BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

REPLY COMMENTS ON PROPOSED RULES THAT WOULD ALLOW TELEPHONE COMPANIES TO TERMINATE OHIOANS' BASIC SERVICE BY EDGEMONT NEIGHBORHOOD COALITION, LEGAL AID SOCIETY OF SOUTHWEST OHIO LLC, THE OFFICE OF THE OHIO CONSUMERS' COUNSEL, OHIO POVERTY LAW CENTER, PRO SENIORS, INC., AND SOUTHEASTERN OHIO LEGAL SERVICES

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I. INTRODUCTION

This proceeding addresses the necessary consumer protections for Ohioans who may lose their basic local exchange service when their telephone company is allowed to abandon the service. The Public Utilities Commission of Ohio ("PUCO") is implementing the telephone provisions of Amended Substitute House Bill 64 ("Am. Sub. HB 64"), which was enacted on June 30, 2015. Am. Sub. HB 64 included a process for local telephone companies to withdraw or abandon basic service provided to residential customers under certain conditions.[1]

On October 26, 2015, Edgemont Neighborhood Coalition, Legal Aid Society of Southwest Ohio LLC, the Office of the Ohio Consumers' Counsel, Ohio Poverty Law Center, Pro Seniors, Inc., and Southeastern Ohio Legal Services (collectively, "Consumer

[1] The process is contained in new R.C. 4927.10 enacted in Am. Sub. HB 64.

Groups") filed Comments on draft rules offered by the PUCO Staff to implement Am. Sub. HB 64.[2] While the draft rules improve on consumer protections of Am. Sub. HB 64, the Consumer Groups noted that additional consumer protections are needed. This is particularly true regarding the notices to be provided Ohioans who are about to lose basic service. The notices may be the only way customers would be aware that their telephone company is abandoning basic service.

Several telephone interests also filed comments.[3] The telephone interests would have the PUCO weaken the consumer protections proposed by the PUCO Staff. Instead of protecting consumers, the telephone interests would put the contents and means of customer notification at the discretion of the very telephone companies that are planning to withdraw basic service. The PUCO should reject the telephone interests' proposals and adopt the consumer protections contained in the Consumer Groups' Comments.[4]

The telephone interests also misstate the purpose of Am. Sub. HB 64. For example, CBT asserts that the "general principle behind HB 64" is to relieve incumbent carriers of the carrier of last resort obligation where the Federal Communications Commission ("FCC") has permitted withdrawal of the interstate access component of basic service and there are other reasonable alternatives for service.[5] CBT is wrong. Am. Sub. HB 64 does *not* relieve incumbent carriers of carrier of last resort obligations.

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[2] The draft rules were set forth in an Entry dated September 23, 2015.

[3] Ohio Telecom Association ("OTA"), AT&T Ohio ("AT&T Ohio"), Ohio Cable Telecommunications Association ("OTA"), and Cincinnati Bell Telephone Company LLC ("CBT"). MCI Communications Services, Inc. dba Verizon Business Services and MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services and Cellco Partnership d/b/a Verizon Wireless filed a letter supporting the OTA. CTIA-The Wireless Association filed a letter stating that it would not file comments but reserved the right to file reply comments.

[4] If the Consumer Groups do not address a particular argument presented in another party's comments, this should not be construed as the Consumer Groups' acquiescence to that argument.

[5] CBT Comments at 2.

Instead, Am. Sub. HB 64 allows incumbent carriers to withdraw basic service, if the two conditions are met *and* the carriers follow the process established in Am. Sub. HB 64. As explained in the Consumer Groups' Comments, that process must be customer-friendly.[6]

II. DISCUSSION

A. The notice to customers that they will soon lose their basic service is the most important aspect of protecting consumers in the basic service abandonment process; the form and contents of the notice should not be left to the discretion of the abandoning incumbent carrier, which would have no incentive to adequately notify customers that their basic service is about to end.

