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

FINDING AND ORDER

Entered in the Journal on November 30, 2016

I. SUMMARY

{¶ 1} In this Finding and Order, pursuant to R.C. 106.03 and R.C. 111.15, the Commission adopts proposed rules contained in Ohio Adm.Code Chapter 4901:1-6 concerning telephone company procedures and standards.

II. FACTS AND PROCEDURAL BACKGROUND

{¶ 2} Pursuant to R.C. 106.03(A) and R.C. 111.15, all state agencies are required to conduct a review, every five years of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules.

{¶ 3} The Commission has established this docket to conduct an evaluation of the rules in Ohio Adm.Code Chapter 4901:1-6, which set forth the procedures and standards applicable to telephone companies. The current Ohio Adm.Code Chapter 4901:1-6 became effective January 20, 2011.

{¶ 4} R.C. 106.03(A) requires the Commission to determine whether the rules:

(a) Should be continued without amendment, be amended or rescinded, taking into consideration the purpose, scope, and intent of the statute(s) under which the rules were adopted;

(b) Need amendment or recession to give more flexibility at the local level;

(c) Need amendment or recession to eliminate unnecessary paperwork;

(d) Incorporate a text or other material by reference and, if so, whether the text or other material incorporated by reference is deposited or displayed as required by R.C. 121.74, and whether the incorporation by reference meets the standards stated in R.C. 121.71, 121.75, and 121.76;

(e) Duplicate, overlap, or conflict with other rules;

(f) Have an adverse impact on businesses, as determined under R.C. 107.53; and

(g) Contain words or phrases having meanings that in contemporary usage are understood as being derogatory or offensive.

{¶ 5} The Commission notes that, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled "Establishing the Common Sense Initiative," which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must review any proposed rules to determine the impact that a rule has on small businesses and attempt to balance properly the critical objectives of regulation and the cost of compliance by the regulated parties.

{¶ 6} Additionally, in accordance with R.C. 121.82, in the course of developing draft rules, the Commission must conduct a business impact analysis (BIA) regarding the rules. If there will be an adverse impact on business, as defined in R.C.

107.52, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse impact. Furthermore, the Commission is required, pursuant to R.C. 121.82, to provide the Common Sense Initiative (CSI) office with the draft rules and the business impact analysis.

{¶ 7} Pursuant to the Entry of September 8, 2014, a workshop was scheduled for October 6, 2014, in order to provide interested stakeholders with the opportunity to propose revisions to the rules found in Ohio Adm.Code Chapter 4901:1-6. The following stakeholders attended the October 6, 2014 workshop: (1) AT&T Ohio, (2) Cincinnati Bell Telephone Company (Cincinnati Bell), (3) CenturyLink, (4) Ohio Telecom Association (OTA), and (5) tw telecom of ohio llc (TWTC).

{¶ 8} After evaluating the rules contained in Ohio Adm.Code 4901:1-6, and considering the stakeholder feedback provided at the October 6, 2014 workshop, Staff's proposed amendments to the rules were issued for comment along with the BIA, on January 7, 2015, in accordance with R.C. 121.82.

{¶ 9} On February 6, 2015, initial comments were filed by AT&T Ohio, AT&T Corp., Teleport Communications America LLC, New Cingular Wireless PCS LLC, and Cricket Communications, Inc. (jointly, AT&T); Cincinnati Bell; Edgemont Neighborhood Coalition, Legal Aid Society of Southwest Ohio LLC, the Ohio Consumers' Counsel (OCC), Ohio Poverty Law Center, Pro Seniors, Inc., and Southeastern Ohio Legal Services (jointly, Consumer Groups); Ohio Cable Telecommunications Association (OCTA); and OTA.

{¶ 10} On March 6, 2015, reply comments were filed by AT&T, Consumer Groups, and OCTA.

{¶ 11} During the pendency of the above captioned case and rulemaking, the 131st Ohio General Assembly adopted Am. Sub. House Bill 64 (H.B. 64) that, among other things, directed the Commission to adopt rules to implement R.C. 4927.10 and

4927.101, as well as the amendments to R.C. 4927.01, 4927.02, 4927.07, and 4927.11. Generally, these statutory provisions set forth a procedure by which an incumbent local exchange carrier (ILEC) may seek to withdraw or abandon the provision of basic local exchange service (BLES). In light of the current five-year review of the retail telecommunications rules, including rules regarding withdrawal and abandonment of telecommunications services, the Commission determined that this docket was the appropriate vehicle to consider the rulemaking required by H.B. 64.

{¶ 12} On August 26, 2015, Staff held a workshop in this proceeding to enable interested stakeholders to offer proposals for Staff's consideration in the initial adoption of rules to implement R.C. 4927.10 and 4927.101 as well as the amendments to R.C. 4927.01, 4927.02, 4927.07, and 4927.11. At the workshop, Staff described in general fashion the rules that it is proposing for comment. Representatives of several interested stakeholders attended the workshop, with stakeholders offering proposals for the Staff's consideration. The stakeholders included representatives of Consumer Groups; AT&T; OTA; OCTA; CenturyTel of Ohio, Inc. dba CenturyLink, and United Telephone Company of Ohio (jointly, CenturyLink); TWTC; and Buckeye Hills-Hocking Valley Regional Development District.

{¶ 13} Staff evaluated the rules contained in Ohio Adm.Code Chapter 4901:1-6 including consideration of the stakeholder comments from the workshop. In addition to minor, nonsubstantive changes throughout the chapter intended to improve clarity or update cross-references and filing dates, Staff proposed changes to Ohio Adm.Code Chapter 4901:1-6 for the purposes of implementing the directives of H.B. 64 related to the withdrawal of BLES or voice service by an ILEC and the establishment of willing provider provisions.

{¶ 14} On September 23, 2015, the Commission issued an Entry seeking comments on Staff's proposed amendments, sending Staff's recommended changes and the amended BIA to CSI for review and recommendations in accordance with R.C.

121.82. Initial and reply comments were originally to be filed on October 6 and October 20, 2015, respectively. Pursuant to the attorney examiner Entry of September 29, 2015, these dates were extended to October 26, and November 9, 2015, respectively.

{¶ 15} On October 26, 2015, initial comments were filed by AT&T; OTA; MCImetro Access Transmission Services LLC dba Verizon Access Transmission Services, MCI Communications Services, Inc. dba Verizon Business Services, and Cellco Partnership dba Verizon Wireless (jointly, Verizon); OCTA; Cincinnati Bell; and Consumer Groups.

{¶ 16} On November 9, 2015, reply comments were filed by AT&T; OTA; OCTA; Voice on the Net Coalition (VON); Cincinnati Bell; CTIA-The Wireless Association (CTIA); CenturyLink; and Consumer Groups.

{¶ 17} The Commission has carefully reviewed the existing rules, the amendments proposed by Staff and the comments filed by interested stakeholders in reaching the decisions regarding the rules in Ohio Adm.Code Chapter 4901:1-6. The Commission will address the more salient comments below. Some minor or noncontroversial changes have been incorporated into the amended rules without Commission discussion, including the correction of typographical errors incorporated into the currently adopted rules. Any recommended change that is not discussed below or incorporated into the attached adopted rules should be considered denied.

III. DISCUSSION

A. Comments on Ohio Adm.Code 4901:1-6-01 Definitions.

{¶ 18} In the Entry of January 5, 2015, Staff proposed no changes to this rule.

{¶ 19} OTA requests that the Commission clarify that, pursuant to Ohio Adm.Code 4901:1-6-01(C), a residential customer that is provided multiple lines does not meet the statutory definition of BLES (OTA Feb. 6, 2015 Initial Comments at 2-3).

{¶ 20} AT&T argues that the Commission should reverse its prior determination in Case No. 10-1010-TP-ORD (10-1010), *In re the Adoption of Rules to Implement Substitute Senate Bill 162*, Opinion and Order, Oct. 27, 2010, at 20, in which the Commission determined that a residential BLES customer could have a second non-BLES line, as long as such service is not part of a bundle or package of services. In support of its position, AT&T submits that, pursuant to R.C. 4927.01(A)(1), BLES can only be a single line to a residential user. (AT&T Feb. 6, 2015 Initial Comments at 2-6.)

{¶ 21} Consumer Groups respond that AT&T is simply reiterating the arguments that were previously rejected in 10-1010 (Consumer Groups' Mar. 6, 2015 Reply Comments at 3-4).

{¶ 22} The Commission disagrees with both OTA and AT&T. The Commission is still of the opinion that "for purposes of the definition of BLES in R.C. 4927.01(A)(1), residential access and usage of services over 'a single line' does not preclude a customer from having a second non-BLES line, as long as such service is not part of a bundle or package of services." See 10-1010 Opinion and Order at 20. The Commission also still believes that "the operational issues cited by AT&T are not persuasive" as stated in the Second Entry on Rehearing. See 10-1010 Second Entry on Rehearing (Dec. 15, 2010) at 6.

{¶ 23} In its Entry of September 23, 2015, Staff proposed adopting a definition for "carrier of last resort" in proposed rule 4901:1-6-01(F).[1] Specifically, Staff defined "carrier of last resort" as "an ILEC or successor telephone company that is required to provide basic local exchange service on a reasonable and nondiscriminatory basis to all persons or entities in its service area requesting that service as set forth in R.C. 4927.11."

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1 Throughout this order, the Commission will reference the rules codified today using the leading citation "Ohio Adm.Code" and will cite to the Staff-proposed, uncodified rules as merely "proposed rule XXXX."

{¶ 24} AT&T asserts that there should be no obligations on a successor telephone company to provide BLES because the statutory language adopted in R.C. 4927.10(A)(2) has removed carrier of last resort obligations from the ILEC where BLES is withdrawn in an exchange. Further, AT&T asserts that the statute contains no language or suggestion that the carrier of last resort language may survive the withdrawal of BLES by an ILEC. According to AT&T, continuing to impose the legacy regulatory burden on carriers in competitive markets conflicts with the statute. (AT&T Oct. 26, 2015 Initial Comments at 5-6.)

