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**

AT&T OHIO'S REPLY COMMENTS ON DRAFT CHANGES TO OHIO ADM. CODE CHAPTER 4901:1-6

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The Ohio Bell Telephone Company d/b/a AT&T Ohio ("AT&T Ohio") respectfully submits the following replies to initial comments filed in this docket on October 26, 2015. Section I replies to the initial comments of 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 (hereinafter collectively referred to as the "Consumer Advocates"). Section II replies to the initial comments of the Ohio Telecom Association. Section III replies to the initial comments of the Ohio Cable Telecommunications Association.

I. REPLY TO INITIAL COMMENTS OF CONSUMER ADVOCATES

The Consumer Advocates accept the Draft Rules as a starting point and propose an array of what they characterize as additional protections for consumers. Some of the proposals are reasonable and consistent with the controlling statute, H.B. 64, but others should be rejected because they are at odds with H.B. 64 or are unreasonable. Before addressing the Consumer Advocates' proposals individually, we make two overarching observations.

First, the Commission should disregard the Consumer Advocates' suggestions about the way the Rules should be implemented, as opposed to what the Rules should say. In several instances, the Consumer Advocates express views on the way the Commission should apply H.B.

64, and the Rules, but propose no corresponding language for the Rules. The task at hand, however, is the promulgation of Rules, not fine points of application.

Second, these reply comments do not always take issue with the Consumer Advocates' recurring assumption that certain features of the Draft Rules will be adopted, but that should not be taken as acquiescence. For example, AT&T Ohio demonstrated in its initial comments that it would be unlawful for the Commission to impose COLR obligations on a non-ILEC that provides voice service to a customer whose BLES service was withdrawn,[1] or to require an ILEC that intends to withdraw BLES to apply to the Commission for authorization to do so,[2] or to obtain FCC approval of its withdrawal of the interstate access component of its BLES as a precondition to giving notice of its intent to withdraw the intrastate components of BLES.[3] While the Consumer Advocates do not express a view one way or the other on these features of the Draft Rules, their comments, and their proposed edits to the Draft Rules, assume that these features will be incorporated in the final Rules. Needless to say, AT&T Ohio disputes that assumption. This reply, however, focuses on the Consumer Advocates' proposals, and does not expressly object to each instance in which the Consumer Advocate's comments reflect an assumption that the Draft Rules will be adopted.

A. NOTICE REQUIREMENTS

AT&T Ohio agrees with the Consumer Advocates that customers whose BLES is being withdrawn must receive clear and understandable notice of what is happening and of what they can do about it. Many of the Consumer Advocates' proposals, however, are not reasonable means to that end. The Commission's Rules need only require ILECs withdrawing BLES to

[1] AT&T Ohio's Initial Comments on Draft Changes to Ohio Adm. Code Chapter 4901:1-6 ("AT&T Initial Comments") at 5-6, 7-9.

[2] *Id.* at 13.

[3] *Id*. at 15.

provide their customers written notice of the withdrawal, and how they are impacted by it, and what they may do in light of the withdrawal.[4] When AT&T Ohio withdraws BLES from an exchange, it will not be abandoning the exchange. Rather, it will simply be transitioning from TDM-based services to alternate services in that exchange, and it will be highly motivated to ensure that all of its BLES customers in the exchange understand how they are affected and the action they will need to take. AT&T Ohio will take pains to ensure that all affected customers get the word. It will be in AT&T Ohio's interest to do so in order to avoid the complications that could ensue if customers do not take appropriate action and the necessity of litigating claims that the notice was inadequate. While AT&T Ohio can make these representations only about its own intentions, other ILECs will presumably have similar motivations. Detailed regulation of every aspect of the manner and means by which ILECs provide notice to their customers is unnecessary and would likely be counter-productive, as we discuss below.

Moreover, the Commission already has in place customer notice requirements for the withdrawal of telecommunications services other than BLES. Under the Commission's Rules, a notice to a customer of a telephone company withdrawing service must

> identify the name of the company or brand name familiar to the customer (i.e. the company's "doing business as" name) and the company's customer service toll-free telephone number and web site (if one exists), along with a clear description of the impact on the customer. If the notice is informing a customer of a material change in the rates, terms, or conditions of service, the notice shall also name the service offering being changed, a description of the change including any increase in rate(s), the effective date of the change, and the company's contact information.[5]

There is no reason to impose different or more rigorous requirements on ILECs withdrawing BLES.

