

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Commission's Review of :
Ohio Adm.Code Chapter : Case No. 14-1554-TP-ORD
4901: 1-6, Telephone :
Company Procedures :
and Standards. :

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WORKSHOP

before Mr. Jeffrey Jones, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-B, Columbus, Ohio, called at 10:00
a.m. on Wednesday, August 26, 2015.

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1 APPEARANCES:

2 PUCO STAFF:

3 Rates and Analysis Department:

4 Ms. Theresa White, Assistant Director
5 Ms. Marianne Townsend, Telecom Section Chief
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10 Mr. Jay Agranoff, Attorney Examiner

11 - - -

INDEX

- - -

SPEAKER	PAGE
Terry Etter, Office of Ohio Consumers' Counsel	10
Michael Smalz Ohio Poverty Law Center; Appalachian Peace & Justice Network.	13
Ellis Jacobs, Advocates for Basic Legal Equality	16
Mary Ellen Nose, Southeastern Ohio Legal Services	18

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1 want to do so at the end, you can do so at that time,
2 but we'd appreciate it if you would sign in so we get
3 an idea who all was here.

4 Before we begin taking comments, I want
5 to give an overview of why the workshop is being
6 held. The 131st Ohio General Assembly adopted House
7 Bill 64 that, among other things, directed the
8 Commission to adopt rules to implement Ohio Revised
9 Code Sections 4927-10 and 4927-101, as well as
10 amendments to Ohio Revised Code Sections 4927.01,
11 4927.02, 4927.07, and 4927.11.

12 Generally, these statutory provisions set
13 forth the procedure by which the incumbent local
14 exchange carrier may seek to withdraw or abandon the
15 provision of basic local exchange service.

16 HB64 directs the Commission to adopt rules the carry
17 out the new and amended Ohio Revised Code sections
18 within 180 days after September 28, 2015.

19 The Commission as determined that as part
20 of the Governor's Common Sense Initiative, it is
21 appropriate for staff to hold a workshop with
22 interested stakeholders as part of the rule-making
23 process; therefore, the purpose of this workshop is
24 to receive your input regarding the rules required by
25 HB64.

1 This workshop is merely your initial
2 opportunity to offer recommendations and is not
3 intended serve as substitute for the Commission's
4 formal comment process. After the workshop, the
5 Commission will issue the proposed rules for comment,
6 and at that time any interested stakeholder may
7 submit written comments and reply comments to the
8 proposed rules.

9 Additionally, this workshop is being
10 transcribed by a court reporter and is being webcast.
11 However, nothing said in this workshop will be
12 considered binding on stakeholders.

13 I would also like to note we would ask
14 you to come up to the front and use one of the Bench
15 mics if you are going to make comments today. At the
16 time you do approach the Bench and every time you
17 give comments, please give your name and the
18 affiliation of who you are representing so we can get
19 that for the record, and as well as using the mics
20 will help those persons who may be watching on the
21 webcast. Also, if you have prepared a written
22 statement, it would be helpful if you provide a copy
23 to the court reporter as well as Commission staff.

24 Before we begin, are there any questions
25 about the procedure we will follow today?

1 If not, does staff have anything we want
2 to add before we start?

3 MS. TOWNSEND: We just welcome everyone
4 to the workshop today and look forward to comments
5 and feedback on the rules.

6 EXAMINER JONES: I will begin high level
7 overview of the proposed new and amended rules. This
8 will necessarily be a high level review as the draft
9 rules are still undergoing discussions internally
10 among staff at this point, and the rules that have
11 subsequently released for comment may be noticeably
12 different from what we discuss today.

13 So with that in mind, I'm going to go
14 down through rule by rule of what we are either
15 proposing to amend or any new rules that we are
16 proposing to adopt and give just a brief overview and
17 ask my staff if they have anything to add and then
18 I'll open it up to comments from the floor.

19 So the first rule is the definitions
20 rule, Ohio Adm.Code 4901: 1-6. We propose to add
21 definitions to this rule regarding the "interstate
22 access component," "reasonably and comparatively
23 priced voice service," "voice service," and "willing
24 provider."

