.

According to the FCC, competitors, as opposed to incumbent providers statewide, only serve 4 percent of the market. Four percent indicates to us that the market is not competitive enough at this time to deregulate local service. There are other indications that the market is not competitive. The state's largest provider last month announced rate increases for some business services. If the market were really competitive, we would tend to see providers lowering rates, not raising them.

The Montana Consumer Counsel advocated in testimony filed last month that the Commission open a case for the purpose of investigating the state of competition in the