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[4] *Id.* at 14.

[5] OAC 4901:1-6-07(D).

Finally, the Commission's existing Rules appropriately allow the carrier withdrawing service to communicate with its customers in the manner to which the customers are accustomed (and in some cases have elected). Specifically, the required notice of withdrawal or abandonment may be "provided to affected customers in any reasonable manner, including bill insert, bill message, direct mail, or, if the customer consents, electronic means."[6]

To the extent that the notice requirements proposed by the Consumer Advocates go beyond the requirements of those existing Rules, , they should be rejected.

There is an additional reason to reject the Consumer Advocates' highly prescriptive proposals: The withdrawal of BLES under Ohio law could well run in parallel with the withdrawal of the interstate portion of BLES pursuant to FCC authorization. The FCC has its own notice requirements, and the Ohio notice requirements should mirror – and certainly should not exceed – the FCC's requirements. Specifically, the applicable FCC Rule, 47 C.F.R. § 63.71, provides in pertinent part:

> Any domestic carrier that seeks to discontinue, reduce or impair service shall be subject to the following procedures:
>
> (a) The carrier shall notify all affected customers of the planned discontinuance, reduction, or impairment of service . . . . Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice. Notice shall include 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:

[6] OAC 4901:1-6-07(E).

> (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 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.

Against this background, we address the Consumer Advocates' proposals concerning notice:

1. The Consumer Advocates propose (at 7) that the customer notice include the exact date that basic service will end and the exact date by which the customer must petition the PUCO if no reasonable and comparatively priced alternative is available at the customer's

residence. Subject to one qualification, AT&T Ohio concurs with this proposal. As a practical matter, it is unlikely that AT&T Ohio will discontinue service to all affected customers on a single day. Accordingly, while AT&T Ohio has no objection to stating in the customer notice the exact date that is 120 days after notice is provided, the notice will inform each affected customer that his or her BLES will be discontinued on *or after* that date (rather than on that exact date). AT&T Ohio agrees that the notice should state the exact date by which the customer must petition the Commission.

2. The Consumer Advocates propose (at 7) that "[t]he outside of the U.S. Mail envelope and the subject line of email notices should explicitly state that the customer's basic service will end, the date service will end, and the date by which the customer must file a petition at the PUCO." This proposal assumes that the Commission will adopt the draft requirement that notice be provided via direct mail or, if the customer consents, via electronic means. As AT&T Ohio has explained, however, the Commission should instead simply require that the notice be provided in writing. This is consistent with the existing Commission Rule governing withdrawal of telecommunications services and with the FCC's requirement governing the withdrawal of the interstate aspects of BLES, and will give the ILEC appropriate flexibility to provide notice using methods the customers are most accustomed to (and in some cases have indicated their preference for).[7] If the Commission does require special messaging on envelopes or in the subject line of emails (and it should not), the message should simply be, "**Important information about your basic local phone service."** Additional verbiage could cause confusion and would not further the goal of ensuring that customers receive, read and understand the required notice.

[7] *Id.* at 14.

3. The Consumer Advocates propose (at 7) that "U.S. mail notices to customers should use no less than 12-point type." The Commission should not accept this proposal. It is impracticable if the ILEC uses a bill insert or bill message (*i.e.*, includes the notice with the customer's monthly bill), and goes beyond the requirements both of the Commission's existing Rules governing withdrawal of service and the FCC's Rule governing withdrawal of the interstate access component of BLES.

4. The Consumer Advocates propose (at 7) that "Within the body of U.S. Mail and email notices, the exact date service will be discontinued and the exact date the customer must petition the PUCO should both be bolded and in larger type than the rest of the notice." Again, only "written notice" should be required. Also, as noted in connection with item 1 above, the notice should state the earliest date service will be discontinued, rather than the exact date on which service will be discontinued. AT&T Ohio, however, would not object to a requirement that in the written notice – in whatever form – the pertinent dates should be bolded and in larger type than the rest of the notice.

5. Although they propose no corresponding language for the Rules, the Consumer Advocates suggest (at 24) that the consent to email notice allowed by Draft Rule 7(C) should be specific to the withdrawal of BLES, rather than a generic consent that the customer previously provided. This suggestion should be disregarded, for the reason noted above at pages 1-2. In addition, the suggestion is patently unreasonable. If a customer has consented to email notice in a manner that is sufficient for other purposes (including, for example, termination of service for non-payment), there is no reason that that existing consent should not be regarded as sufficient for purposes of a notice of withdrawal of BLES. Furthermore, the Consumer Advocates' suggestion would create an absurdity: The ILEC would have to have a special communication

with each affected customer for the sole purpose of soliciting the customer's consent to a later email notice of the withdrawal of BLES.