R.C. 4927.10(A)(1) states that telephone companies meeting the statutory criteria for abandoning basic service cannot do so without notifying customers 120 days before their basic service will end. But the law does not specify the contents or the kinds of notice that companies must give.[7] The PUCO Staff took a minimalist approach to notifying customers that they will soon lose their basic service. The draft rules require only two types of notice to customers: (1) direct notice, either by U.S. Mail or email with the customer's consent[8]; and (2) newspaper advertising that is not in the section reserved for legal notices.[9] As to content, the draft rules require only that the notices "shall provide the affected customers with the commission's toll-free telephone number and website address for additional information regarding the application and filing of a

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[6] See Consumer Groups Comments at 3-4.

[7] As AT&T Ohio acknowledged in its comments (at 13).

[8] See Proposed Rule 7(C).

[9] See Proposed Rule 21(A)(3). Proposed Rule 21(B)(2) contains a similar requirement for incumbent carriers and willing providers seeking to withdraw voice service.

petition."[10] As the Consumer Groups noted,[11] in order to protect consumers the draft rules should require more notice and should specify the actual content of the notices.

The telephone interests, however, would do away with the draft rules' notice requirements. OTA would have the incumbent carrier – which is abandoning basic service altogether – decide "the most appropriate means" for providing notice to customers.[12] OTA claims that the incumbent carrier "is in the best position to determine the most effective method for communicating with its customers in writing to ensure that they are notified of an upcoming withdrawal in a timely manner, including how they are impacted and the action they must take in advance of the effective date of the withdrawal."[13]

The PUCO should reject the telephone interests' position. Allowing the incumbent carrier to determine the form and content of notices to residential customers that their basic service will soon be terminated would leave customers at risk of not knowing their options. Notice regarding the impending loss of basic service – with the possibility that customers would have no, or at least inadequate, alternative services available – is too important a matter to leave to the self-interest of incumbent carriers.

Instead, the PUCO should follow the recommendations of the Consumer Groups and require a variety of means for incumbent carriers to notify customers that they will soon lose their basic service. Mass media advertising is an important part of this notification process. As the Consumer Groups pointed out, mailed notices may be inadequate to properly notify residential customers that their incumbent is abandoning

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[10] Proposed Rule 21(A)(2) and (3); Proposed Rule 21(B)(1) and (2).

[11] Consumer Groups Comments at 4-12.

[12] OTA Comments at 10. See also AT&T Ohio Comments at 14.

[13] OTA Comments at 10.

basic service.[14] And contrary to AT&T Ohio's preference to one type of notice,[15] it is important that mass media advertising be used to make customers aware of the impending deadline to find an alternative provider or to petition the PUCO if an alternative provider is not available. Mass media advertising will also be useful in informing friends and relatives of residential basic service customers about the need for the customer to act, so they may assist the customer in searching for an alternative provider.

The PUCO should also require specific content for the incumbent carrier's notices to customers. Incumbent carriers have no incentive to inform residential customers that they need to act quickly to find an alternative provider or to petition the PUCO if an alternative provider is not available. In fact, incumbent carriers have a disincentive to make residential customers aware of the abandonment process and the need to act quickly: The less a residential customer knows about the abandonment process and the impending deadline to find an alternative provider or to petition the PUCO, the less likely the customer will take action. The customer also will be less likely to know about alternatives to the incumbent carrier's basic services. Hence the customer may believe the only choice is to either take a higher-priced service from the incumbent carrier or to lose service altogether.

By specifying the content of the notices to customers in its rules, the PUCO will help make sure residential customers are fully aware of their rights and obligations

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[14] Consumer Groups Comments at 9. See also AT&T Ohio Comments at 14.

[15] AT&T Ohio Comments at 18 ("newspaper notice would be wasteful and duplicative, since the ILEC will be notifying customers individually'').

regarding their telephone company's abandonment of basic service. This will help protect consumers.