{¶ 25} Similar to AT&T, OCTA asserts that the continued obligation to provide BLES should not be extended to a successor telephone company inasmuch as such requirement could result in the establishment of requirements that are inconsistent with the statutory obligations in R.C. 4927.10. OCTA notes that the definition of "ILEC" already includes a person or entity that becomes a successor or assignee of a member of the exchange carrier association, as set forth in R.C. 4927.01(A)(5). Therefore, OCTA does not believe that the definition of carrier of last resort needs to refer separately to a successor. Finally, OCTA, OTA, and Cincinnati Bell recommend deleting the word "entities" based on its contention that the carrier of last resort obligation set forth in R.C. 4927.10(B) is limited to residential customers. (OCTA Oct. 26, 2015 Initial Comments at 3-4; OTA Oct. 26, 2015 Initial Comments at 5; Cincinnati Bell Oct. 26, 2015 Initial Comments at 1-3.)

{¶ 26} CTIA, OTA and Cincinnati Bell assert that the inclusion of "or successor telephone company" to the proposed definition of "carrier of last resort" results in the Commission adopting rules that exceed the provisions of the underlying statute. Further, CTIA opines that the broad definition of "alternative provider" set forth in proposed rule 4901:1-06-01(B) could be construed to include any provider of voice telecommunications service, including a wireless provider, that serves a residential customer previously served by an ILEC that withdraws BLES. (CTIA Nov. 9, 2015

Reply Comments at 3-4; OTA Oct. 26, 2015 Initial Comments at 5; Cincinnati Bell Oct. 26, 2015 Initial Comments at 1-3.)

{¶ 27} CTIA also submits that requiring carriers to assume carrier of last resort obligations as a condition of offering service could discourage wireless or resellers from serving customers affected by an ILEC's withdrawal of BLES. CTIA opines that such a result would be inconsistent with the state policy set forth in R.C. 4927.02, encouraging market entry. CTIA contends that proposed rule 4901:1-6-02(B), with limited exceptions, exempts wireless providers and resellers from the requirements of Chapter 4901:1-6. Further, CTIA believes that wireless providers do not provide BLES and that the Commission is preempted by 47 U.S.C. 332 from requiring them to do so. (CTIA Nov. 9, 2015 Reply Comments at 4.)

{¶ 28} CTIA submits that language in proposed rule 4901:1-6-07(A) and (C) and proposed rule 4901:1-6-21(B), (E), (G), and (H) similarly engage in the improper transfer the carrier of last resort obligation from the ILEC to a successor willing provider. CTIA believes that subjecting the carrier of last resort obligations to successor providers will result in the carrier of last resort obligations never extinguishing. (CTIA Nov. 9, 2015 Reply Comments at 3-5.)

{¶ 29} CenturyLink submits that while H.B. 64 was intended to eliminate an ILEC's carrier of last resort obligation in those situations in which there is another provider of voice service that is reasonable and comparatively priced, the proposed rules create a new carrier of last resort obligation for willing providers. CenturyLink opines that no carrier will voluntarily assume the ILEC's carrier of last resort obligations because of the potential of becoming locked into making uneconomic network investments. Further, CenturyLink believes that it is manifestly unreasonable to create a carrier of last resort obligation without creating a mechanism for carriers to recover their cost of serving high-cost customers. (CenturyLink Nov. 9, 2015 Reply Comments at 3-4.)

{¶ 30} Consumer Groups reject OCTA's proposal to remove the "and successors" qualification from the proposed rule. In support of their position, Consumer Groups assert that if the current incumbent carrier is acquired or merged into another carrier, the rules should apply to the successor carrier and the successor should only be allowed to withdraw basic service in the same manner as would have been required by the incumbent carrier. (Consumer Groups' Nov. 9, 2015 Reply Comments at 19.)

{¶ 31} Consumer Groups also dispute OCTA's proposal to change "persons or entities" to "residential customers." Consumer Groups contend that OCTA misunderstands the application of the draft rule and submits that the draft rule specifically focuses on the carrier of last resort obligations set forth in R.C. 4927.11 and *not* R.C. 4927.10(B). *(Consumer Groups' Nov. 9, 2015 Reply Comments at 18.)*

{¶ 32} The Commission agrees with Consumer Groups that, consistent with R.C. 4927.11, OCTA's proposal to change "persons or entities" to "residential customers" should be denied. The Commission disagrees with the arguments raised by AT&T, OCTA, OTA, and Cincinnati Bell regarding the appropriate scope of the concept of a "carrier of last resort." Although these commenters question the appropriateness of the concept of "carrier of last resort" in light of H.B. 64, the Commission finds that the concept of carrier of last resort is appropriate and consistent with R.C. 4927.10 and R.C. 4927.11.

{¶ 33} In support of this determination, the Commission points out that R.C. 4927.11 still incorporates a carrier of last resort obligation for provision of BLES. Until such time as the applicable relief is granted pursuant to R.C. 4927.10, the ILEC, or its successor company, is obligated to provide BLES on a reasonable and nondiscriminatory basis to all persons or entities in the service area requesting that service as set forth in R.C. 4927.11. In response to the commenters' objections to the inclusion of the "and successors" qualification, the Commission points out that

pursuant to R.C. 4927.01(A)(5)(b)(ii), an ILEC includes an entity that became a successor or assign of a member described in division (A)(5)(b)(i).

{¶ 34} In its Entry of September 23, 2015, Staff proposed adopting a definition for "reasonable and comparatively priced voice service" in proposed rule 4901:1-6-01(BB). Specifically, it defined it as "a voice service that incorporates the definition set forth in R.C. 4927.10(B)(3) and does not exceed the ILEC's BLES rate by more than twenty-five percent.

{¶ 35} In response to Staff's proposed definition, AT&T submits that R.C. 4927.10(B)(3) does not reference the twenty-five percent amount but, instead, provides that such service shall be "competitively priced, when considering all the alternatives in the market place and their functionalities." Therefore, AT&T states that rather than a bright-line twenty-five percent criteria proposed by Staff, or the ten percent criteria proposed by OCC, to determine whether a service is competitively priced, the proposed rule should simply incorporate the definition set forth in R.C. 4927.10(B)(3). This would allow the Commission to determine later on, based on market conditions at the time when the determinations are being made, whether a specific service meets the statutory requirement for a "reasonable and comparatively priced voice service." Further, AT&T contends that the proposed definition of "reasonable and comparatively priced voice service" improperly restricts what qualifies as a "reasonable and comparatively priced voice service" and conflicts with the legislative intent of R.C. 4927.10(B)(3). (AT&T Oct. 26, 2015 Initial Comments at 6-7; AT&T Nov. 9, 2015 Reply Comments at 16.)

{¶ 36} Similar to AT&T, OTA requests that the proposed rule be revised to mirror the definition contained in R.C. 4927.10(B)(3). OTA submits that this revision would ensure that the rule would not place a random and subjective limitation on the technology or service offerings that are available today and may be available in the future. (OTA Oct. 26, 2015 Initial Comments at 5-6.)

{¶ 37} OTA submits that Consumer Groups' proposed capping of reasonable and comparatively priced alternative voice service at no more than ten percent above the existing BLES rates, as well as their other recommendations, are contrary to the statute and assume that the Commission is unable to determine, upon its own investigation, whether an alternative service is a reasonable and comparatively priced alternative. Rather, OTA believes that the statutory language compels the Commission to consider the additional functionalities contained in an alternative service, as well as the price of such service. Additionally, OTA believes that Consumer Groups' definition is premature because the Federal Communications Commission (FCC) may ultimately prescribe parameters around what constitutes reasonable and comparative alternative services as part of an order authorizing an ILEC to withdraw the interstate access component of BLES. (OTA Nov. 9, 2015 Reply Comments at 9-10.)

{¶ 38} CenturyLink opines that the Commission should not narrow the definition of "reasonable and comparatively priced voice service" by limiting it to alternative services that do not exceed the ILEC's BLES rate by more than twenty-five percent. Specifically, CenturyLink submits that such a requirement is in conflict with R.C. 4927.10(B)(3), which requires that the Commission define the term 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 alternatives in the marketplace and their functionalities." CenturyLink rejects OCC's arguments regarding how differences in functionalities should be evaluated for the purposes of determining whether a service is a reasonable and comparatively priced voice service (CenturyLink Nov. 9, 2015 Reply Comments at 5-6.)

{¶ 39} Consumer Groups aver that older Ohioans, who disproportionately rely on basic landline service and often are on fixed incomes, will be particularly hard-pressed to pay higher rates. Therefore, rather than Staff's twenty-five percent

threshold, Consumer Groups believe that the Commission should adopt no more than a ten percent differential.

{¶ 40} Consumer Groups assert that when considering if a service is competitively priced, the Commission should not conclude that an alternative service costing significantly more than the consumer's basic service is competitively priced because it may have many additional features that BLES does not have. Rather, Consumer Groups advocate that when determining if the alternative service in the marketplace is competitively priced to basic service, the Commission should perform an apples-to-apples comparison of the customer's current services and functionalities to those of the alternative services in the marketplace, but not include subjective value such as mobility as part of the analysis. One of the functionalities that Consumer Groups believe distinguishes basic service from the alternative services is the fact that, unlike alternative service providers, the ILEC service does not rely on back-up power. The other distinguishing functionality identified by Consumer Groups is the reliance of some BLES customers' on medical alerts and other healthcare devices tied to their landline phone service. To the extent that voice over Internet protocol (VoIP) service is considered as an alternative service, Consumer Groups submit that the cost of a broadband connection should be included as part of the analysis. (Consumer Groups' Oct. 26, 2015 Initial Comments at 19-23.)