6. The Consumer Advocates propose (at 7) that "the requirements of the 120-day notice to customers should be in one rule instead of two, as proposed in the draft rules. This would add clarity to the PUCO's rules for consumers' benefit." AT&T Ohio agrees it would be convenient for the notice requirement to be in one rule instead of two, but notes that the proposed change would not add clarity for consumers' benefit, because consumers will be reading the notices, not the PUCO's rules governing notices.

B. COMPUTATION OF TIME

7. The Consumer Advocates propose (at 9) that "If a telephone company uses U.S. Mail to deliver the notice to customers, the 30 days for customers to find reasonable and comparatively priced alternative service should start three days after the telephone company mails the notice to customers." The Commission must reject this proposal, which is directly at odds with H.B. 64. Under the statute, a petition (if any) by a customer who will be unable to obtain reasonable and comparatively priced voice service upon the ILEC's withdrawal or abandonment of BLES must be filed "***not later than ninety days prior to the effective date of the withdrawal or abandonment***" (R.C. § 4927.10 (B) (emphasis added). The Commission may not vary that "ninety days prior" requirement by Rule, as the Consumer Advocates propose.[8]

8. The Consumer Advocates similarly propose (at 9) that Ohio Adm. Code 4901-1-07(C) should apply. The Commission must reject this proposal for the same reason as the one

[8] While the Consumer Advocates' proposal may at first blush seem reasonable, it is based on a mistaken premise, namely, that the statute states that customers will have 30 days to file a petition. In reality, of course, the statute does not expressly provide a 30-day period for customer action. Rather, it allows the ILEC to withdraw upon 120-days' notice, and requires customers to petition, if at all, no later than 90 days before day 120. While the difference between 120 days and 90 days is 30 days, there is no explicit reference in the statute to a 30-day period.

just discussed. The statute requires customers to file petitions, if at all, no later than 90 days before the noticed withdrawal date, and that period cannot be shortened by Rule.

C. MASS MEDIA NOTICES

As discussed above at page 3, when AT&T Ohio withdraws BLES, it will be highly motivated to ensure that all affected customers know that their BLES is being withdrawn and understand what their options are – including, if need be, the timely filing of a petition with the Commission – and other ILECs will presumably have the same motivation. The Commission's Rules should simply require ILECs withdrawing BLES to provide their customers written notice of how they are impacted by the withdrawal and the customer action necessary in light of the withdrawal. The Commission should not impose notice requirements that go beyond those in the existing Ohio Notice Rules that already address the withdrawal of BLES by CLECs, or the requirements that the FCC imposes on carriers withdrawing the interstate access portion of BLES. The Consumer Advocates' proposals relating to mass media notices should be rejected. Specifically:

9. The Consumer Advocates propose (at 10) that newspaper notices be located in the front section or the local news section of the paper. But the Commission should not require newspaper notice at all, for the reasons AT&T Ohio set forth in its initial comments at 18 and also because neither the existing Ohio Notice Rules nor the FCC Notice Rules require newspaper notice.

10. The Consumer Advocates propose (at 10) that ILECs be required to advertise notice on local radio and television stations in the exchange(s) affected by the application. But neither the existing Ohio Notice Rules nor the FCC Notice Rules require notice via radio or television, and there is no need for such advertising. It is sufficient that each affected customer

will receive individual notice that applies specifically to him or her with pertinent information regarding the withdrawal of BLES. Furthermore, the proposed radio and TV advertising would do more harm than good, because it would be impossible for the ILEC to expose only affected customers to the ads. As a result, the ads would be widely misunderstood. Most people who would be exposed to such ads would *not* be affected customers. Indeed, the vast majority of housing units formerly served by AT&T Ohio's old TDM network have already migrated to alternate services provided by AT&T or by other carriers.[9] Consequently, the overwhelming majority of people who would hear or see an ad of the sort that the Consumer Advocates propose would *not* be affected by the withdrawal,[10] but many of those people would get the mistaken impression that they were.[11] Moreover, many customers who correctly understood that they were affected would be confused or uncertain about the dates they heard on the ad. All this confusion is far too high a price to pay for the minuscule potential benefit that mass media advertising might yield.