Further, contrary to AT&T Ohio's assertion,[16] specifying the form and content of the customer notice would be consistent with FCC regulations regarding notice to customers when service is discontinued. The FCC requires that the notice "shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice."[17] The FCC also requires that the notice contain the following:

> (1) Name and address of carrier;
>
> (2) Date of planned service discontinuance, reduction or impairment;
>
> (3) Points of geographic areas of service affected;
>
> (4) Brief description of type of service affected; and
>
> (5) One of the following statements:
>
> (i) If the carrier is non-dominant with respect to the service being discontinued, reduced or impaired, the notice shall state: The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 15 days after the Commission releases public notice of the proposed discontinuance. You may file your comments electronically through the FCC's Electronic Comment Filing System using the docket number established in the Commission's public notice for this proceeding, or you may address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in

[16] AT&T Ohio Comments at 14.

[17] 47 C.F.R. § 63.71(a).

your comments a reference to the §63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

(ii) If the carrier is dominant with respect to the service being discontinued, reduced or impaired, the notice shall state: The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 30 days after the Commission releases public notice of the proposed discontinuance. You may file your comments electronically through the FCC's Electronic Comment Filing System using the docket number established in the Commission's public notice for this proceeding, or you may address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the §63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.[18]

The notice requirements in the draft rules – with the changes recommended by the Consumer Groups[19] – are consistent with the FCC's requirements.

The notices residential customers will receive regarding their incumbent carrier's abandonment of basic service are vital to informing such customers about their need to act quickly to find an alternative provider. The PUCO should make sure that customers

[18] Id.

[19] Consumer Groups Comments at 8, 11-12.

are notified through a variety of means. And the PUCO should require that the notices contain the specific content recommended by the Consumer Groups.

B. The process for an incumbent carrier to withdraw basic service from residential customers should begin with a PUCO docket, and it is appropriate that the docket be commenced through an application.

The telephone interests complain that the draft rules would require an incumbent carrier to file an application in order to begin the process for withdrawing basic service from residential customers. They argue that Am. Sub. HB 64 requires only that a telephone company seeking to abandon basic service notify the PUCO, not file an application.[20] But the telephone interests fail to consider all aspects of the process.

While it is true that Am. Sub. HB 64 does not mention the word "application," the PUCO must have some administrative mechanism to handle incumbents' plans to withdraw basic service from residential customers. The administrative mechanism is necessary to make the transition away from basic service clear to consumers and to potential willing providers. Simple notification to the PUCO would not suffice.

The PUCO Staff's plan for an application process is sensible. An application process would not unduly burden an incumbent carrier seeking to abandon basic service. The incumbent carrier could merely file the notice and other documentation electronically.

Further, the application process in the draft rules would not run afoul of Am. Sub. HB 64, as the telephone interests argue.[21] Under Proposed Rule 21(B), the application

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[20] OTA Comments at 10; AT&T Ohio Comments at 21-22.

[21] See AT&T Ohio Comments at 3.

would be automatically approved 120 days after filing.[22] AT&T Ohio states that "nothing in the statute suggests that Commission approval is required."[23] But under the draft rules, automatic approval is not contingent on some PUCO action; the application would be approved automatically in the 120-day time frame set out in R.C. 4927.10(A)(1). Hence AT&T Ohio's concern about PUCO approval is unfounded.[24]

Nevertheless, PUCO review of the application is necessary. For example, if the FCC has not permitted the incumbent carrier to withdraw the interstate access component of basic service in Ohio under 47 U.S.C. § 214, the incumbent carrier cannot withdraw basic service under R.C. 4927.10(A). So it would be necessary for the PUCO to determine whether the FCC has issued the requisite. Also, an application process would help make the public aware of the PUCO's review.

Contrary to the telephone interests' contentions, an application process for withdrawing basic service from residential customers is consistent with Am. Sub. HB 64 and is appropriate. The PUCO should reject the arguments of the telephone interests.