{¶ 41} In response to the telephone companies' objections to the inclusion of specific criteria for the definition of "reasonable and comparatively priced voice service," Consumer Groups assert that R.C. 4927.10(B)(3) requires the Commission to define the terms by establishing specific parameters rather than allowing the term to be defined on a case-by-case basis. According to Consumer Groups, this includes not allowing any analysis to include features that are not on a customer's bill for basic service. In support of its position, Consumer Groups submit that the customer likely chose the ILEC's basic service because it does not have additional features that the

customer cannot afford or wants to use. (Consumer Groups' Nov. 9, 2015 Reply Comments at 16-17.)

{¶ 42} Upon a review of the comments filed regarding proposed rule 4901:1-6-01(BB), the Commission finds that "reasonable and comparatively priced voice" should be defined as a voice service that incorporates the definition set forth in R.C. 4927.10(B)(3) and is presumptively deemed competitively priced, subject to rebuttal, if the rate does not exceed either: (1) the ILEC's BLES rate by more than 20 percent or (2) the FCC's local urban floor defined in 47 C.F.R. 54.318(a).[2]

{¶ 43} In reaching this determination, the Commission finds that rather than the single criterion of twenty-five percent above BLES set forth in the proposed rule, it is more appropriate to establish a rebuttable presumption that a voice service is deemed competitively priced if it does not exceed either the ILEC's actual BLES rate by 20 percent or the FCC's local urban floor. Such an approach provides more flexibility taking into account the existing BLES rate structures of ILECs in Ohio. Additionally, the Commission finds that a twenty percent threshold is a more reasonable criterion in order to reduce the potential negative impact to be experienced by ratepayers because of the discontinuation of BLES.

{¶ 44} In establishing the twenty percent threshold, the Commission highlights that pursuant to R.C. 4927.12 and Ohio Adm.Code 4901:1-6-14, within a twelve-month period, an ILEC may seek an increase of the monthly rate for BLES up to $1.25. Recognizing that Pattersonville Telephone Company currently has the lowest monthly BLES rate at $6.00, the permitted $1.25 rate increase represents a 20.83 percent increase, which is the maximum percentage increase that an Ohio BLES could increase in a twelve-month period. Therefore, the Commission determines that 20 percent

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2 Pursuant to its April 5, 2016, Public Notice in WC Docket No. 10-90, *In re Connect America Fund et al.*, the FCC established that the local urban rate floor for 2016 is $21.93.

serves as a reasonable safe harbor in the absence of performing burdensome and costly rate studies.

{¶ 45} Further, the Commission finds that BLES has been offered over legacy copper network, the costs of which have been recovered over the years. R.C. 4927.10 was adopted in part with the expectation that it will encourage the transition from the current public switched network to an Internet-protocol network and that investment in the Internet-protocol network in Ohio will expand the availability of advanced telecommunications services to all Ohioans. The Commission finds that a 20 percent markup over BLES is a reasonable approximation of the economic realities of instituting the new more advanced Internet-protocol network.

{¶ 46} Finally, the Commission emphasizes that pursuant to the proposed definition of "reasonable and comparatively priced service," the ILEC is afforded another mechanism should the price of the alternative voice service not comply with the 20 percent markup criteria. Specifically, the ILEC can demonstrate that the price of the alternative voice service complies with the FCC's urban rate floor criteria as set forth in 47 C.F.R. 54.318.

{¶ 47} While affording ILECs this flexibility, the Commission highlights that by establishing a rebuttable presumption, affected entities will have the opportunity to demonstrate why a particular ILEC's request is unreasonable. Further, the Commission points out that pursuant to R.C. 4927.10(B)(3), "reasonable and comparatively priced voice service" includes "service that provides voice grade access to the public switched network or its functional equivalent, access to 9-1-1, and is competitively priced, when considering all alternatives in the marketplace and their functionalities." Based on this definition, an ILEC will be afforded the flexibility to demonstrate that, based on the marketplace, the specific parameters set forth in the rule are not applicable.

{¶ 48} In its Entry of September 23, 2015, Staff proposed adopting a definition for "willing provider" in proposed rule 4901:1-6-01(QQ) as "any provider of a

reasonable and comparatively priced voice service offering that service to any residential customer affected by the withdrawal or abandonment of BLES (or voice service) by an ILEC (or other willing provider)."

{¶ 49} AT&T contends that there is no basis for the inclusion of a definition of a "willing provider." In support of its position, AT&T points out that "willing provider" is not a defined term in R.C. 4927.10. AT&T also submits that the statute does not create any requirements for, or impose any obligations on, the carrier that provides service to a customer once the ILEC discontinues BLES to that customer. (AT&T Oct. 26, 2015 Initial Comments at 7.)

{¶ 50} With respect to the attending obligations placed on a willing provider pursuant to the proposed rule, AT&T notes that a carrier can already serve former BLES customers without being deemed a willing provider. Therefore, AT&T posits that a carrier receives no benefit from assuming the duties set forth in proposed rules 4901:1-6-21(B), (F), (H), and (I), and that the only result of being designated a willing provider is to increase the regulatory burdens placed upon it, including the prohibition on a willing provider from withdrawing voice service until another carrier voluntarily agrees to provide comparable service.

{¶ 51} Based on these beliefs, AT&T asserts that "no economically rational carrier would agree to assume more regulatory burdens without any corresponding benefit, so it is highly unlikely that any ILEC will be able to find a carrier willing to act as a "willing provider." Therefore, AT&T concludes that no ILEC will be able to complete the notice application required pursuant to proposed rule 4901:1-6-21(A) and no ILEC will be able to withdraw BLES or remove its carrier of last resort obligation. (AT&T Oct. 26, 2015 Initial Comments at 7-8.)

{¶ 52} AT&T avers that the ramification of the proposed definition of a "willing provider is the nullification of the intent of H.B. 64, which allows ILECs to withdraw BLES and remove carrier of last resort obligations." Specifically, AT&T

asserts that by re-imposing the carrier of last resort obligations on successor carriers, the Commission proposes to perpetuate the very carrier of last resort obligations that the legislature determined should be phased out. Citing to *Central Ohio Joint Voc. Sch. Dist. Bd. Of Ed. v. Ohio Bureau of Employment Servs.*, 21 Ohio St.3d 5, 10, 487 N.E.2d 288, 292 (1986), AT&T argues that any rules that undermine or conflict with H.B. 64 by adding or subtracting from the legislative enactment are unlawful. In support of its position, AT&T states that pursuant to H.B. 64 section 363.30, any Commission regulation that prevents an ILEC from withdrawing BLES where the FCC has authorized the withdrawal of interstate services shall not be enforced. (AT&T Oct. 26, 2015 Initial Comments at 8.)

{¶ 53} Finally, while AT&T does not believe that a definition for willing provider should be adopted, it does agree with Consumer Groups that any reasonable and comparatively priced voice service must be offered to residential customers at their place of residence. (AT&T Nov. 9, 2016 Reply Comments at 16-17.)

{¶ 54} OTA submits that the proposed definition requires an entity to act as a "willing provider" simply by virtue of offering reasonable and comparatively priced voice service to any residential customer affected by the withdrawal and abandonment of BLES (or voice service) by an ILEC (or other willing provider). OTA requests that the proposed definition be amended in order to limit these obligations to situations involving the withdrawal of BLES as set forth in R.C. 4927.10(B) and incorporate the critical element of willingness on the part of the willing provider. According to OTA, the expansion to willing providers that withdraw or abandon voice service will discourage alternative providers from agreeing to serve as willing providers and will result in customers having fewer choices. (OTA Oct. 26, 2015 Initial Comments at 6-7.)

{¶ 55} OCTA expresses concern that rather than focusing on the prohibitions and obligations of an ILEC to be able to abandon BLES, the proposed definition of willing provider imposes requirements on the withdrawal or abandonment of voice

service provided in place of BLES. OCTA states that in the context of interpreting R.C. 4927.10, the legislature intended for the use of "carrier" throughout the statute to only be a shortened version of ILEC and did not intend to extend the term "carrier" to include a willing or alternative provider. Therefore, OCTA asserts that there should be no new obligations imposed on alternative providers in R.C. 4927.10 or elsewhere. Additionally, OCTA points out that R.C. 4927.01(A)(18) specifically provides that voice service is not the same as BLES and that voice service currently does not have any carrier of last resort obligations.

{¶ 56} Finally, OCTA points out that "willing provider" is not a statutorily defined term and, as such, the definition should be removed from the rules and, instead, be given its plain, ordinary meaning. To the extent that a definition is needed, it should be revised to reflect that a "willing provider" is "any provider of a reasonable and competitively priced service voluntarily offering that service to residential customers affected by the withdrawal or abandonment of BLES by an ILEC. An alternative provider of reasonable and comparatively priced voice service in an ILEC's service area shall not be deemed a "willing provider." (OCTA Oct. 26, 2015 Initial Comments at 4-6; OCTA Nov. 9, 2015 Reply Comments at 2.)

{¶ 57} Verizon also focuses on the proposed definition of "willing provider" and highlights the absence of the concept of willingness to take on the attending responsibilities. Verizon asserts that such an approach will not promote the transition to new networks or promote competition but, rather, will dissuade providers from offering services that today's Ohio customers demand for fear of being burdened with new regulatory obligations. (Verizon Oct. 26, 2015 Initial Comments at 1.)

{¶ 58} CTIA submits that the problem with the proposed definition is that it automatically and involuntarily designates as a "willing provider" any alternative provider of voice service that offers to serve residential customers in the area served by the ILEC seeking to withdraw or abandon BLES. CTIA opines that there is an apparent

inconsistency between the proposed definition, which requires the alternative providers to be "willing providers," and proposed rule 4901:1-06-21(G), which states that an alternative provider wishing to become a willing provider must file the requisite affidavit. CTIA believes that the definition set forth in proposed rule 4901:1-6-01(QQ) more appropriately describes the term "potential willing provider" as that term is used in proposed rule 4901:1-6-21(A)(4).

