
UTILITY TAX NEWS, TRENDS & POLICY

This non-confidential edition includes excerpts from articles, studies and research related to the National utility tax and telecom industry. Readers should note that some sources may require a subscription for a full review.

Topics

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- **“Staggering” Monthly Prices for ‘Communications’ Items:** Recent estimates suggest that the monthly cost for communications and entertainment for the average American is \$320, more than six times higher than in 1957, accounting for inflation. Experts suggest that this hike comes almost unilaterally from entertainment platforms and that mobile operators need to focus on making video delivery cost effective and expanding their menu of entertainment options in order to stay relevant in the next ten years. **Source:** FierceWireless, April 28, 2017
- **Cord Cutting / “Skinny Bundle”:** With the surge in cord-cutting, media companies are introducing “skinny” bundles to compete with the low monthly subscription price of popular streaming services, and some major channels aren’t making the cut. TNT, Nickelodeon and Discovery Channel are among those being left out of new streaming services. Some providers posed the option to offer certain networks in a more expensive tier, but executives ultimately declined as the “downside risk was so enormous.” Many of those companies left out of streaming bundles are urging traditional pay-TV providers to offer packages in the \$15-\$20 range that excludes “expensive” sports channels. Fierce Cable in June reports that estimates suggest that a \$10 entertainment-only package has the potential to attract 4.6 million new subscribers to traditional pay-TV platforms. **Source:** Wall Street Journal, May 14, 2017

WIRELESS

- **Wireless Model Does Not Work:** AT&T is pushing back on their suppliers, including Cell Tower operators, that there is so much pressure on Average Revenue Per Unit that they have to reassess their business model: they are not able to raise prices so they are working on delivery costs. Here we have the Cable companies competing with Wireless providers for an already saturated wireless market while the Wireless providers are competing with the Cable providers for a saturated cable market. All this competition for existing subscribers will result in lower revenues for both wireless and cable therefore lower UUT. **Source:** FierceWireless, May 10, 2017
- **Streaming Trends:** Nielsen data reveals that for both the Xbox and PlayStation consoles, users are spending about half of their time every week doing something other than playing games. For the PlayStation, 20 percent are streaming TV shows or movies, with another 3 percent watching downloaded content. For Xbox, those numbers increase to 24 percent for streaming and 2 percent for downloaded content. **Source:** TV Technology, June 12, 2017
- **Partnerships:** Comcast and Charter will share technology and collaborate on vendor negotiations with the goal of creating new products, better retain existing customers, and compete in the cutthroat wireless market. The agreement specifies that either company can make a material merger or acquisition in the wireless market without the other’s consent for one year, and would result in the acquisition of at least 50% of the assets or voting power of either company if a merger or acquisition is made in the future. Others have speculated that the partnership could have severe impacts on the industry’s other two giants, Verizon and AT&T, who have been losing subscribers at a significant rate. By avoiding a bidding war between the two players, it gives the partners the clear advantage over their competition in the wireless arena. Since the end of the FCC’s auction quiet period, executive officers from both T-Mobile and Sprint as reported in a May article spurred rumors of an impending merger. **Source:** Wall Street Journal, May 8, 2017
- **Amazon:** Rumors are emerging that Dish is in negotiations with Amazon. While specifics have yet to be determined, speculation suggests that a partnership could include Amazon’s financing of Dish’s “Internet of Everything” project or a phone plan for Prime members via Dish’s new wireless network. Amazon is reportedly “taking a walk vs a run approach with Dish,” according to an unnamed person familiar with the negotiation. **Source:** Wall Street Journal, July 6, 2017

CABLE

- **Subscriber Decline for 1Q 2017:** AT&T experienced the highest subscriber decline, with a net loss of 233,000, followed by Dish Network with a loss of 143,000 and Charter with a loss of 100,000. Comcast is the only provider on the list with a net growth, at 41,000 added. Contributors to the Decline: Charter's lack of retention of customers coming off promotions and Dish's retransmission battles, to name a couple. AT&T's decline can be largely attributed to issues with the DirecTV Now video service, which launched at the beginning of the year. The company quickly on boarded 200,000 subscribers last December, climbing to 328,000 by the end of the following month. By February, the service lost 3,000 customers and growth remained flat in March amidst reports of glitches, errors and outages from customers. **Source:** *FierceCable, May 17, 2017; Wireless Week, May 26, 2017*
- **Remaining Growth for Cable in Live Television:** Cable Networks continue to pay prime rates for rights to sports and news programming, insisting that live television is the key to retaining customers. Indeed, viewership of live programming on the 20 most-watched networks was up 14% in the first quarter, while non-live content fell by 7% in the same period. The hike was slightly anomalous as a large portion of cable news' increase could be attributed to the heated presidential election. Likewise, although sports experienced a 6% growth, there was a 7% decline among nonevent sports programs, such as ESPN's SportsCenter. **Source:** *Wall Street Journal, May 8, 2017*