25 There's also going to be a definition for

"affected customer" that we will put in a new rule, and the purpose for doing that in a new rule and not putting that in the definitions rule is primarily because the term "affected customers" is used throughout the entire chapter of rules, and we want that definition of "affected customer" just to apply to that new rule that the staff is proposing the Commission adopt.

Anything else to add from staff's perspective?

If not, any comments on that first rule?

Seeing none, move on to the next rule, which is rule Ohio Adm.Code 4901: 1-6-02. We are recommending some modifications to paragraph (C) and (D) of that rule, which would add a reference to the new rule staff is proposing, which is 4901: 1-6-21. That reference is again going to be just referencing that new rule.

Anything from staff?

If not, any comments from anybody on that proposal?

The next rule is Rule 7, Ohio Adm.Code 4901: 1-6-07. There are two provisions of that rule as well in paragraph (A). In paragraph (A) we would propose the addition of a reference to the

1 new rule again, Rule 21, which is withdrawal of BLES
2 or Voice Service by incumbent or willing provider;
3 and paragraph (C) we would similarly make a reference
4 to that new Rule 21 in that paragraph as well.

5 Any comments from staff?

6 And Jay is suggesting to me that I let
7 you know that Rule 21 in the existing body of rules
8 was proposed to be rescinded. It is the rule that
9 addressed community voicemail service, so rather than
10 having to stick a new rule number in somewhere else
11 and then modify a bunch of provisions throughout the
12 entire chapter of rules, we are proposing to put that
13 new rule in the place where the old rule is being
14 rescinded. Hopefully you understand when I keep
15 referring to Rule 21, that's why we're saying 21.

16 Any comments from anybody on Rule 7?

17 Okay. The next one is the new Rule 21.
18 This rule would include a process for the withdrawal
19 of BLES by an ILEC; a process for the withdrawal of
20 voice service by an ILEC or a willing provider,
21 including customer notice and what the customer
22 notice would include; the petition process; the
23 failsafe mechanism; and some provisions regarding the
24 responsibilities of a willing provider, which would
25 include Commission's annual assessments and TRS

1 reporting requirements.

2 Anything further staff would like to add
3 regarding that rule?

4 Comments from anybody in the audience
5 regarding that rule?

6 MR. ETTER: Yes. Good morning. My name
7 is Terry Etter. I'm from the Office of Ohio
8 Consumers Counsel.

9 Our comment, our general comment, on this
10 part of it, I guess, is that during the process of
11 HB64, there was a big effort by lawmakers and by the
12 administration to include improvements for consumers
13 over previous versions of the legislation, and we
14 believe the PUCO should advance this effort by
15 focusing the process on the needs of consumers.

16 Consumers generally have no experience in
17 dealing with the PUCO, so providing ample notice to
18 them is critical about the timing that they have, the
19 deadlines that they have for notifying the PUCO that
20 they cannot find a comparable and reasonable
21 alternative service.

22 The notice to customers should be not
23 necessarily by one form because sometimes customers
24 when they receive mail from a telephone company or
25 really from anybody that they're just not used to

getting, they may perceive it to be junk mail and throw it away. So we believe there should be several forms of notice available to customers, possibly e-mail, certainly mass media advertising, something beyond the legal-notice advertising in newspapers that is usually accompanying something like this.

The petition process should provide customers with a variety of ways to notify the PUCO, not just filing a formal petition because customers by and large have never filed a formal petition with the PUCO, and they certainly will not have legal assistance available to them, for the most part, or may not have legal assistance available to them to file a formal petition at the PUCO.

There should also be a fair amount of latitude for customers who are not living at home when the notice is issued, particularly elderly customers, many of whom may be in the hospital or living with relatives because they are recuperating from a hospital stay, and so there should be some latitude there.

The intention of lawmakers, we believe, was that alternative services be affordable, and so affordability should be a high priority in examining the alternative services that customers may have

1 access to, especially those customers whose ILEC is
2 taking away basic local service.