C. The documentation that would be included with an application to withdraw basic service from residential customers is necessary to assist the PUCO and the public during the abandonment process.

Proposed Rule 21(A) sets out a list of items that would be included with an application to withdraw basic service from residential customers. The items are:

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[22] OTA expands this to the notion that the rule "implies that if there is an objection to an application, the ILEC cannot withdraw BLES." OTA Comments at 13. Wisely or not, none of the other Commission automatic processes have been interpreted that way. Also contrary to OTA (at 14), the 120-day period is not "self-effectuating."

[23] AT&T Ohio Comments at 3; see also id. at 13, 15.

[24] Nevertheless, the PUCO has some authority that might be adverse to the incumbent carrier. For example, if the PUCO determines that a customer cannot obtain reasonable and comparatively priced service from an alternative provider, then the PUCO can require the incumbent carrier to provide a reasonable and comparatively priced alternative service to the customer. R.C. 4927.10(B)(1)(b).

(1) A copy of the FCC order that allows the incumbent carrier to withdraw the interstate-access component of its basic service under 47 U.S.C. § 214;

(2) A copy of the notice sent to all affected customers identifying all potential willing providers and notifying those affected customers unable to obtain reasonable and comparatively priced voice service of the customers' right to file a petition, with the PUCO;

(3) A copy of the newspaper notice published concurrent to the filing of the application;

(4) The names all potential willing providers offering a reasonable and comparatively priced voice service to affected customers, regardless of the technology or facilities used by the willing provider; and

(5) A clear and detailed description, including a map, of the geographic boundary of the incumbent's service area to which the requested withdrawal would apply.

The telephone interests argue that these requirements are not contained in Am. Sub. HB 64.[25] They also argue that information regarding willing providers is not necessary because it would be needed only if not all residential customers have access to providers offering reasonable and comparatively priced alternative service to the incumbent carrier's basic service.[26] The PUCO should not be persuaded by the telephone interests' arguments.

Am. Sub. HB 64 does not specify the form and content of the "notice" that incumbent carriers must give the PUCO when they want to abandon basic service to residential customers. The PUCO must be satisfied that the notice received from the incumbent carrier verifies that the FCC has allowed the company to remove the interstate access portion of the company's basic service. A copy of the FCC order is a necessity;

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[25] See AT&T Ohio Comments at 15-19.

[26] See id. at 16-17.

the PUCO should not have to look up the order that the incumbent carrier is relying on to withdraw basic service from residential customers. The company should already have a copy of the order and should provide it to the PUCO.

AT&T Ohio objects to including the FCC order, because that "imposes a minimum 120-day delay between the adoption of the FCC Order and the first day that withdrawal of BLES is possible."[27] AT&T Ohio's view would allow an incumbent carrier to give notice that it is withdrawing basic service before the FCC approves withdrawal of the interstate access component. But the FCC may deny or modify the incumbent carrier's application for withdrawal.

AT&T Ohio also states, "The statute allows the required 120-day notice period to run while the ILEC is pursuing FCC approval, and the Commission cannot properly prohibit that, as the draft rule would." Under this view, notice could be given (and the 120-period would run) even if the FCC did not approve withdrawal of the interstate access component from the incumbent carrier's basic service until more than 120 days after notice was given. The 120-day could also run even if the FCC disallowed withdrawal of the interstate access component from the incumbent carrier's basic service. This is contrary to R.C. 4927.10(A), which makes an incumbent's withdrawal of basic service subject to the FCC *adopting* an order permitting the incumbent to withdraw the interstate access component from its basic service in Ohio. AT&T Ohio's position contravenes the plain language and intent of the statute. The PUCO should not allow incumbent carriers to serve notice to terminate their customers' basic phone service before the FCC has acted. The PUCO should reject AT&T Ohio's position.

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[27] Id. at 15.