In short, the Commission should require no media advertising, let alone the radio and television advertising the Consumer Advocates propose.[12]

[9] As of December, 2014, only 19% of the housing units within AT&T ILEC serving territory were purchasing residential TDM voice service from AT&T. That number is expected to be 14% by the end of 2015, and will probably continue to shrink. Furthermore, only a portion of AT&T Ohio's customers receiving voice service over the TDM network are purchasing BLES. See Comments of AT&T filed Oct. 26, 2015, in FCC Docket GN No. 13-5. *In the Matter of Technology Transitions,*, at 2 & n.1.

[10] It is almost certain that AT&T Ohio will not withdraw BLES simultaneously in all exchanges.

[11] To correctly understand an ad, the customer would need to know who her service provider is, what exchange she is in, and whether her phone service is or is not "basic local exchange service" – as opposed to, for example, an IP-based service. Many people do not know all of that and so could easily be confused, even if they heard the ad correctly.

[12] In no event should the Commission require the ILEC withdrawing BLES to list willing providers, as the Consumer Advocates propose. See AT&T Initial Comments at 16-17.

D. INVESTIGATION OF WITHDRAWAL OF SERVICES

The Consumer Advocates propose (at 13) that "incumbent carriers should be required to notify the PUCO – and the members of the collaborative – when the carrier applies to the FCC seeking to withdraw the interstate access component from Ohio basic service." AT&T Ohio will notify the Commission, but should not be required to notify members of the collaborative. If the Commission decides that the notice should be disseminated to the members of the collaborative, then AT&T Ohio respectfully suggests that the Commission can do so. Membership in the collaborative may vary, and the ILEC should not be made responsible for providing the notice to entities that happen to be members at the time when the ILEC applies to the FCC.

E. PUCO DUTY TO INVESTIGATE

The Consumer Advocates propose (at 14-15) that the Rules set forth the Commission's duty to investigate alternative services if a customer files a petition asserting that he or she is unable to obtain reasonable and comparatively priced voice service or such a customer is identified through the collaborative process. This proposal is similar to AT&T Ohio's objection to the requirement in the Draft Rules that the ILEC notice of withdrawal identify willing providers.[13] As AT&T Ohio noted in support of that objection, H.B. 64 does not call for alternative providers to be identified until a customer who is unable to obtain reasonable and comparatively priced voice service files a petition or is identified through the collaborative process. At that point, the statute requires the Commission – not the ILEC – to determine "after an investigation" whether "reasonable and comparatively priced voice service will be available to the customer at the customer's residence." R.C. § 4927.10(B)(1)(a).[14]

[13] *Id.* at 16.

[14] *Id.*

AT&T Ohio proposed a change to Draft Rule 6-21(E) to reflect the Commission's duty to investigate, and urges the Commission to adopt that language rather than the language proposed by the Consumer Advocates.[15] If the Commission wishes to adopt any additional language, it should simply restate the pertinent statutory language.[16]

F. CHALLENGES TO ILEC ASSERTIONS

11. The Consumer Advocates propose (at 15) that "interested persons" be allowed to challenge certain assertions in the ILEC's "application" to withdraw BLES, namely (a) the assertion that the FCC has granted withdrawal of the interstate access component from the ILEC's basic service, and (b) the assertion that the willing provider(s) identified in the application actually serve the exchange(s) covered in the application and offer "reasonable and comparably priced service" in the exchanges. This proposal must be rejected.

First, of course, ILECs cannot properly be required to submit "applications" to withdraw BLES. Rather, R.C. § 4927.10 requires the ILEC to file a "notice." Commission approval is not part of the process, and the notice called for by the statute cannot be made an application by Rule.[17]

Separate and apart from that, the Commission cannot lawfully require the ILEC to have obtained FCC approval of its withdrawal of interstate access component of BLES as a pre-condition to giving notice of withdrawal. Such a requirement would run afoul of R.C. § 4927.10(A), which provides that the ILEC may withdraw BLES "beginning when the FCC's

[15] *Id*. at 22.

[16] The Consumer Advocates' proposed language departs from the statute in several ways. For example, it speaks of the customer determining that no reasonable and comparatively priced alternative service is available at the customer's residence. Under the statute, it is the Commission, not the customer, that makes that determination.

[17] *Id.* at 13.

order is adopted.[18] Consequently, the notice will not include an ILEC assertion that the FCC has authorized withdrawal of the interstate portion of BLES for interested persons to challenge.