3 We believe that the rules, the process
4 rules, should incorporate the aspects of service that
5 the collaborative must focus on, things like
6 universal connectivity, consumer protection, public
7 safety, reliability, availability of advanced
8 services, affordability, and competition.

9 And also we believe that the PUCO should
10 pay special attention to the comments of consumer
11 representatives who deal with customers who will be
12 affected by the rules on a daily basis. They are
13 very much aware of the problems that these customers
14 have and the situations that customers are in, and,
15 you know, we would support having some of these
16 groups on the collaborative as well.

17 I believe that's our comments on this
18 portion of the rules.

19 Thank you.

20 EXAMINER JONES: Thank you, Mr. Etter.

21 Any questions from staff?

22 Thank you.

23 MR. ETTER: Thank you.

24 EXAMINER JONES: Anyone else have
25 comments they would like to make on the new proposed

1 rule?

2 MR. SMALZ: My name is Michael Smalz, an
3 attorney with the Ohio Poverty Law Center and I also
4 represent the Appalachian Peace & Justice Network.

5 First, I just want to reinforce Terry
6 Etter's comments. Certainly the rules should address
7 the notice, what does the notice say, how will it be
8 delivered to customers. The content of the notice,
9 the readability or understandability of the notice is
10 all important since we're dealing with a wide range
11 of residential customers including low income, rural,
12 elderly, and uneducated customers.

13 As Terry Etter said, the petition process
14 should be as simple and flexible as possible. We
15 have to keep in mind that under HB64 customers will
16 only have 30 days after they receive the notice of
17 withdrawal or abandonment of their basic phone
18 service, only have 30 days in which to file the
19 petition raising their concerns or objections with
20 the Commission.

21 And given that short time frame, given
22 the fact that most customers are unsophisticated,
23 have not had to file anything or know how to file
24 anything with the PUCO, it's important that customers
25 have several avenues, not just filing a formal

petition, but the opportunity to call the Commission, to send a letter to the Commission, and other less formal methods of submitting their, quote, unquote, petition to the Commission.

The definition of "alternative," "reasonable and comparatively priced voice service" is critical in developing that definition. And, perhaps, in also developing the definition of "affected customer," the Commission should first of all consider the proposed FCC rules which talk about termination of basic local service provided that the alternatives do not, quote, discontinue, impair, or reduce, unquote, existing phone service; and certainly the Commission should broadly interpret that to mean that if the only available alternatives would in some way, significant way, impair a customer's existing service, then that should be grounds for continuing their basic phone service with the ILEC.

So, for example, if a customer would lose free directory assistance or operator assistance or relies on and would possibly lose individual caller ID blocking or telecommunications relay service for the deaf, or would lose access to affordable lifesaving or medically significant medical devices

1 or security alarm systems, that should all be
2 considered.

3 As Terry Etter noted, affordability is,
4 obviously, a big issue, and by affordability, that
5 should be construed to mean affordability for voice
6 service so the Commission does not take the position
7 that, well, you can get a bundled or package of
8 services and that bundle is reasonably priced when
9 you take into account all the services. The
10 Commission should hone in on voice service, is voice
11 service specifically comparatively priced, is it
12 affordable, is it reasonably priced in looking at
13 affordability.

14 We would also urge broad consumer
15 participation in the collaborative process. As I
16 understand it, the statute mandates that all of the
17 ILECs may participate. The cable companies will have
18 representation. The consumer counsel will have
19 representation, but the statute also specifically
20 allows the Commission to appoint other interested
21 parties to the collaborative, and that should include
22 representatives of low income, elderly, and rural
23 customers, those vulnerable populations that may be
24 especially impacted or harmed, to be precise, by the
25 termination of their basic phone service.

1 So, again, I would urge the Commission to
2 keep in mind in defining these critical terms and in
3 establishing the process for terminating basic phone
4 service and for allowing customers to challenge that
5 termination that it should be as consumer-friendly as
6 possible.