{¶ 59} CTIA asserts that in no event can wireless providers be compelled to provide service to customers affected by the ILEC's withdrawal of BLES due to the fact that such a requirement would be in violation of state preemption provisions of 47 U.S.C. 332(c)(3)(A). CTIA submits that the Commission should eliminate the definition of "willing provider", especially in light of the fact that it is not a statutorily defined term. However, to the extent that a definition is necessary, CTIA proposes a definition that it believes is consistent with proposed rule 4901:1-6-21(G) and clearly reflects that an entity desiring to be a "willing provider" must affirmatively act. (CTIA Nov. 9, 2016 Reply Comments at 6-7.)

{¶ 60} Consumer Groups assert that in order to be consistent with the customer-specific intent of the statute, the language of the proposed rule should be amended to reflect that a willing provider must be willing to offer the service to "the residence of the residential customer affected * * *." Consumer Groups also request that willing providers must register and file the requisite affidavit with the Commission no later than the filing of the ILEC's application to withdraw intrastate basic service. (Consumer Groups Oct. 26, 2015 Initial Comments at 23-24.)

{¶ 61} Upon a review of the comments filed regarding proposed rule 4901:1-6-01(QQ), the Commission finds that "willing provider" should be defined as any provider, identified by the Commission through its investigation process, voluntarily offering to any residential customer affected by the withdrawal or abandonment of

BLES, a reasonable and comparatively priced voice service, on the date an ILEC files a notice to withdraw or abandon BLES.

{¶ 62} In support of this definition, the Commission highlights the fact that, consistent with R.C. 4927.10(B)(1), prior to approving an ILEC petition seeking withdrawal or abandonment of BLES, the Commission must determine that a reasonable and comparatively priced service will be available to the affected customer at the customer's residence. If no reasonable and comparatively priced voice service will be available to the affected customer then the Commission must attempt to identify a **willing provider** (emphasis added) of a reasonable and comparatively priced voice service to serve the customer. If no **willing provider** (emphasis added) is identified, the Commission may order the ILEC to provide a reasonable and comparatively priced voice service to serve the customer.

{¶ 63} Based on this statutory language, it is clear that a "willing provider" is an operative term that must be defined in order for the Commission to be able to carry out its mandated obligations. Rule proceedings, such as the one currently before the Commission, are the appropriate forums for the Commission to implement its statutory authority. The defining of terms set forth in proposed rule 4901:1-6-01, including "willing provider", are a necessary component in carrying out this charge.

{¶ 64} In establishing the definition of a "willing provider", the Commission has acted consistent with its statutory authority and is not in conflict with any provisions set forth in R.C. 4927.10 or 4927.11. Further, the Commission finds that the adopted definition is not burdensome as an entity that is deemed to be a willing provider is not required to proactively seek such a designation and may cease maintaining such a designation at anytime. The only exception to such treatment is in the case of being deemed the sole provider of a reasonable and comparatively priced service in accordance with Ohio Adm.Code 4901:1-6-21.

B. Comments on Ohio Adm.Code 4901:1-6-02 Purpose and Scope

{¶ 65} In the Entry of January 7, 2015, Staff proposed no changes to this rule.

{¶ 66} In the Entry of September 23, 2015, Staff proposed that Ohio Adm.Code 4901:1-6-02(C) be revised to include proposed rule 4901:1-6-21 (withdrawal of BLES) as an exception to the exemption from Chapter 4901:1-6 provided to VoIP providers. Staff also proposed that Ohio Adm.Code 4901:1-6-02(D) be revised to include proposed rule 4901:1-6-21 as an exception to the exemption from Ohio Adm.Code Chapter 4901:1-6 afforded providers of any telecommunications service that was not commercially available and that employs technology that subsequently became available for commercial use consistent with R.C. 4927.03.

{¶ 67} According AT&T, the proposed revisions exceed the strictly limited authority granted to the Commission to regulate VoIP and wireless services pursuant to R.C. 4927.03. AT&T contends that H.B. 64 is the last word on carrier of last resort obligations and that nothing in the Ohio Revised Code authorizes the Commission to impose carrier of last resort obligations on VoIP and wireless carriers when they act as successor providers or otherwise.

{¶ 68} AT&T asserts that pursuant to 47 U.S.C. 332(c)(3)(A), the Commission is prohibited from imposing on wireless carriers service requirements such as a carrier of last resort obligations. Therefore, AT&T contends that the Commission is preempted from imposing on wireless providers the carrier of last resort requirements in proposed rule 4901:1-6-21 or the carrier of last resort requirements set forth in R.C. 4927.11(A).

{¶ 69} Additionally, AT&T asserts that because VoIP is an information service and because it is within the FCC's interstate jurisdiction, the Commission cannot impose the carrier of last resort obligation on providers of VoIP service. Therefore, AT&T recommends that proposed rules 4901:1-6-02(C) and (D) should be revised to continue to exempt wireless and VoIP services from the Commission's rules.

{¶ 70} Finally, concerning proposed rule 4901:1-6-02(D), AT&T asserts that without the reference to September 13, 2010, it is unclear as to whether a particular service must become available in order to fall under the scope of the rule. Therefore, AT&T submits that the dates should be retained. (AT&T Oct. 26, 2015 Initial Comments at 9-11.)

{¶ 71} OTA and Cincinnati Bell submit that neither R.C. 4927.10 nor H.B. 64 provides statutory authority for the extension of the requirements of R.C. 4927.10 or proposed rule 4901:1-6-21 to interconnected VoIP providers and providers of telecommunications services that use technologies that were not commercially available until after September 13, 2010. Additionally, OTA asserts that the Commission cannot extend the withdrawal and abandonment process to these providers even if they are acting as "willing providers" providing voice service. In support of its position, OTA notes that H.B. 64 does not allow for the extension of R.C. 4927.10 even if the providers were acting as "willing providers." In support of its position, OTA notes that R.C. 4927.01(A)(1) excludes any voice service to which customers were transitioned following a withdrawal of BLES under R.C. 4927.10. (OTA Oct. 26, 2015 Initial Comments at 7-9; Cincinnati Bell Oct. 26, 2015 Initial Comments at 2-3.)

{¶ 72} OCTA states that R.C. 4927.10 only addresses prohibitions for an ILEC to abandon BLES and does not impose any new obligations on IP-enabled services or new technologies. Therefore, OCTA contends that to apply proposed rule 4901:1-6-21 to providers of these services would impose obligations that were not authorized by H.B. 64. (OCTA Oct. 26, 2015 Initial Comments at 6-7).

{¶ 73} VON submits that the Commission is preempted by the FCC from imposing regulatory obligations such as carrier of last resort requirements and obligations for withdrawing/abandoning BLES upon interconnected VoIP providers inasmuch as information services are exempt from state regulation. Citing to various FCC orders, VON contends that the FCC has asserted limited jurisdiction over

interconnected VoIP services specifically to E9-1-1, accessibility by law enforcement, and the contribution to the federal Universal Service Fund (USF) and the Telecommunications Relay Service (TRS) Fund. VON indicates that the FCC has limited the states authority over VoIP to issues such as state USF contributions and the payment of state and local fees to support the 9-1-1 network.[3]

{¶ 74} VON contends that extending the carrier of last resort requirements to VoIP providers in proposed rules 4901:1-6-21(C) and (D), and placing BLES withdrawal/abandonment obligations on VoIP providers in proposed rule 4901:1-6-21(F) exceeds the statutory authority of H.B. 64. (VON Nov. 9, 2015 Reply Comments at 1-5.)

{¶ 75} Verizon asserts that proposed rules 4901:1-6-02(C) and (D) impose what amounts to new carrier of last resort obligations on providers that have never been subject to them (Verizon Oct. 26, 2015 Initial Comments at 2).

{¶ 76} For all the reasons set forth above concerning the definition of "carrier of last resort" and the discussion regarding proposed rule 4901:1-6-21, set forth below, the Commission finds that proposed rule 4901:1-6-02(C) should be amended to reflect that the VoIP provider exemption does not extend to proposed rule 4901:1-6-21, in order to provide for the protection, welfare, and safety of the public.

{¶ 77} In the Entry of September 23, 2015, Staff proposed adopting language in proposed rule 4901:1-6-02(H) that would incorporate by reference the particular version of the cited matter that was effective on September 13, 2015.

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3 First Report and Order and Notice of Proposed Rulemaking, WC Docket No. 04-36, FCC 05-116 (rel. June 3, 2005); Report and Order and Notice of Proposed Rulemaking, WC Docket No. 06-122, FCC 06-94 (rel. Jun. 27, 2006); Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 04-36, FCC 07-22 (rel. Apr. 2, 2007); and Report and Order, WC Docket No. 04-36, FCC 09-40 (rel. May 13, 2009).

{¶ 78} AT&T recommends that the effective date referenced in paragraph (H) be updated when the rule revisions are finalized to either reflect a current date or no date certain at all (AT&T Feb. 6, 2015 Initial Comments at 6; AT&T Mar. 6, 2015 Reply Comments at 2).

{¶ 79} OTA recommends that the Commission amend Ohio Adm.Code 4901:1-6-02(H) to provide that references to the United States Code (U.S.C.) or to the Code of Federal Regulations (C.F.R.) be to the "current effective version" rather than citing to a date certain (OTA Feb. 6, 2015Initial Comments at 3).

{¶ 80} The Commission notes that Ohio has a long-standing tradition of adopting its own laws and regulations involving telephone company procedures and standards. By not including a date certain, the Commission would be agreeing to abide by, at the state level, any change made at the federal level without providing public notice of the proposed changes and without going through Ohio-specific rulemaking requirements. Accordingly, the Commission determines that the effective date of the cited sections of the U.S.C. and C.F.R. should be October 1, 2016, in order to be more contemporaneous with the adoption of the retail telecommunication services rules.

C. Comments on Ohio Adm.Code 4901:1-6-07 Customer Notice Requirements

{¶ 81} In the Entry of January 7, 2015, Staff proposed no changes to this rule.

