


# Massachusetts Office of Ratepayer Advocacy

## 2009 NASUCA Mid-Year Meeting

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The seal of the Massachusetts Attorney General is visible in the top left corner. It features a circular design with the text "MASSACHUSETTS ATTORNEY GENERAL" around the perimeter and "MARTHA COAKLEY" at the bottom. The central emblem depicts a figure holding a scale and a sword, with a star above, set against a shield with horizontal stripes.

# The Attorney General's Ratepayer Advocate Function

- Common law duty to represent the public interest and enforce public rights, and specific statutory authority to intervene in both administrative and judicial proceedings “on behalf of Massachusetts consumers in connection with any matter involving the rates, charges, prices or tariffs of an electric, gas, generator, transmission company, telephone or telegraph company doing business in the commonwealth . . .” M.G.L. c. 12, § 11E
- The Office of Ratepayer Advocacy carries out the Attorney General’s ratepayer protection functions
- Represents consumer interests before state regulators as well as the FERC and FCC
- Litigation efforts in 2008 (state and federal) resulted in over \$94 million in savings
- Member of NASUCA and National Association of Attorneys General (NAAG)



# Consumer Protection Function of Attorneys General

- Broad Consumer Protection Authority
  - Unfair or Deceptive Trade Practices
    - Is the conduct oppressive or unconscionable?
- Strong Investigative Tools
  - Civil Investigative Demand
  - Statements taken under oath
- Significant Judicial Remedies
  - Injunctive relief
  - Assurance of Discontinuance
  - Damages (treble, attorneys fees)
  - Class Action Certification
  - Private Cause of Action



# Application of State Consumer Protection Laws – 2004 Wireless Assurances

- 2004 Assurance with Verizon; Sprint/Nextel, AT&T/Cingular
- 32 States
- Misrepresentation in Advertising
- Assurance Terms
  - All rates and charges disclosed at time of purchase (in writing)
  - Coverage Disclosures
  - 14 Day Cancellation Rights
  - Disclosure of Taxes and Surcharges
  - Consumer Complaint Process
  - Payment of Over \$50M (approx. \$1.6M per state)



# AG's Prospective\*

- Attorney Generals traditionally resist any preemption of state consumer protection authority
- No. 1 Issue NAAG identified in its materials sent to the President Obama's transition team
- Shared Jurisdiction provides the greatest consumer protection
- Wide ranging core issue across sectors – banking and mortgage laws, environmental protection, telecommunications
- Last time NAAG weighed in – 2006 letter to congress in opposition to the “Advanced Telecommunications and Opportunity Reform Act”

\*The statements in this presentation do not represent the views of any particular Attorney General or the views of NAAG.



# Regulatory Framework v. General State Consumer Protection Laws

- AG's Consumer Protection Authority
  - Protect consumers from unlawful conduct – “laws of general applicability”
  - Reactive
  - Burden is on the State
- Regulatory Framework
  - Clear standards/rules by which a utility must comply
  - Proactive
  - Burden in on the Company
- Failing to meet a regulatory requirement may or may not raise to the level of an unfair and deceptive trade practice
- Even through we need to preserve broad state consumer protection laws, they are not a substitute for an effective, clear regulatory scheme that can be administered and enforced by the states



# Universal Consumer Protection Standards?

- Clear and specific rules – no more patchwork of standards through litigation – regulatory certainty and all companies subject to the same standards
- States should not give-up their consumer protection function or rights to enforce such standards
- State – Federal partnership (supported by consumer advocates and state commissioners)
- What would such standards look like?
  - Advertising
  - Contract terms and conditions
  - Billing and termination
- NARUC Survey On National Wireless Consumer Protection Standards
  - Same Issue continue to plague the industry



# Fixed VoIP - Massachusetts

- Fixed VoIP is offered in 288 communities (cover 97% of the population)
- Between 5 and 20% of Massachusetts landline customers are subscribed to a fixed VoIP service
- Rapid transformation in Massachusetts
  - Cable Companies
  - Verizon FiOS
- Can a change in technology change regulatory requirements for the same service?





# Fixed VoIP – Massachusetts

- Jurisdiction of State Regulators
  - Important policy – protect customers against inadequate service and unreasonable practices and enforce a level playing field for landline competition
  - What's at Risk – billing and termination regulations; elderly protections; jurisdiction over complaints
- The Technology
  - Fixed v. Nomadic
- Massachusetts Law
  - Regulation of Common Carriers
- Federal Preemption
  - No preemption of Fixed VoIP