Similarly, the ILEC cannot properly be required to identify willing providers as part of the required notice,[19] so there will be no such identification for interested persons to challenge.

Finally, if anyone could raise challenges to the ILEC's notice that it is withdrawing BLES, it would be the affected customers, not "interested persons." See below at page 17.

12. The Consumer Advocates propose (at 15) that, "***Absent requirements for notices***, interested persons should also be permitted to challenge the adequacy of the carrier's notices to customers." (Emphasis added.) This proposal is nonsensical, and should therefore be rejected, because there will be requirements for notices in the final Rules; they may not (and should not) be the requirements proposed by the Consumer Advocates, but there will certainly be notice requirements.

13. To implement their proposals concerning challenges to ILEC assertions and the adequacy of notices, the Consumer Advocates propose that the following language be added to Rule 21:

> INTERESTED PERSONS MAY FILE A CHALLENGE TO ANY PORTION OF THE APPLICATION WITHIN 30 DAYS AFTER THE APPLICATION IS FILED. THE CHALLENGE MUST BE FILED IN THE DOCKET OF THE APPLICATION, MUST BE IN WRITING, AND MUST DETAIL THE NATURE OF THE CHALLENGE AND THE REASONS FOR THE CHALLENGE.

That language should be not be included, not only for the reasons set forth above, but also because any challenge to the notice would have to come from the affected customers, not from "interested persons." See below at page 17.

[18] *Id*. at 15-16.

[19] *Id*. at 18.

G. FILING OF PETITIONS

14. The Consumer Advocates propose (at 16-17) that "If a customer sends a petition to the PUCO by the end of the response date for filing petitions at the PUCO, the notification should be deemed timely, regardless of whether it is received by the PUCO by the deadline." The rationale for this proposal is that "Customers should not be responsible for delays in U.S. Mail or email deliveries." AT&T Ohio agrees that customers should not be held responsible for delays in U.S. Mail or email deliveries. However, the Commission can reasonably expect consumers to mail petitions no later than the day before the deadline, and to send any email petitions by no later than the deadline. Accordingly, a petition should be regarded as timely if it is (i) received by the deadline, or (ii) received by the Commission in hard copy in an envelope post-marked or bearing similar indicia that it was sent no later than the day before the deadline, or (iii) received by the Commission in the form of an email bearing a "sent" date no later than the deadline.

15. The Consumer Advocates propose (at 17) that "The PUCO should allow petitions to be filed by someone acting on behalf of the customer," and propose language to that effect for Draft Rule 21(C) (at 18). Some ILEC BLES customers' accounts may be managed by relatives or other persons, properly authorized to act for the customers pursuant to the ILEC's policies and procedures. AT&T Ohio has no objection to such authorized persons filing petitions on behalf of the customers. The Consumer Advocates' proposed language is too broad, however, because it would permit anyone and everyone to act on behalf of the customer, with or without authorization. That violates Rule 4901-1-08, which requires that "each party not appearing in propria persona shall be represented by an attorney-at-law . . . ." There is no need for Rule 21(C)

to say anything on this subject, because petitions filed by persons authorized to act on behalf of affected customers would be processed in the normal course in any event.

16. The Consumer Advocates assert (at 18) that customers "who face circumstances beyond their control that could cause delay in their receiving the notice or responding to it . . . should be allowed additional time to seek alternative services and to petition the PUCO, if necessary." Notably, however, the Consumer Advocates propose no Rule language to implement this assertion. And appropriately so. H.B. 64 prohibits the allowance the Consumer Advocates are suggesting. The statute unambiguously requires affected customers to file a petition, if any, "not later than ninety days prior to the effective date of the withdrawal or the abandonment." R.C. § 4927.10(B). The Consumer Advocates are suggesting that the Commission provide exceptions to that requirement. The Commission cannot lawfully do this, by Rule or otherwise.[20]

H. DEFINITION OF "REASONABLE AND COMPARATIVELY PRICED VOICE SERVICE"

At pages 19-23 of their Initial Comments, under the heading "**Proposed Rule 1(BB),**" the Consumer Advocates discuss the meaning and application of the statutory term, "reasonable and comparatively priced voice service." Much of that discussion is irrelevant, because it relates not to the language of the Rules, but, as the Consumer Advocates acknowledge (at 21), to "the application of the rules." In fact, the Consumer Advocates propose only one change to the draft definition of "Reasonable and comparatively priced voice service," namely, to change "twenty-five percent" to "ten percent."[21] AT&T Ohio disagrees with a number of the assertions made in

[20] Even if the Commission could lawfully permit petitions to be filed fewer than 90 days before the effective date of the withdrawal or abandonment, the exception the Consumers Advocates are proposing would be unmanageable because it would require the Commission to evaluate on a case-by-case basis the legitimacy of the reason given for the delay.