{¶ 82} Specific to proposed rule 4901:1-6-07(A), in the Entry of September 23, 2015, Staff proposed that the withdrawal of BLES or voice service by an ILEC or willing provider pursuant to Ohio Adm.Code 4901:1-6-21 be added to the list of services not subject to the customer notice requirements set forth in Ohio Adm.Code 4901:1-6-07. Rather, Staff proposed that the ILEC or willing provider must provide notice of a proposed withdrawal of BLES or voice service in accordance with Ohio Adm.Code 4901:1-6-21.

{¶ 83} AT&T contends that the proposed rule inappropriately attempts to impose carrier of last resort obligations on a willing provider that provides service to former BLES customers of a withdrawing ILEC. Additionally, AT&T asserts that providers of "voice services" should not be subject to the carrier of last resort obligations, including the withdrawal notification requirements, because voice services are much more expansive than BLES. Further, AT&T asserts that while proposed rule 4901:1-6-07(C) references the filing of an application, consistent with R.C. 4927.10(C), only a notice filing should be required. Therefore, AT&T believes that the proposed rules should only refer to a "notice" instead of an "application". Finally, in lieu of specifically requiring the use of direct mail for providing customer notice, AT&T recommends that companies be provided flexibility regarding the manner in which they provide notice in writing to their customers. (AT&T Oct. 26, 2015 Initial Comments at 11-14.)

{¶ 84} OTA, OCTA, and Cincinnati Bell submit that the proposed obligation on voice service provided by willing providers in an exchange where the ILEC has abandoned or withdrawn BLES goes beyond the statutory authority provided to the Commission pursuant to R.C. 4927.10 (OTA Oct. 26, 2015 Initial Comments at 9-10; OCTA Oct. 26, 2015 Initial Comments at 7-8; Cincinnati Bell Oct. 26, 2015 Initial Comments at 2-3). OCTA and OTA request that proposed rule 4901:1-6-07(C) be revised to remove references to voice service and willing provider. (OCTA November 9, 2015 Reply Comments at 5; OTA Oct. 26, 2015 Initial Comments at 10). OTA also seeks to replace all references of "application" with "withdrawal." Finally, OTA submits that, rather than the customer notice process prescribed by proposed rule 4901:1-6-07, the Commission should allow providing written notice through the most appropriate means. (OTA Oct. 26, 2015 Initial Comments 9-10.)

{¶ 85} Verizon contends that proposed rules 4901:1-6-07(A) and (C) impermissibly seek to extend H.B. 64's requirements for an ILEC's withdrawal or

abandonment of BLES to all willing providers offering voice service (Verizon Oct. 26, 2015 Initial Comments at 2).

{¶ 86} Consumer Groups opine that the notice requirements of the proposed rules lack specific detail and fail to provide customers with adequate notification given that they only have 30 days to determine if they have a reasonable and comparatively priced alternative service available. Consumer Groups reject any proposal to allow the ILEC to determine the form and content of notices to residential customers. Additionally, Consumer Groups submit that, rather than having the requirements of the 120-day notice to customers divided between proposed rule 4901:1-6-07 and proposed rule 4901:1-6-21, proposed rule 4901:1-6-07(C) should be amended to identify all components of the customer notice to be utilized with the withdrawal of BLES or voice service by an ILEC or a willing provider. This should include the language to be on the envelope or subject line of electronic mail (email) notices, the identification of the specific date for the termination of service, the use of a minimum font size, and the highlighting of specific language within the customer notice.

{¶ 87} Consumer Groups assert that, should email service be used, the proposed rule should be revised to require that the consent to email service should be specific to the withdrawal of BLES or voice service that replaces BLES. Consumer Groups also request that the portions of proposed rule 4901:1-6-21 addressing the publication of legal notice should be incorporated into proposed rule 4901:1-6-07(C). Additionally, Consumer Groups contend that in the case of U.S. postal notice being utilized for the purpose of the withdrawal of BLES and voice services, customers should have three additional days, in accordance with Ohio Adm.Code 4901-1-07(B) and (C), to file a petition. In addition to mailed notices, Consumer Groups submit that customers should also be notified through mass media advertising. For notices published in newspapers, Consumer Groups request that the notices be located in the most read sections of the newspaper. In addition to newspaper advertising, Consumer Groups submit that telephone companies should be required to inform customers through

advertising on local radio and television stations in the exchanges affected by the application. (Consumer Groups' Oct. 26, 2015 Initial Comments at 7-11; Consumer Groups' Nov. 9, 2015 Reply Comments at 3-7.)

{¶ 88} OTA argues that Consumer Groups recommendations regarding additional notice requirements are unnecessary, unduly burdensome, and have no basis under R.C. 4927.10. For example, OTA believes that OCC's request to require language in the notice differing from the statutory language and its request to require that language be included on the outside of envelopes and in email subject lines will likely cause additional confusion for residential customers.

{¶ 89} OTA believes that OCC's request for additional mass media advertising in addition to direct customer notice will only create unnecessary regulation and costs, and will conflict with Governor's Common Sense Initiative. Instead, OTA believes that the proposed rule should be amended to allow the ILEC to provide written notice through the most appropriate means since the ILEC is in the best position to determine the most effective method of communicating with customers.

{¶ 90} Finally, OTA rejects Consumer Groups' request to add additional time due to service of customer notice by U.S. postal service or electronic mail received after 5:30 p.m. on any given day. According to OTA, R.C. 4927.10 does not permit for exceptions to the 120-day time frame. Additionally, OTA contends that allowing exceptions to the 120-day time frame will create customer confusion. (OTA Nov. 9, 2015 Reply Comments at 4-6.)

{¶ 91} Cincinnati Bell submits that OCC's proposed modifications are unnecessary inasmuch as every carrier routinely notifies its customers of service-affecting issues (Cincinnati Bell Nov. 9, 2015 Reply Comments at 2). CenturyLink opines that OCC's proposal for multiple forms of notice will be confusing for customers since R.C. 4927.10(A)(1) ties the 120-day notice period to a specific date (CenturyLink Nov. 9, 2015 Reply Comments at 5).

{¶ 92} AT&T asserts that for the withdrawal of BLES, there is no reason to impose different or more rigorous requirements than what the Commission already has in place for the withdrawal of telecommunications services other than BLES. AT&T believes that an ILEC should only be required to provide customers with written notice of the withdrawal, including how they are impacted by the withdrawal and what they can do in light of it. Similarly, AT&T believes that there is no need for publication of legal notice or the advertising of notice on local radio and television stations in the exchanges affected by the application. AT&T submits that it will be motivated to notify properly its customers in order to avoid the complications of inadequate notice.

{¶ 93} Specific to Consumer Groups' comments regarding the actual customer notice set forth in the proposed rules, AT&T recommends that rather than identifying a specific termination date, the notice should inform the customer that BLES service will be disconnected on or after a particular date, that is 120 days subsequent to the customer notice. Regarding Consumer Groups' recommendations regarding notices that are sent via U.S. mail or email, AT&T states that the Commission should simply require that the notices be in writing in order to provide the ILEC with the flexibility to provide notice using the methods to which customers are accustomed. While AT&T objects to Consumer Groups' proposal for the use of a font size of not less than 12-point type, it would not object to a requirement that for written notice, the pertinent dates should be bolded and in larger type than the rest of the notice. (AT&T Nov. 9, 2015 Reply Comments at 2-10.)

{¶ 94} In regard to Consumer Groups' proposal for adding three additional days due to the notices being mailed to the customer, AT&T responds that these recommendations are all contrary to R.C. 4927.10(B) and the requirement that petitions must be filed no later than ninety days prior to the effective date of the withdrawal or abandonment (AT&T Nov. 9, 2015 Reply Comments at 8-9). AT&T does acknowledge that a customer petition should be considered as timely filed if it is (a) received by the deadline, (b) received by the Commission in hard copy in an envelope post-marked or

bearing indicia that it was sent no later than the day before the deadline, or (c) received by the Commission in the form of an email bearing a "sent" date no later than the deadline (AT&T Nov. 9, 2015 Reply Comments at 14).

{¶ 95} Upon a review of the comments filed regarding proposed rule 4901:1-6-07(A) and (C), the Commission finds that the rule should be amended to reflect the removal of willing providers from the application of the rule. The adopted language is reflected in the attachment to this Order. As addressed in adopted rule 4901:1-6-21, the Commission may establish a notice requirement upon a VoIP service or any telecommunications service provider that employs technology that became available for commercial use only after September 13, 2010, if it is determined that the exercise of such authority is necessary for the protection, welfare, and safety of the public.

{¶ 96} Concerning the arguments raised by Consumer Groups regarding electronic notices occurring after 5:30 p.m., the Commission finds that under such a scenario, the 30-day time frame for the filing of customer objections shall not begin until the following day. In reaching this determination, the Commission notes that this determination is consistent with Ohio Adm.Code 4901-1-02(D)(4), which provides that any e-filed document received after 5:30 p.m. shall be considered filed the next business day. In regard to all other arguments raised by Consumer Groups, the Commission finds that the adopted rules properly balance the need for timely customer education of the right to file a petition with the Commission and the burden to be incurred by carriers relative to customer notification. Based on this analysis and the safeguards provided pursuant to the customer notice process and the established collaborative process, no additional notice requirements are necessary at this time.

{¶ 97} AT&T asserts that proposed rule 4901:1-6-07(D-H) goes well beyond the statutory requirements of R.C. 4927.17(A). AT&T recommends that the requirements of paragraphs (C-G) should only apply to tariffed services. According to AT&T, it is too burdensome to apply the provisions set forth in these rules to detariffed and

unregulated services in today's competitive marketplace. Specifically, AT&T notes that the Commission has the power to investigate compliance with the statute and paragraphs (A) and (B) of this rule without the need for the submission of all customer notices with an accompanying affidavit. (AT&T Feb. 6, 2015, Initial Comments at 6-7.)