The draft rules also help the PUCO to be satisfied that the incumbent carrier is providing proper notice to customers. Having the incumbent carrier submit a copy of the direct and newspaper notices provided to customers is not unreasonable. A better step would be for the PUCO to specify the language of the notices that incumbent carriers abandoning basic service will provide their customers. The Consumer Groups recommended language for notices in their Comments. The PUCO should adopt the language recommended by the Consumer Groups.

A list of willing providers is also useful in the PUCO's investigation when customers cannot find a provider of a reasonable and comparatively priced alternative to the incumbent carrier's basic service. Providing such a list to the PUCO should not be burdensome for the incumbent carrier, especially if willing providers have been identified by the collaborative.[28]

AT&T Ohio asserts that "the statute does not contemplate that any alternative providers will be identified unless and until a customer that is unable to obtain reasonable and comparatively priced voice service files a petition with the Commission or unless and until such a customer is identified through the collaborative process established under Section 749.10 of H.B. 64."[29] This frees the incumbent carrier of any responsibility to be judicious in its withdrawal plans, and unwisely places the burden of finding alternative

[28] Under uncodified section 749.10(C) of Am. Sub. HB 64, the collaborative will include an evaluation of what alternatives are available to residential customers "including both wireline and wireless alternatives, and the prospect for the availability of alternatives where none currently exist."

[29] AT&T Ohio Comments at 16, citing R.C. § 4927.10(B).

providers on customers, and on the PUCO, in the little time available to find an alternative provider.[30]

AT&T Ohio favors this approach "because it defers the identification of alternative providers until the Commission identifies a customer that would not otherwise be served without an alternative willing provider…."[31] Without knowing the willing alternative providers, how can the PUCO identify a willing provider for customers who need an alternative? Similarly, AT&T Ohio says that its proposal "allows for a more focused investigation that is tailored to the individual customer who may need help identifying an alternative source of service."[32] But again, such residential customers (and the PUCO) will need assistance in searching for a willing alternative provider. Without a list of alternative providers, where would such customers (or the PUCO) begin the search?

AT&T Ohio asserts that "the Commission is more likely than the ILEC to have information about which carriers currently are serving or have the capacity to serve the exchange in question…."[33] Why would that be? One would hope that the incumbent carrier would have information about the providers in such areas, and would likely have

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[30] Under R.C. 4927.10(B), after the incumbent carrier notifies a customer that basic service will be abandoned, the customer has only 30 days to find a reasonable and comparatively priced alternative service or to petition the PUCO. If a petition is filed, R.C. 4927.10(B)(1) gives the PUCO only 90 days to conduct its investigation and either find a willing provider or order the incumbent carrier to continue serving the customer.

[31] AT&T Ohio Comments at 17.

[32] Id. AT&T Ohio's suggestion that "[t]his allows the carriers and the Commission to avoid conducting a state-wide inquiry" (id.) is off-base: A statewide inquiry would be needed only if there were a statewide application. Even then, the search for willing providers would be on an exchange-by-exchange basis, because R.C. 4927.10(A) allows withdrawal of basic service "with regard to any exchange area in which an incumbent local exchange carrier withdraws" the interstate access component of basic service. See also 4927.10(B)(1)(a), which requires the PUCO to attempt to identify "a willing provider identify a willing provider of a reasonable and comparatively priced voice service to serve the customer."

[33] Id.

provided such information to the FCC in its request to withdraw the intrastate access component of its basic service in Ohio.

Further, including a detailed description of the geographic area covered by the application – certainly known to the incumbent carrier – is necessary. The PUCO must determine whether any affected customers have been identified by the collaborative as not having access to a reasonable and comparatively priced alternative to the incumbent's basic service. The information required by the FCC might not be sufficient to determine whether any affected customers would be left without an alternative service. When it comes to customers possibly losing basic service without a reasonable and comparative priced alternative service available, the PUCO should have as much detail as possible.

The documents proposed to be submitted with the incumbent's application are necessary for the PUCO to protect consumers who are about to lose their basic service. Contrary to AT&T Ohio, these application requirements are not "onerous."[34] The PUCO should adopt the draft rules, with the changes proposed by the Consumer Groups.