PREPAID / POST PAID

- **Carriers Feel Burden of Unlimited Data:** Contrary to expert projections, core inflation rose just 1.9% in April 2017 compared to 2016, down from 2.3% in January. At the same time, cell-plan prices dropped 7% in March and an additional 1.7% in April. Since April 2016, prices have declined by 12.9% - the largest decline in 16 years. Experts contribute the "price war" to be cause of drop; this includes Verizon, Sprint, T-Mobile and AT&T, part of which includes the offer of plans with unlimited data. Both AT&T and Verizon incurred postpaid losses for the first time on record, and T-Mobile experienced a "less great" postpaid net add increase of just 250,000. **Source:** *Wall Street Journal, May 19, 2017; FierceWireless, June 9, 2017*
- **Prepaid Wireless Market:** GoPhone is sold at thousands of major retail outlets throughout the country, according to fresh data from Wave7 Research, including Walmart, Best Buy, Target and Meijer's. And the rebranding illustrates how intense the prepaid battle has become in a broader U.S. market where growth has slowed. That segment has only grown more cutthroat over the last year as Apple has begun to leverage it to increase distribution of its iPhone. **Source:** *FierceCable, July 12, 2017*

ENERGY

- **California Rethinks Power Plant Projects:** Earlier this year, the *LA Times* brought to light that the state is operating with an oversupply of electricity, costing taxpayers upwards of \$40 billion annually, \$6.8 billion more than they did in 2008 when power use was at its all-time high. As a result, energy officials are rethinking plans to construct natural gas power plans – including a \$2.2 billion plan to rebuild old natural gas power plants and another project in Ventura County. DWP officials are investigating other means of energy production and will publish a complete analysis by early 2018. **Source:** *LA Times, June 6, 2017*

CELL PHONE TOWERS

- **Utility Poles “One Touch Make Ready”:** Verizon is supporting a controversial rule that speeds up fiber deployment by permitting ISPs to make all of the necessary wire adjustments on utility poles instead of waiting for other providers, like AT&T and Comcast, to send crews. Some cities passed similar rules to help Google Fiber compete with incumbents; providers brought lawsuits against at least two of these cities. Verizon has asked the FCC to allow the “One Touch Make Ready” process in states that follow FCC pole attachment processes. Major cable operators urged the FCC to keep existing processes in place, asserting that “existing attachers must be provided with adequate prior notice of planned work and a meaningful opportunity to perform the required make-ready work themselves.” Charter specifically noted that “One Touch” policies have resulted in “significant damage to Charter’s facilities.” **Source:** *ArsTechnica, June 16, 2017*
- **Plan to Install 50,000 Cell Towers in California:** Up to 50,000 cell phone towers coming to cities across California. California cities are now fighting back at a proposed law (SB 649/ Hueso) that is moving quickly through the legislature. They say it would allow phone companies to put up new antennas in your neighborhood, like it or not. San Jose Mayor Sam Liccardo said, “Neighborhoods would be seeing something the size of refrigerators going up on street poles and could say nothing to stop it.” Solano County Supervisor Erin Hannigan said, “Could be on a library, could be on a school.” “On traffic signals, light polls,” Liccardo said. “This would give the companies the right to install on any public infrastructure and we would have zero ability to say ‘no. The use of smart devices and mobile Internet has increased 2,300 percent statewide since 2010. Steve Carlson with CTIA-Wireless Association said, “California was the epicenter of the last Internet revolution and can and should be the epicenter of the next one.” The new rules would cap how much local jurisdictions could charge telecom companies at \$250 per antenna, a far cry from the \$1,250 that cities like San Jose now get. Mayor Liccardo said, “You are talking about an industry that will net \$500 billion after full build out.” Telecom contributed \$2.4 million to California’s Democratic and Republican parties in the 2016 election. **Source:** <http://sanfrancisco.cbslocal.com/2017/06/28/plan-install-50000-cell-towers-california-opposition/>

LOCAL INITIATIVES

- **Smart City Deal:** The Sacramento City Council approved an array of projects with Verizon, including support for Sacramento’s Vision Zero initiative, more than a dozen digital kiosks and new infrastructure for 5G. Verizon will support the Mayor’s education initiatives, with internships and opportunities for elementary, middle and high school students to promote careers in science, technology, engineering and math (STEM). In Sacramento, one of the 11 markets where Verizon is conducting pre-5G trials this year, the city is making it easier for Verizon to roll out 5G in a way that will enable it to scale. Verizon’s deal with Sacramento also includes the deployment of 15 kiosks in neighborhoods throughout the city. The technology comes via Verizon’s acquisition of LQDWiFi, developer of outdoor interactive displays that provide Wi-Fi connectivity along with community and other information. **Source:** *FierceWireless, June 11, 2017*