[21] See redline of draft Rule 1(BB) at page A-1 of the Attachment to the Consumer Advocates' Initial Comments.

the Consumer Advocates' extraneous discussion of how the rules should be applied, but does not discuss those assertions here because they have no bearing on the issue at hand, namely, the language of the Draft Rules.

The Commission should reject the Consumer Advocates' proposed 10% test for essentially the same reasons that it must reject the 25% test in the Draft Rule. The statute provides that the voice service shall be "competitively priced, when considering all the alternatives in the marketplace and their functionalities. " R.C. § 4927.10(B)(3). This requires an inquiry into market conditions at the time when the determination is being made, and so by definition does not allow for a bright-line rule. Rule 1(BB) should simply track the language of the statute, so that the Commission can determine later, when an ILEC gives notice that it is withdrawing BLES, whether a specific service meets the statutory requirement for a "reasonable and comparatively priced service."[22]

I. DEFINITION OF "WILLING PROVIDER"

The Consumer Advocates propose (at 23) that "willing provider" be defined in a manner that makes clear the service must be offered at the affected customer's residence. As AT&T Ohio has demonstrated, there is no reason for the Rules to define "willing provider" at all, and if the Commission decides otherwise, the definition should not impose any COLR obligation on the willing provider.[23] Accordingly, the definition of "willing provider" set forth at page 23 of the Consumer Advocates' Initial Comments should not be adopted. That said, AT&T Ohio agrees that in order for a reasonable and comparatively priced service to be available to the residential

[22] AT&T Initial Comments at 6-7.

[23] *Id*. at 7-9.

customer whose BLES is being withdrawn, the service must be offered to the residence of that customer.[24]

J. SUGGESTION FOR COLLABORATIVE MEMBERS TO REPRESENT INDIVIDUAL AFFECTED CUSTOMERS

The Consumer Advocates, while proposing no corresponding language for the Rules, suggest (at 24) that the ILEC withdrawing BLES be required to file the name, address and telephone number of each affected BLES customer and that the information be made available to members of the collaborative. This is a thinly veiled attempt to enable members of the collaborative (presumably including some or all of the Consumer Advocates) to step in as unsolicited representatives of the affected customers whose contact information they would thus obtain, apparently without even obtaining the affected customers' consent. The Consumer Advocates suggest that the filing of the customer contact information would "aid the PUCO Staff's investigation," but they do not explain how it would (which it would not), and they also do not explain why aiding Staff's investigation should entail disclosure of the information to members of the collaborative. The proposal (like the proposal that "interested persons" be allowed to challenge ILEC applications[25] and the proposal that "someone" acting on behalf of the customer be allowed to petition the Commission[26]) would create a position for these interested persons that the statute does not contemplate.[27]

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[24] Though they make no corresponding proposal for the language of the Rules, the Consumer Advocates also suggest (at 24) that the affidavit and registration that the Draft Rules require of willing providers should occur no later than the filing of the ILEC's application to withdraw BLES. As AT&T Ohio has explained, however, there should be no affidavit or registration requirement at all. AT&T Initial Comments at 24-25.

[25] See *supra* at 12-13.

[26] See *supra* at 14-15.

[27] The Consumer Advocates, again without proposing corresponding language for the Rules, suggest (at 24-25) that the ILEC's identification of willing providers should not be taken at face value. As AT&T Ohio has demonstrated, however, the ILEC should not be required to identify willing providers. AT&T Initial Comments at 16-17.

II. REPLY TO INITIAL COMMENTS OF THE OHIO TELECOM ASSOCIATION

AT&T Ohio generally concurs with the views expressed in the Introduction to OTA's Initial Comments and in the introductory portion of Section II of those comments, entitled Recommended Rule Changes. In particular, AT&T Ohio agrees with the OTA that the Commission's authority to impose new obligations on successor carriers is limited by R.C. § 4927.03(D), which states that the Commission has no authority "over rates, terms and conditions of telecommunications services provided to end users by a telephone company" except as specifically authorized in sections 4927.01 to 4927.21. There is no specific authority in those sections to impose COLR obligations on carriers that provide service to former BLES customers of ILECs, or to impose new regulations on wireless and VoIP providers that provide such service. As the OTA points out, the Draft Rules are premised on authority that does not exist. The Draft Rules must be revised to comply with the requirements of R.C. 4927.03(D) and H.B 64.