D. The definition of "reasonable and comparatively priced voice service" should not eliminate the differential between the incumbent's basic service rate and an alternative voice service (as the telephone interests suggest), but instead should lower the differential from 25 percent to ten percent, as the Consumer Parties recommend.

In the draft rules, the PUCO Staff proposed a definition for the key term "reasonable and comparatively priced voice service." R.C. 4927.10(B)(3) directs the PUCO to "define the term 'reasonable and comparatively priced voice service' to include service that provides voice grade access to the public switched network or its functional equivalent, access to 9-1-1, and that is competitively priced, when considering all the

[34] Id. at 3.

alternatives in the marketplace and their functionalities." In Proposed Rule 1(BB), the PUCO Staff has done that. The PUCO Staff also has recommended that, in order to be reasonable and comparatively priced, the willing carrier's rates may "not exceed the ILEC's BLES rate by more than twenty-five percent."

The telephone interests claim that the PUCO Staff's recommendation violates R.C. 4927.10(B)(3) by restricting what qualifies as a "reasonable and comparatively priced voice service."[35] AT&T Ohio states that "the statutory definition does not mention the twenty-five percent amount, but instead provides that such service shall be 'competitively priced, when considering all the alternatives in the marketplace and their functionalities.'"[36] AT&T Ohio argues that the statute requires an inquiry into the market conditions at the time a service is offered, and does not allow for a "bright-line 25% rule" to be used in all cases to determine whether a service is "competitively priced."[37] The telephone interests are wrong.

Am. Sub. HB 64 specifically requires the PUCO to define the term "reasonable and comparatively priced service," not to simply repeat the statutory phrase without setting any further parameters or leaving the phrase completely open to interpretation on a case-by-case basis.[38] Setting a reasonable price range relative to the customer's price for their existing basic phone service provides clear guidance to customers and service providers. A reasonable price range serves the statutory purpose of maintaining affordable voice service for customers with basic phone service.

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[35] OTA Comments at 5-6; AT&T Ohio Comments at 6-7.

[36] AT&T Ohio Comments at 6.

[37] Id.

[38] R.C. 4927.10(B)(3).

As the Consumer Groups noted, the term "reasonable and comparatively priced voice service" is an essential component of the petition process regarding the abandonment of basic service to residential customers.[39] If a consumer cannot find a reasonable and comparatively priced voice service to replace the incumbent carrier's basic service, the consumer may petition the PUCO for assistance in finding an alternative.[40] If the PUCO's investigation shows that no reasonable and comparatively priced voice service is available at the consumer's residence, the PUCO must attempt to find a willing provider of a reasonable and comparatively priced voice service to serve the consumer.[41] If no willing provider is found, the PUCO will, per the draft rules, order the incumbent to provide a reasonable and comparatively priced voice service at the consumer's residence.[42]

The telephone interests would *require* the PUCO to make a *provider-specific* value judgment regarding any additional features an alternative service costing significantly more than the consumer's basic service may have. For example, the telephone interests' view would allow an alternative service priced double the incumbent carrier's basic service to be deemed "comparatively priced" simply because the alternative provider's service is loaded with features the basic service doesn't have. The PUCO's determination regarding a reasonable and comparatively priced alternative service, however, should not consider features that are not on a customer's bill for basic

[39] Consumer Groups Comments at 19.

[40] R.C. 4927.10(B).

[41] R.C. 4927.10(B)(1)(a).

[42] Proposed Rule 21(E).

service.[43] The customer likely chose basic service because basic service does not have additional expensive features that the customer does not want or need. The customer also might not be able to afford additional features.

In addition, the available alternatives may actually be inferior to the customer's existing basic phone service in certain key respects. For example, the customer may not able to afford unlimited flat rate service through an alternative voice service provider, or the available alternatives may lack the option of caller ID blocking on a per call basis or access to operators and free directory assistance. Customers may also depend on their basic landline phone systems for access to essential medical devices and security systems, which might not be compatible with expensive alternative systems.