{¶ 98} Cincinnati Bell believes that local exchange carriers (LECs) should have the flexibility to provide customer notices in the manner that they believe best addresses their customers' needs in the competitive marketplace. Cincinnati Bell and OTA recommend the elimination of all customer notice requirements for detariffed and unregulated services and retaining other notice requirements only where statutorily required. Rather than advance notice, Cincinnati Bell believes that customers generally prefer that price change notice be included on the bill with the price change. Therefore, Cincinnati Bell proposes that paragraph (A) be amended to reflect "* * * rates, terms, and conditions of a tariffed service * * *." Additionally, Cincinnati Bell proposes that paragraphs (C) and (D) should be revised to note "every customer notice under this section." (Cincinnati Bell Feb. 6, 2015 Initial Comments at 1-2: OTA Feb. 6, 2015 Initial Comments at 3.)

{¶ 99} Consumer Groups assert that customers should continue to receive a 15-day notice of rate increases and changes in the terms and conditions of service for non-tariffed service consistent with R.C. 4927.17(A). Consumer Groups note that the statutory requirement is not limited to tariffed requirements. Consumer Groups believe that customers must have advance pricing information regarding competitive services in order to make economically sound decisions. (Consumer Groups' Mar. 6, 2015 Reply Comments at 4-6.)

{¶ 100} The Commission disagrees with AT&T's assertion that the proposed rule goes well beyond the statutory requirements of R.C. 4927.17(A). While the Commission also disagrees with the recommendation of AT&T, Cincinnati Bell, and OTA to eliminate all customer notice requirements for detariffed services, it does agree

that the customer notice requirements should not extend to unregulated services. The statute does not distinguish between tariffed and detariffed services. As such, Ohio Adm.Code 4901:1-6-07 is consistent with the provisions of R.C. 4927.17(A). Additionally, the Commission does not agree that the burden associated with customer notice rises to a level that warrants the elimination of advance customer notice. Lastly, there is nothing in the rule that would limit Cincinnati Bell from giving its customers additional notice on the bill with the price change. Therefore, the Commission agrees with Consumer Groups that customers should continue to receive at least 15-day notice of rate increases and changes in the terms and conditions for detariffed services consistent with R.C. 4927.17(A).

D. Comments on Ohio Adm.Code 4901:1-6-12 Service Requirements for Basic Local Exchange Service (BLES)

{¶ 101} Staff proposed a minor change to address a typographical error in Ohio Adm.Code 4901:1-6-12(C)(9).

{¶ 102} OCTA and AT&T submit that because LECs are not required to provide BLES, this rule should be clarified. Specifically, OCTA proposes that paragraphs (A) and (C) should be amended to reflect the applicability to a LEC choosing to provide BLES. (OCTA Feb. 6, 2015 Initial Comments at 2; AT&T Mar. 6, 2015 Reply Comments at 3.)

{¶ 103} Consumer Groups disagree with the proposed clarification. They point out that rather than choosing to offer BLES, ILECs, absent a waiver, are still required to provide BLES. They further note that the provisions of Ohio Adm.Code 4901:1-6-12 apply to any carrier providing basic service, and to no other carrier or service. (Consumer Groups' Mar. 6, 2015 Reply Comments at 6, 7.)

{¶ 104} The Commission disagrees with OCTA and AT&T's recommendation that Ohio Adm.Code 4901:1-6-12(A) and (C) be clarified because LEC's are not required to provide BLES. The Commission believes nothing in Ohio Adm.Code 4901:1-6-12(A)

and (C) implies that an LEC is required to provide BLES. An ILEC, absent a Commission approved application to withdraw or abandon BLES or a Commission approved application to waive its provider of last resort obligation, is still required to provide BLES. A competitive local exchange carrier (CLEC) currently providing BLES, absent a Commission approved application to withdraw or abandon BLES, is required to continue provide BLES. As such, until a LEC takes action to remove BLES from its tariff, Ohio Adm.Code 4901:1-6-12 still applies to a LEC required or choosing to provide BLES.

E. Comments on Ohio Adm.Code 4901:1-6-14 BLES Pricing Parameters

{¶ 105} Staff proposed no changes to this rule in the Entry of January 7, 2015.

{¶ 106} Specific to proposed rule 4901:1-6-14(C), AT&T and OTA request that the Commission clarify that the rule allows for multiple increases to BLES rates on an annual basis, irrespective of whether the increase is applicable to residential BLES or business BLES and whether the increase is in the same or different exchanges, as long as the total yearly increase is not greater than the $1.25 limit (AT&T Feb. 6, 2015 Initial Comments at 7; OTA Feb. 6, 2015 Initial Comments at 6).

{¶ 107} Consumer Groups state that the Commission, in *In re the Implementation of H.B. 218 Concerning Alternative Regulation of Basic Local Exchange Service of Incumbent Local Exchange Telephone Companies*, Case No. 05-1305-TP-ORD, Entry on Rehearing (May 3, 2006) at 25, recognized that multiple increases in a 12-month period are permitted so long as the total increases during that time frame do not exceed $1.25. According to Consumer Groups, if an ILEC does opt to make multiple basic service rate increases in a 12-month period, the Commission should ensure that the increases do not total more than $1.25 within any 12-month period beginning with the date of the first increase for that period. Additionally, Consumer Groups state that to the extent that the Commission clarifies that increases for both residential and business customers are permitted on an individual basis, the Commission should clarify that increasing the

BLES rates for business customers does not require increasing the rates of residential customers. (Consumer Groups' Mar. 6, 2015 Reply Comments at 11-12.)

{¶ 108} The Commission agrees with AT&T and OCTA's request to clarify that multiple increases can be made within the 12-month period, as long the increase does not exceed the statutory limit of $1.25. The Commission also agrees that residential and business BLES rates do not have to be increased concurrently. As such, we have modified the proposed rule to add both clarifications.

{¶ 109} Specific to proposed rule 4901:1-6-14(H)(2), OTA points out that while the current rule provides for the introduction by a CLEC of a nonrecurring service charge, surcharge, or fee related to BLES, it does not provide similar authority for an ILEC. OTA believes that the proposed rule should be modified to allow ILECs the similar flexibility. In support of its position, OTA contends that R.C. 4927.12 only pertains to recurring charges. Therefore, OTA submits that a tariffed increase in nonrecurring charges does not constitute an impermissible increase in BLES rates and should be allowed. (OTA Initial Comments at 4.) AT&T concurs with the arguments set forth by OTA (AT&T Feb. 6, 2015 Initial Comments at 9; AT&T Mar. 6, 2015 Reply Comments at 3).

{¶ 110} Consumer Groups state that the same arguments were previously raised by AT&T and OTA in 10-1010 and rejected by the Commission. Consumer Groups assert that no circumstances have changed since the Commission's last consideration of the matter. (Consumer Groups' Mar. 6, 2015 Reply Comments at 7-9.)

{¶ 111} After considering the arguments of all commenters on this issue, the Commission agrees with the Consumer Groups, and declines to modify the rule with respect to the limitations on nonrecurring service fees. R.C. 4927.12 provides the Commission with the authority to prescribe by rule the manner in which the terms, conditions, and nonrecurring fees associated with BLES shall be tariffed. The

circumstances surrounding this issue have not changed since the Commission's ruling in 10-1010.

{¶ 112} Specific to proposed rule 4901:1-6-14(I), AT&T contends that, similar to its original comments in 10-1010, the Commission lacks jurisdiction over the subject of late payment charges (AT&T Feb. 6, 2015 Initial Comments at 8-9). OTA similarly asserts that the Commission lacks the statutory authority to address the issue of late payment charges (OTA Feb. 6, 2015 Initial Comments at 4-5).

{¶ 113} Consumer Groups assert that late payment charges are encompassed within R.C. 4927.12(F), which provides that the rates, terms, and conditions, for basic service shall be tariffed in the manner prescribed by rule adopted by the Commission. Consumer Groups contend that absent the monitoring of late fees associated with basic service, consumers could be subject to usurious late payment charges. Finally, Consumer Groups note that in the 10-1010 Opinion and Order at 21, the Commission determined that late payment fees were among the charges that could cause the price of basic service to be out of the reach of customers. (Consumer Groups' Mar. 6, 2015 Reply Comments at 9-10.)

{¶ 114} The Commission disagrees with the arguments asserted by both AT&T and OTA. As stated above, R.C. 4927.12 establishes the Commission's authority to prescribe by rule the manner in which the terms, conditions, and non-recurring fees to BLES shall be tariffed. The circumstances surrounding this issue have not changed since the Commission's ruling in 10-1010.

{¶ 115} Specific to proposed rule 4901:1-6-14(J), AT&T and OTA each contend that there is no statutory basis for capping ILEC BLES installation and reconnection fees at the tariffed rates in effect as of September 13, 2010. In support of their position, AT&T and OTA state that only the monthly recurring charges for BLES are governed by R.C. 4927.12. Additionally, both AT&T and OTA contend that there is no basis for the

disparity in treatment between ILECs and CLECs in a competitive market. (AT&T Feb. 6, 2015 Initial Comments at 9-11; OTA Feb. 6, 2015 Initial Comments at 5-6.)

{¶ 116} Consumer Groups argue that installation and reconnection fees can be a means for ILECs to circumvent the pricing restrictions on BLES set forth in R.C. 4927.12. According to Consumer Groups, R.C. 4927.12(F) provides that "installation and reconnection fees for basic local exchange service shall be tariffed in the manner prescribed by rule adopted by the Commission." Consumer Groups assert that nothing in the statute prohibits the Commission from capping installation and reconnection fees for basic service. Consumer Groups believe that the cap on installation and reconnection charges is necessary to avoid customers having to pay excessive rates to obtain or be reconnected to the ILEC's basic service. Finally, Consumer Groups claim that the arguments raised by AT&T and OTA were previously considered and rejected by the Commission in 10-1010. Consumer Groups believe that AT&T and OTA have offered no new arguments on this issue. (Consumer Groups' Mar. 6, 2015 Reply Comments at 11.)

{¶ 117} R.C. 4927.12 provides the Commission with the authority to prescribe by rule the manner in which the terms, conditions, and non-recurring fees related to BLES shall be tariffed. Specific to the arguments raised by AT&T and OTA, the Commission finds that rather than capping ILEC BLES installation and reconnection fees at September 13, 2010 levels, ILECs will be granted the ability to increase such charges via a tariff amendment application, subject to an appropriateness review.