7 Thank you.

8 EXAMINER JONES: Thank you, Mr. Smalz.

9 Any questions from staff?

10 Thank you.

11 Additional comments on this rule?

12 MR. ELLIS: Good morning. My name is
13 Ellis Jacobs, an attorney at Advocates for Basic
14 Legal Equality in Dayton here on behalf of the
15 Edgemont Neighborhood Coalition, a frequent
16 participant in telecom dockets at the PUCO.

17 I appreciate the opportunity to come in
18 and have comments at this stage of the process, and
19 if my comments are premature in your morning's
20 schedule, I guess it's better to be early than late
21 in making your comments. Forgive me.

22 I've been struck by the level of interest
23 in this matter among people that I deal with,
24 low-income people and rural people in particular are
25 very concerned about the possibility of losing

1 affordable and familiar phone service, and so getting
2 this right is going to be very important.

3 And I can only echo the comments of the
4 prior two speakers. I agree with everything that
5 they had to say about the importance of focusing on
6 the consumer experience and making sure consumers are
7 able to trigger this mechanism, use this mechanism,
8 understand this mechanism.

9 The one thing that I would add to what
10 has already been said is that the PUCO is tasked with
11 doing an investigation to see whether the criteria
12 are met and then deciding. I would think once that
13 investigation is done, it would be important to make
14 that available to the petitioning customer and allow
15 that customer to have the opportunity to respond to
16 that because the customer is going to have certain
17 insights about what really will or won't work for
18 them, and I think it's important to close that loop,
19 keep them involved, and give them the opportunity to
20 respond to whatever it is that your experts have
21 found.

22 Again, just the focusing on the
23 customer's experience is critical in making sure that
24 end product truly works in a very practical way for
25 people is essential.

1 Thank you.

2 EXAMINER JONES: Thank you.

3 Mr. Jacobs, any questions?

4 Thank you.

5 Other comments?

6 MS. NOSE: Good morning. I'm Mary Ellen
7 Nose, and I'm with Southeastern Ohio Legal Services.
8 Also I live in rural Vinton Ohio, and I testified on
9 this bill five times before the various committees,
10 and I echo all of the preceding persons who
11 testified.

12 I can say that, you know, I have no cell
13 service at my home. I have Internet, which is
14 through the phone company, which may be twice a day
15 I'm able to get. I live not that far away from
16 Athens, but I do live in Vinton County. Many of the
17 areas in our service in my area are dead zones, and I
18 think that is the best-kept secret that the state of
19 Ohio has done in the elimination of landlines.

20 Our organization covers 30 counties,
21 mostly Appalachian. Many of our customers do not
22 have phone service, cannot get cell service, and as
23 you know, many of the different state entities are
24 requiring that you do things online, which there's no
25 Internet service.

1 So I echo all of the things that my
2 colleagues have indicated, and I do ask that you keep
3 the consumers in mind in this process, that it be
4 affordable, that it not be bundled, that,
5 particularly for those elderly, 911 services is
6 critical.

7 One of my persons that testified also is
8 a blind person. Voice recognition is essential for
9 persons that don't have the ability to review phone
10 books and things like that in that the cell service
11 is not recognizable. There are services you can only
12 get through landlines that are not comparable in
13 quality through cell phone service. So I would only
14 urge the Commission to look at those things as well.

15 Thank you.

16 EXAMINER JONES: Thank you.

17 Questions.

18 MS. TOWNSEND: I have a question.

19 Thank you, Ms. Nose. I'm curious, and
20 I've heard this from the testimony prior to yours
21 about the affordability, in looking at the
22 affordability of service. What is it that you have
23 in mind as being affordable to that customer if their
24 service, their landline service, to is be replaced
25 by, say, a cellular service or some other satellite?

1 I mean, it could be VOIP service, whatever. What is
2 your idea of affordability?

3 MS. NOSE: That it not be any greater
4 than what they paid for their landline.

5 MS. TOWNSEND: So you're looking at it
6 that it should be exactly the same.

7 MS. NOSE: Absolutely. Many of the
8 people are on fixed incomes, they do not have --
9 particularly elderly or the handicapped that may be
10 on disability, they have very limited income. I
11 mean, it's impossible for them to be able to afford
12 what most people assume as the new way of
13 communications.