As the Consumer Groups noted,[44] the PUCO's determination regarding a reasonable and comparatively priced service should include an apples-to-apples comparison of the services. The PUCO should not place additional "value" on features that are not a component of the consumer's current service.

It is rational for the PUCO to adopt a definition of "reasonable and comparatively priced service" that limits the price differential between the incumbent carrier's basic service and the alternative provider's service. This would help reduce the additional amount that residential customers will have to pay for telephone service because their incumbent carrier has decided to abandon basic service. In order for the alternative service to be "reasonable," however, the price differential should be further limited to ten percent, as the Consumer Groups recommend.[45]

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[43] See AT&T Ohio Comments at 6.

[44] Consumer Groups Comments at 21-22.

[45] Id. at 20-21.

E. The definition of "carrier of last resort" in the draft rules should not be changed as proposed by AT&T Ohio and OCTA.

In the draft rules, the PUCO Staff proposes that "carrier of last resort" should be defined as "an ILEC or successor telephone company that is required to provide basic local exchange service on a reasonable and non-discriminatory basis to all persons or entities in its service area requesting that service as set forth in section 4927.11 of the Revised Code."[46] OCTA would change "persons or entities" to "residential customers" because, according to OCTA, the carrier of last resort obligations in R.C. 4927.10(B) are limited to residential customers.[47] OCTA, however, misunderstands the application of the draft rule.

The draft rule specifically focuses on the carrier of last resort obligations in R.C. 4927.11, not R.C. 4927.10(B). R.C. 4927.11 states: "Except as otherwise provided in this section and section 4927.10 of the Revised Code, an incumbent local exchange carrier shall provide basic local exchange service *to all persons or entities* in its service area requesting that service, and that service shall be provided on a reasonable and nondiscriminatory basis." (Emphasis added.) Thus, the draft rule is consistent with R.C. 4927.11.

The only other mention of the carrier of last resort obligation in the draft rules is found in Proposed Rule 27. This draft rule would recognize that Proposed Rule 21 creates an exception to the carrier of last resort obligation. Hence OCTA's concerns about Proposed Rule 1(F) are unfounded. The PUCO should not change the definition of "carrier of last resort" as OCTA suggests.

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[46] Proposed Rule 1(F).

[47] OCTA Comments at 4.

The telephone interests also argue that the PUCO should remove the "and successors" qualification from the rule.[48] The PUCO should reject AT&T Ohio's argument. If a current incumbent carrier is acquired by or merged into another carrier, the rules should apply to the successor carrier. The successor should be allowed to withdraw its basic service only in the same manner as its predecessor could – under the statutory provisions and in compliance with the PUCO's rules.

III. CONCLUSION

Residential customers whose incumbent carrier decides to abandon their basic service need protections against loss of service and against having to pay significantly more for an alternative provider's service. The rule changes suggested by the telephone interests would not protect consumers who must quickly find another telephone service, and would likely harm such consumers. The PUCO should reject the rule changes proposed by the telephone interests. Instead, the PUCO should adopt the changes to the draft rules recommended in the Consumer Groups' Comments.

Respectfully submitted,

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[48] See AT&T Ohio Comments at 5-6; OCTA Comments at 4.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Reply Comments was served on the persons stated below via electronic transmission this 9th day of November 2015.

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Summary: Reply Reply Comments on Proposed Rules That Would Allow Telephone Companies to Terminate Ohioan's Basic Service by Edgemont Neighborhood Coalition, Legal Aid Society of Southwest Ohio LLC, the Office of the Ohio Consumers' Counsel, Ohio Poverty Law Center, Pro Seniors, Inc., and Southeastern Ohio Legal Services electronically filed by Ms. Deb J. Bingham on behalf of Etter, Terry L.