F. Comments on Ohio Adm.Code 4901:1-6-15 Directory Information

{¶ 118} Staff proposed no changes to this rule in the Entry of January 7, 2015.

{¶ 119} AT&T reiterates its objections previously raised in 10-1010 that the directory, geographic scope, and content requirements exceed the Commission's

authority under the Telecommunications Act of 1996 (1996 Act).[4] AT&T also believes that the Commission should revisit the requirement for providing a customer with a printed directory at no additional charge upon request. AT&T recommends that Ohio Adm.Code 4901:1-6-15(A) be amended to require only that a LEC providing BLES make available to customers a telephone directory in any reasonable format including, but not limited to, a printed directory, an electronic directory, or free directory assistance. (AT&T Ohio Feb. 6, 2015 Initial Comments at 12-13.)

{¶ 120} Cincinnati Bell recommends that LECs be allowed to provide directories in any reasonable format and that paragraph (B) be deleted since the demand for printed directories has continued to decline. Cincinnati Bell also notes that the value of a directory has diminished since the continued growth of wireless subscribership and the fact that CLECs are discontinuing the inclusion of its residential listings in Cincinnati Bell's directories. (Cincinnati Bell Feb. 6, 2015 Initial Comments at 2-3.)

{¶ 121} OTA requests that Ohio Adm.Code 4901:1-6-15 be amended to remove the requirement that a LEC must make available a free printed directory. OTA references R.C. 4927.01(A)(1)(b)(vi) in support of its position. To the extent that the Commission retains the requirement that printed directories must be made available upon request, OTA requests that the rule be amended to allow a LEC to charge customers for printed copies. OTA believes that such an approach would be consistent with the Ohio Adm.Code 4901:1-1-01, which allows public utilities to charge customers for providing printed copies of tariffs, contract, and regulations, while electronic copies are made available free of charge. (OTA Feb. 6, 2015 Initial Comments at 6, 7.)

{¶ 122} Consumer Groups insist that printed directories are still a necessity for many Ohioans because Internet access is still not available to all areas of the state and many Ohioans do not have computers. Further, Consumer Groups respond that the

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4 The 1996 Act is codified at 47 U.S.C. Sec. 151 et seq.

Commission, and not the marketplace, determines the reasonable format for directories. According to Consumer Groups, inasmuch as many Ohioans must rely on traditional landline service, the Commission should retain the requirement that directories contain all published numbers in the local calling area and other information required in paragraph (A). (Consumer Groups' Feb. 6, 2015 Initial Comments at 13-15.)

{¶ 123} After considering the arguments of all the commenters on this issue, the Commission agrees with the Consumer Groups. R.C. 4927.01(A)(1) mandates that BLES include the provision of a telephone directory "in any reasonable format." As we stated in our Opinion and Order in 10-1010, the Commission acknowledges that the law does not expressly require a printed directory; however, a printed directory has not yet become obsolete. (See 10-1010, Opinion and Order at 22-23.) Given the current state of broadband access and subscribership in Ohio at this time, we determine that, for BLES customers, "reasonable format" must continue to include the option, at a customer's request, to have a printed directory. The Commission will reconsider the necessity of this requirement in the next rule review.

G. Comments on Ohio Adm.Code 4901:1-6-17 Truth in Billing Requirements

{¶ 124} Proposed Paragraph (B) Staff proposed a minor change to address a typographical error in Ohio Adm.Code 4901:1-6-17(B).

{¶ 125} Consumer Groups assert that the current rule incorrectly identifies the FCC's Truth-in-Billing rule. Instead of 47 C.F.R. 64.201, they contend that the correct cite is 47 C.F.R. 64.2401 (Consumer Groups' Feb. 6, 2015 Initial Comments at 13).

{¶ 126} The Commission agrees with the Consumer Groups that the correct citation for the FCC's Truth-In-Billing rule is 47 C.F.R. 64.2401. This was merely a typographical error and will be corrected in the final rules.

H. Comments on Ohio Adm.Code 4901:1-6-19 Lifeline Requirement

{¶ 127} Proposed Paragraph (F) Staff proposed the elimination of the sentence pertaining to initial organization of the advisory board.

{¶ 128} Proposed Paragraph (H) Staff proposed changes to reflect the scope of eligibility programs associated with Lifeline.

{¶ 129} Consumer Groups recommend that, consistent with the listing of other programs in the rule, the actual name "Ohio Works First" should be used instead of the reference to "Ohio works" in Ohio Adm.Code 4901:1-6-19(H)(1)(h) (Consumer Groups' Feb. 6, 2015 Initial Comments at 14, 15).

{¶ 130} Consumer Groups also recommend that Disability Financial Assistance be inserted as a qualifying program for the purpose of Lifeline eligibility since it is based solely on income and includes the "poorest of the poor" in Ohio (Consumer Groups' Feb. 6, 2015 Initial Comments at 2-4).

{¶ 131} In response to the recommendation of Consumer Groups that Disability Financial Assistance be added as a qualifying program, AT&T asserts that the proposal should be rejected and that the Ohio eligibility criteria should remain consistent with the Federal Lifeline program. Additionally, AT&T believes that implementing this recommendation would be redundant and unnecessary since customers receiving Disability Financial Assistance are already qualified for Lifeline based on income eligibility criteria. (AT&T Mar. 6, 2015 Reply Comments at 4.)

{¶ 132} The Commission agrees with AT&T that Ohio's eligibility criteria should remain consistent with the Federal Lifeline program. Therefore, Consumer Groups' recommendations are rejected. Additionally, consistent with the FCC's Third Report and Order, Further Report and Order, and Order on Reconsideration, WC Docket No. 11-42 et al., rel. Apr. 27, 2016, (Third Report and Order), the Commission

has amended proposed Paragraph H in order to properly reflect the applicable eligibility programs and income levels.

{¶ 133} Current Paragraph (J) Staff proposed the deletion of this paragraph.[5]

{¶ 134} Consumer Groups believe that there are significant benefits to coordinated enrollment. Therefore, rather than the deletion of this rule in its entirety, Consumer Groups propose that the paragraph should be amended to provide as follows:

> The Commission shall work with the appropriate state agencies that administer federal or state low-income assistance programs and with carriers to negotiate and acquire information necessary to verify an individual's eligibility and to coordinate the enrollment of the eligible individuals in lifeline service.

(Consumer Groups' Feb. 6, 2015 Initial Comments at 7, 8).

{¶ 135} The Commission adopts the proposed deletion of the rule and rejects Consumer Groups' proposal to amend paragraph (J). The Commission notes that this rule was previously suspended in response to *In re Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, et al., Report and Order (rel. Feb. 6, 2012), ¶173. The Commission notes that nothing in the FCC's Third Report and Order supports the continuation of this rule.

{¶ 136} Proposed Paragraph (J) Staff proposed amending this paragraph to allow for the possibility of automatic enrollment when an ILEC eligible telecommunications carrier (ETC) is the only Lifeline provider in a particular exchange.

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5 As a result of the elimination of paragraph (J), the numbering for the remainder of proposed rule 4901:1-6-19 changed.

{¶ 137} Consumer Groups believe that automatic enrollment should occur if a state agency can accommodate automatic enrollment. Further, Consumer Groups believe that there is no good reason to exempt the only ETC in an exchange from automatically enrolling Lifeline-eligible customers so long as the consumer can opt out of the Lifeline program. Therefore, Consumer Groups propose that the paragraph should be amended to provide as follows:

> To the extent that an ILEC ETC is the only Lifeline service provider in a particular exchange, the ILEC ETC, where possible, shall provide automatic enrollment of Lifeline customers. ILEC ETCs enrolling subscribers via automatic enrollment shall take all necessary steps to ensure that there is no duplication of Lifeline service for a specified subscriber.

(Consumer Groups' Feb. 6, 2015 Initial Comments at 8, 9.)

{¶ 138} AT&T rejects Consumer Groups' proposal. In support of its position, AT&T states that automatic enrollment should not be mandated under any circumstance since it will potentially compromise an ETC's ability to acquire auditable eligibility documentation from Lifeline customers. (AT&T Mar. 6, 2015 Reply Comments at 4- 5.)

{¶ 139} After considering the arguments of all the commenters on this issue and recognizing the creation of the National Lifeline Accountability Database, the Commission determines that ILECs should have the option of providing automatic enrollment provided they take all necessary steps to ensure that there is no duplication of Lifeline service for a specific subscriber.

{¶ 140} Proposed Paragraph (L) Staff proposed no changes to this paragraph.

{¶ 141} AT&T, Cincinnati Bell, and OTA recommend that, rather than providing an additional sixty days for the customer to submit acceptable

documentation of continued eligibility, the appropriate time frame should be 30 days. The commenters believe that this change is necessary in order to be consistent with recently revised 47 C.F.R. 54.405(e) and to be consistent with the Commission's June 20, 2012 Entry on Rehearing in 10-2377-TP-COI (10-2377), *In re the Commission Investigation into the Provision of Nontraditional Lifeline Service by Competitive Eligible Telecommunications Carriers.* (AT&T Feb. 6, 2015 Initial Comments at 13; Cincinnati Bell Feb. 6, 2015 Initial Comments at 3-4, OTA Feb. 6, 2015 Initial Comments at 7-8.)

{¶ 142} Consumer Groups contend that the commenters' proposed modification should be denied. Consumer Groups reference R.C. 4927.13(C)(3) in support of its position that the Commission retain a 60-day period for customers to provide documentation of continued eligibility. (Consumer Groups' Mar. 6, 2015 Reply Comments at 15.)

{¶ 143} After considering the arguments of all the commenters on this issue, the Commission agrees with the recommendation of AT&T, Cincinnati Bell, and OTA that Lifeline subscribers should only have 30 days to submit acceptable documentation of continued eligibility instead of the current 60 days required by the Commission. This decision is consistent with the Commission's determination 10-2377, Entry on Rehearing (June 20, 2012) at 2, 3 that recognized that the applicable time frame should be changed from 60 days to 30 days.