AT&T Ohio responds as follows to OTA's discussion of specific rules; our responses are organized in the same manner as OTA's discussion.

A. *Rule 4901:1-6-01(F), O.A.C. (Definition of Carrier of Last Resort).* AT&T Ohio generally concurs with OTA's comments on this Draft Rule (at 5) and with OTA's proposed modification (at 5), but see the response to OCTA's discussion of the same Draft Rule below at page 21.

B. *Rule 4901:1-6-01(BB), O.A.C. (Definition of Reasonable and Comparatively Priced Voice Service).* AT&T Ohio generally concurs with OTA's comments on this Draft Rule (at 5-6) and agrees with OTA's proposed modification to the Draft Rule (at 6).[28]

[28] See AT&T's Initial Comments at 6.

C. *Rule 4901:1-6-01(QQ), O.A.C. (Definition of Willing Provider).* AT&T Ohio generally concurs with OTA's comments on this Draft Rule (at 6-7). However, AT&T Ohio urges the Commission to adopt no definition of "willing provider," rather than to adopt the modified version proposed by OTA (at 6).[29] But if the Commission believes the term must be defined, the modified definition proposed by OTA is far superior to the definition in the Draft Rule.

D. *Rules 4901:1-6-02(C) and (D), O.A.C. (Purpose and Scope).* AT&T Ohio generally concurs with OTA's comments on this Draft Rule (at 7-9) and agrees with OTA's proposed modifications to the Draft Rule (at 9).[30]

E. *Rules 4901:1-6-07(A) and (C), O.A.C. (Customer Notice Requirements).* AT&T Ohio generally concurs with OTA's comments on this Draft Rule (at 9-10) and agrees with OTA's proposed modifications to the Draft Rule (at 9-10).[31]

F. *Rule 4901:1-6-21, O.A.C. (Carrier's Withdrawal or Abandonment of Basic Local Exchange Service (BLES) or Voice Service).* AT&T Ohio generally concurs with OTA's comments on this Draft Rule (at 11).

F.1. *Rule 4901:1-6-21, O.A.C. (Carrier's Withdrawal or Abandonment of Basic Local Exchange Service (BLES) or Voice Service).* AT&T Ohio believes that the modification OTA proposes for the title of Draft Rule 4901:1-6-21 (at 11) is appropriate but not necessary.

F.2 *Rule 49:01:1-6-21(A), O.A.C.* AT&T Ohio agrees with OTA that R.C. § 4927.10 does not require an application to the Commission to withdraw or abandon BLES. AT&T Ohio believes that the modifications that OTA proposes (at 12) for Draft Rule 4901:1-6-21(A)

[29] *Id*. at 7-9.

[30] *Id*. at 9-11.

[31] *Id*. at 11-14.

faithfully track the statute, but urges the Commission to adopt the modifications that AT&T Ohio has proposed instead.[32]

F.3 *Rule 4901:1-6-21(B), O.A.C.* AT&T Ohio concurs with OTA's comments on this Draft Rule (at 12-13) and agrees that subsection (B) should be deleted.

F.4 *Rule 4901:1-6-21(C), O.A.C.* AT&T Ohio concurs with OTA's comments on this Draft Rule (at 13), but urges the Commission to adopt the modifications that AT&T Ohio has proposed.[33]

F.5 *Rule 4901:1-6-21(D), O.A.C.* AT&T Ohio concurs with OTA's comments on this Draft Rule (at 13-14) and agrees that subsection (D) should be deleted.

F.6 *Rule 4901:1-6-21(E), O.A.C.* AT&T Ohio concurs with OTA's comments on this Draft Rule (at 14-15), but urges the Commission to adopt the modifications that AT&T Ohio has proposed.[34]

F.7 *Rule 4901:1-6-21(F), (G), (H) and (J), O.A.C.* AT&T Ohio concurs with OTA's comments on these Draft Rules (at 15-16) and agrees that subsections (F), (G), (H) and (J) should be deleted.