14 MS. TOWNSEND: Thank you.

15 EXAMINER JONES: Additional comments?

16 Seeing no one, we will move on to the
17 next one.

18 The next proposed amendment would be to
19 Rule 25, 4901: 1-6-25(B)(4). Again, the addition of
20 a reference in that paragraph to the new rule, Rule
21 21.

22 Anything from staff?

23 Any comments on that one?

24 The next rule is Rule 27, Ohio Adm.Code
25 4901: 1-6-27(A), and again there would be a reference

1 added in that paragraph to the new rule, Rule 21.

2 Any comments?

3 Okay. And then the last one is actually
4 something I think staff -- there's some provisions to
5 the assessment rule, Rule 37, that I think staff
6 would propose to make the last time we had these
7 rules out for comments, so we will throw those out
8 for now.

9 This would be to Rule 37(A), 37(C), and,
10 again, to 37(C) there would be an addition -- in
11 37(A) there would be an addition of the reference to
12 "competitive eligible telecommunications carrier"
13 added in the paragraph.

14 In paragraph (C) there would be the
15 deletion of language requiring the payment of
16 telephone company assessments for provision of the
17 community voicemail pilot program. As I mentioned
18 earlier, that pilot program has been removed from the
19 statutory laws, so that rule is being removed, so
20 that language in 37(C) regarding assessments for that
21 program should have also been removed.

22 And then also in paragraph (C) is the
23 addition of a requirement that wireless carriers of
24 Lifeline service be assessed an annual fee to be
25 determined by the Commission.

1 Any additional comments from staff on
2 Rule 37?

3 Any comments from anybody in the audience
4 on the proposals on Rule 37?

5 Seeing none, any other general comments
6 anybody wants to make on the rule-making process at
7 this point?

8 MR. ETTER: I know the general rules --

9 EXAMINER JONES: Come back up, Mr. Etter.

10 MR. ETTER: The general rules were put
11 out for comments earlier this year, and I don't think
12 there's been an order on those yet. Will any of
13 those rules also be set out for more comment here,
14 are you anticipating? What is the time that you're
15 expecting on the process?

16 EXAMINER JONES: So your first question
17 was whether or not any other rules? I do not believe
18 there are any proposals to put any rules back out for
19 comment other than the ones that were mentioned here.
20 There also may be, though, some rules that have
21 already been out for comment, a word change here or
22 there, but I'm not expecting those to go back out for
23 comment. This comment period will be primarily on
24 the rules I just went over.

25 As far as the timing, I would say that we

would like to -- recognizing that we have a 180-day time frame and that the JCARR process alone takes up almost 45 percent of that 180 days, we would like to get this out as quickly as possible, recognizing that the House Bill 64 provisions that affect telephone are effective September 28, I would expect the Commission to be putting out an order either right before that time frame or right after that time frame, so sometime in there.

MR. ETTER: Do you anticipate another workshop once the complete proposed rules have been set out for comment?

EXAMINER JONES: I do not anticipate a further workshop at this time, but there will be the formal written and reply comment period that individuals can take advantage of.

MR. ETTER: Thank you.

EXAMINER JONES: Thank you.

Anything else?

Anything from staff in conclusion?

If not, I'd like to thank you at this time for your participation in today's workshop. You should look forward to the proposed rules being issued by the Commission in the near future, as I just mentioned.

1 This workshop is now adjourned. Thank
2 you.

3 (The workshop adjourned at 10:30 a.m.)

4 - - -

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, August 26, 2015, and carefully compared with my original stenographic notes.

Rosemary Foster Anderson,
Professional Reporter and Notary
Public in and for the State of
Ohio.

My commission expires April 5, 2019.

(RFA-79147)

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in

Case No(s). 14-1554-TP-ORD

Summary: Transcript in the matter of Commission's Review of Ohio Admin Code Chapter 4901: 1-6, hearing held on 08/26/15 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.