LEGISLATIVE PROPOSALS / LEGAL DECISIONS

- **Overturn Local Voter-Approved Utility User Taxes (UUT): Prohibits Video Streaming.** AB 252 now a two-year bill, sets a dangerous precedent for cities and counties who have levied a UUT, and will directly impact 88 jurisdictions with a “video” provision. Cities receive between 15 and 30 of the general-purpose revenue from UUT policies, and many even provide exemptions for low income and elderly service users. **(AB 252/ Ridley-Thomas) (Interim Study)**
- **Limits Local Discretionary Review: Wireless Telecommunications Facilities.** The bill would prohibit cities and counties from precluding the leasing of their so-called “vertical infrastructure,” including streetlights and stoplights, for the installation of wireless telecommunications facilities; and impose a cap developed for utility poles on the rents that cities or counties could charge for the use of their publicly-owned non-utility pole vertical infrastructure.

MuniServices opposition to SB 649 focuses on those provisions that compromise local authority and local revenues. In addition to the permitting issues raised by this bill, it would also cap how much cities can negotiate leases for use of public property and a city's ability to maximize public benefit at \$250 annually per attachment rates for each "small cell." Some cities have been able to negotiate leases for "small cells" upwards of \$3,000, while others have offered "free" access to public property in exchange for a host of tangible public benefits, such as free Wi-Fi in public places, or network build-out to underserved parts of their cities, agreements usually applauded by both cities and industry. **(SB 649/ Hueso)** *(Active)*

- **New Construction Property Tax Exclusion: Rain Water Capture System.** Excludes from classification as "newly constructed" and "new construction" the construction or addition, on or after January 1, 2018, of a rain water capture system. The Constitution allows the Legislature to exclude from the definition of "new construction" constructing or adding any of the following property improvements: Any active solar energy system (Proposition 7, 1980); Any fire sprinkler system, as defined (Proposition 31, 1984); Any portion or structural component that makes the dwelling more accessible for a disabled or severely disable person (Proposition 110, 1990 and Proposition 177, 1994); Seismic retrofit components (Proposition 23, 1984 and Proposition 127, 1990). **(SB 558/ Glazer)** *(Active however double-joined to SCA 9 that was held in Committee.)*
- **Solar Energy Systems: Permits: Fee Cap:** Lowers a cap on local government permit fees for rooftop solar energy systems and extends the cap to cover solar thermal systems. More specifically, allows a city or county to increase its solar energy system permit fees above the caps if the duration of the increased charge is no more than five years from the date of adoption of the resolution or ordinance that first establishes the permit fee. **(AB 1414/ Friedman)** *(Active)*
- **Conversion of Existing Overhead Electric and Communications Facilities:** Adds cable operators (in addition to the city or a public utility) to the statutes governing utility undergrounding. To initiate proceedings to convert overhead facilities to underground facilities, the city council must find that the city, a public utility, or a cable operator has voluntarily agreed to pay over 50 percent of all costs of conversion, excluding costs of users' connections to underground electric or communication facilities. **(AB 1145/ Quirk)** *(Active)*
- **Storm Water: School Facility Water Capture Practices: Local Partnership:** Requires state and regional entities to consult on and recommend best design and use practices for storm water and dry weather runoff capture that can generally be applied to all new, reconstructed, or altered public schools. **(SB 541/ Allen)** *(Active)*
- **Local Government: Fees and Charges:** Defines "Sewer" for the purposes of Proposition 218. SB 231 makes it easier for local agencies to finance projects capturing stormwater to reuse it, instead of letting the water run off and go to waste, provides legal clarity on the interpretation of Proposition 218 while maintaining the proposition's transparency and accountability guidelines. The measure allows local governments to finance and build projects that capture and clean stormwater just as easily as they can finance and build needed sewer facilities. **Revenue Impact:** No fiscal impact. **(SB 231/ Hertzberg)** *(Active)*
- **Franchise Fees:** A local franchise fee increase that a utility company passes down to its customers is not a tax imposed without voter approval, the California Supreme Court held June 29. The state supreme court's decision in *Jacks v. City of Santa Barbara* reversed the appellate court, which found for the plaintiffs. According to the case, the city of Santa Barbara's agreement with electricity supplier Southern California Edison allows the company to pass on to customers an additional charge equal to 1 percent of the company's gross receipts for the privilege of using city property. The city already imposes a 1 percent gross receipts charge for the use of city property, which the company includes in its electricity rates. Revenue from the fees goes to the city's general fund, to be used by Santa Barbara in a discretionary capacity.