G. *Rule 4901:1-6-21(I), O.A.C. (Assessment Report) and Rule 4901:1-6-37 O.A.C. (Assessments and Annual Reports)*. AT&T Ohio concurs with OTA's comments on these Draft Rules (at 16-17) and agrees that Rule 4901:1-6-21(I) and Rule 4901:1-6-37 should be deleted.

[32] *Id*. at 15.

[33] *Id*. at 20-21.

[34] *Id*. at 22-23.

III. REPLY TO INITIAL COMMENTS OF THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION

AT&T Ohio responds as follows to the Specific Comments on the Proposed Rule Revisions and the COLR Rule in Section III of OCTA's Initial Comments. Our responses are organized in the same manner as OCTA's discussion.

A. *Rule 4901:1-6-01(F).* AT&T Ohio generally concurs with OCTA's Comment on this Rule (at pages 3-4). AT&T Ohio also concurs with OCTA's proposed revision (at 4), and in fact believes it is superior to the revision suggested in the AT&T Ohio Initial Comments (at 5).

B. *Rule 4:901-6-01 (QQ).* AT&T Ohio generally concurs with OCTA's Comment on this Rule (at 4-6). AT&T Ohio also concurs with OCTA's proposed revision (at 6), which is identical to AT&T Ohio's proposal in its Initial Comments (at 7-9) that there be no definition of "willing provider." OCTA proposes (at 6) an alternative definition of "willing provider" in the event that the Commission finds that a definition is needed. AT&T Ohio believes that the alternative definition proposed by OCTA could cause confusion and that OCTA's principal position, *i.e.*, that there be no definition of "willing provider" is far superior.

C. *Rule 4901:1-6-02(C) and (D).* AT&T Ohio generally concurs with OCTA's Comment on these Rules (at 6-7). AT&T Ohio proposed modifications to these Draft Rules in its Initial Comments (at 9), and believes that those modifications are consistent with OCTA's Comment.

D. *Rule 4901:1-6-07.* AT&T Ohio generally concurs with OCTA's Comment on this Draft Rule (at 7-8). AT&T Ohio has proposed revisions to the Draft Rule that implement OCTA's proposed revision (at 8).[35]

[35] *Id.* at 11, 12.

E.i. *Rule 4901:1-6-21(A)(2).* AT&T Ohio generally concurs with OCTA's Comments on this Draft Rule (at 8), but with one qualification: The OCTA Comment states that "the notice provided by the ILEC should at most identify one or more alternative 'reasonable and comparatively priced voice service' providers that are available." AT&T Ohio does not object to that statement so long as it is understood that the notice is not *required* to identify any such providers. AT&T Ohio concurs with OCTA's proposed revision (at 9), and has suggested edits to Draft Rule 6-21(A)(2) that are consistent with that proposal.[36]

E.ii. *Rules 4901:1-6-21(B), (C), (D), (E) and (G).* AT&T Ohio generally concurs with OCTA's Comments on these Draft Rules (at 9-10). AT&T Ohio also generally concurs with OCTA's proposed revisions to those Draft Rules, but notes that even more extensive revisions are warranted, for reasons that AT&T Ohio has explained.[37]

E.iii. *Rules 4901:1-6-21(F), (H) and (I).* AT&T Ohio generally concurs with OCTA's Comments on these Draft Rules (at 10-11). AT&T Ohio also concurs with OCTA's proposed revisions, and has proposed the same revisions – namely, the rejection of Draft Rules 21(F), (H) and I.[38]

[36] *Id*. at 16.

[37] *Id*. at 19-23.

[38] *Id* at 23-26.

IV. CONCLUSION

AT&T Ohio respectfully urges the Commission to adopt Rules to implement H.B. 64 that are consistent with these reply comments and with the Initial Comments AT&T Ohio filed in this proceeding.

Dated: November 9, 2015

Respectfully submitted,

AT&T Ohio

By: /s/ Mark R. Ortlieb

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CERTIFICATE OF SERVICE

I hereby certify that a copy of **AT&T OHIO'S REPLY COMMENTS ON DRAFT CHANGES TO OHIO ADM. CODE CHAPTER 4901:1-6** has been served this 9th day of November 2015 by e-mail and/or U.S. Mail on the parties shown below.

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Summary: Comments AT&T OHIO'S REPLY COMMENTS ON DRAFT CHANGES TO OHIO ADM. CODE CHAPTER 4901:1-6 electronically filed by Mr. Mark R Ortlieb on behalf of Ohio Bell Telephone Company and AT&T Ohio