{¶ 144} Proposed Paragraph (M) Staff proposed eliminating the requirement that the Commission maintain on its website a copy of the boilerplate customer notices that are compliant with the FCC's requirements. Instead of this requirement, the Staff proposed that following any continuous sixty-day period of nonusage, an ILEC ETC shall notify the customer through any reasonable means that he/she is no longer eligible to receive lifeline benefits and afford the customer a thirty-day grace period.

{¶ 145} AT&T, Cincinnati Bell, and OTA question why the proposed rule only applies to ILEC ETCs. Rather, the commenters recommend that, similar to 47 U.S.C.

54.405, Staff's proposal should only apply to prepaid Lifeline wireless subscribers and not to wireline Lifeline carriers who collect a monthly fee from subscribers. They believe that wireline Lifeline service is distinguishable since it is a flat-rate, nonusage-based service for which the Lifeline customer pays a monthly fee regardless of the number of calls made. Cincinnati Bell submits that the fact that, despite no usage, the customer continues to pay the monthly fee, demonstrates that the account is active. Additionally, the commenters contend that the rule cannot be implemented without significant expense to ILECs. Further, they state that to the extent that the rule is applied to competitive eligible telecommunications carriers (CETCs) it would be more appropriate for it to be included in division (T) of the rule. (AT&T Feb. 6, 2015 Initial Comment at 13-15; Cincinnati Bell Feb. 6, 2015 Initial Comments at 3-4; OTA Feb. 6, 2015 Initial Comments at 7-8.) Finally, AT&T rejects Consumer Groups position that traditional Lifeline customers should not lose their Lifeline eligibility based on ninety days of continuous nonuse (AT&T Mar. 6, 2015 Reply Comments at 5).

{¶ 146} Consumer Groups also do not believe that proposed rule 4901:1-6-19(M) should apply to ILECs and traditional ETCs since there is a monthly charge to end users. Consumer Groups note that the FCC applied its nonusage rule to prepaid Lifeline customers that do not bill their customers on a regular basis. Consumer Groups note that traditional Lifeline service is not usage-based but, instead, is based on paying a flat-rate for an unlimited number of local calls. According to Consumer Groups, because the service is not usage-based, an ILEC ETC has no ability to determine whether a Lifeline customer is using the service during a particular month. Further, they believe that there may be numerous reasons why traditional Lifeline customers may not use the service for extended periods. (Consumer Groups' Feb. 6, 2015 Initial Comments at 9-13.)

{¶ 147} After considering the arguments of all the commenters on this issue, and consistent with 47 C.F.R. 54.405, the Commission agrees with the commenters that proposed rule 4901:1-6-19(M) should not apply to traditional, post-paid lifeline service.

As this service is "always on" and unlimited, it would be unduly burdensome for ILECs and traditional ETCs to comply. Additionally, legacy customers that are used to having traditional Lifeline service would also be burdened by a nonusage requirement. Further, there is not as much of a concern for waste, fraud, and abuse of a traditional wireline Lifeline subscriber. Therefore, the proposed rule shall be amended as follows:

> Following any continuous thirty-day period of nonusage of a Lifeline service that does not require the ETC to assess or collect a monthly fee from its subscribers, an ETC shall notify the customer through any reasonable means that he/she is no longer eligible to receive lifeline benefits, and shall afford the customer a fifteen-day grace period during which the customer may demonstrate usage.

{¶ 148} Proposed Paragraphs (O), (P), and (Q) Staff proposed no changes to these paragraphs.

{¶ 149} For the purpose of consistency, Consumer Groups propose that the reference to paragraph (P)(1) be modified to (O)(1) (Consumer Groups' Feb. 6, 2015 Initial Comments at 15).

{¶ 150} The Commission agrees with the Consumer Groups' proposed renumbering in paragraphs (O), (P), and (Q). The paragraphs have been renumbered accordingly.

{¶ 151} Proposed Paragraph (T)(1) Staff revised the applicable paragraphs for CETCs and stated that these provisions apply "unless exempted by these rules or waived by the Commission."

{¶ 152} AT&T recommends removing the reference to proposed paragraph (J) since it is only relevant to ILECs (AT&T Feb. 6, 2015 Initial Comments at 14, 15).

{¶ 153} Consumer Groups reject AT&T's recommendation to remove the reference to proposed paragraph (J) from proposed paragraph (T)(1) since there is the possibility that a CLEC may be the only remaining ETC provider in an exchange if an ILEC is successful in relinquishing its ETC status (Consumer Groups' Reply Comments at 16). Consumer Groups also object to the inclusion of "unless exempted by these rules or waived by the Commission." They believe that this language is either redundant or does not add any additional substance to the rule. Additionally, Consumer Groups believe that proposed paragraph (P) should be added to the list in proposed paragraph (T)(1). Therefore, if the ETC is collecting Lifeline costs from non-Lifeline customers, Consumer Groups argue that the ETC should not be allowed to list the Lifeline surcharge in the tax/surcharge portion of the bill. (Consumer Groups' Feb. 6, 2015 Initial Comments 13, 14.)

{¶ 154} After considering the arguments of all the commenters on this issue, the Commission agrees with Consumer Groups that there is a possibility that a CLEC may be the only remaining ETC provider in an exchange if an ILEC is successful in relinquishing its ETC status pursuant to Ohio Adm.Code 4901:1-6-09(D). Therefore, proposed paragraph (J) shall remain. As to the addition of "unless exempted by these rules or waived by the Commission," the Commission agrees with Consumer Groups that this language does not add any additional substance to the rule and, therefore, should not be adopted. Finally the Commission determines that proposed paragraph (P) should not be added to the list of requirements in proposed paragraph (T)(1) inasmuch as the recovery surcharge is only meant for ILECs and not CLECs.

{¶ 155} Proposed Paragraph (T)(2) Staff proposed the following new language: "The flat-rate requirement of rule 4901:1-6-19(B) of the Administrative Code does not apply to CETCs offering free wireless lifeline service offerings."

{¶ 156} Proposed Paragraph (T)(3) Staff proposed a minor change to address a typographical error.

{¶ 157} Proposed Paragraph (T)(4) Staff proposed the following new language: "CETCs that offer Lifeline service that includes a defined local calling area shall establish a toll-free or local customer service number in order that customers can raise customer service concerns free of charge."

{¶ 158} Proposed Paragraph (T)(5) Staff proposed the following new language: "CETCs that do not have a defined local calling area shall not deduct minutes for customer service-related calls."

{¶ 159} Proposed Paragraph (T)(6) Staff proposed the following new language: "CETCs shall, at a minimum, accept customer service and repair calls at their respective customer service numbers during normal business hours."

{¶ 160} Proposed Paragraph (U) Staff proposed the following language as a new paragraph (U): "The payment of financial incentives for ILEC ETCs and CETCs to community organizations for client referrals is permitted provided the payments are non-tiered and the arrangements are nonexclusive."

{¶ 161} The Commission finds that Staff's language for proposed paragraphs (T)(2)-(U) are reasonable and should be adopted.

I. Comments on Ohio Adm.Code 4901:1-6-21 Carrier's withdrawal or abandonment of basic local exchange service or voice service.

{¶ 162} The Commission on its own accord has adopted a new paragraph (A) stating that the collaborative will evaluate what alternative reasonable and comparatively priced voice services are available to residential BLES customers. Additionally, the collaborative will investigate the prospect of the availability of a reasonable and comparatively priced voice service where none exists to identify any exchanges or residential BLES customers with the potential to not have access to a reasonable and comparatively priced voice service upon the withdrawal of BLES.

{¶ 163} Proposed Paragraph (A) Staff proposed that an ILEC not discontinue offering BLES within an exchange without filing a notice application for the withdrawal of BLES utilizing a WBL case code at least 120 days prior to the withdrawal. The application is subject to a 120-day automatic approval process and must include:

(a) a copy of the FCC order allowing the withdrawal of the interstate-access component of its BLES under 47 U.S.C. 214,

(b) a copy of the customer notice 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 Commission,

(c) a copy of the notice published one-time in the non-legal section of a newspaper of general circulation throughout the area subject to the application,

(d) an identification of 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

(e) a clear and detailed description of the geographic boundary of the ILEC's service area to which the requested withdrawal would apply.

{¶ 164} AT&T and Century object to the reference in proposed rule 4901:1-6-21(A) to an "application" process prior to an ILEC withdrawing BLES and, instead, submits that R.C. 4927.10 only requires notice. Therefore, AT&T believes that the references to "application for the withdrawal of BLES" and "application process" should be deleted from the rule and replaced with "notice of withdrawal." (AT&T Oct. 26, 2015 Initial Comments at 14-15; Century Nov. 9, 2015 Reply Comments at 4.)

{¶ 165} AT&T objects to the fact that, pursuant to proposed rule 4901:1-6-21(A), there will be a minimum 120-day delay between the FCC's issuance of an order pursuant to 47 U.S.C. 214 and the first day that the withdrawal of BLES is possible. In support of its position, AT&T submits that, pursuant to R.C. 4927.10(A), an ILEC is able to withdraw BLES beginning when the FCC's order is adopted. Specifically, AT&T asserts that the statute allows the required 120-day notice period to run while the ILEC is pursuing FCC approval.

{¶ 166} AT&T disputes the requirement in proposed rule 4901:1-6-21(A)(2) that the required customer notice identify all potential willing providers. In support of its position, AT&T submits that, pursuant to R.C. 4927.10, there is no requirement that an alternative provider be identified until an individual customer files a petition or until a specific customer is identified through the collaborative process established under Section 749.10 of H.B. 64. Once such a customer is identified, AT&T believes that, pursuant to R.C. 4927.10(B)(1)(a), it is the Commission, and not the ILEC, that must identify the potential successor carriers. Further, while proposed rule 4901:1-6-21(A)(2) defines "affected customers" as recipients of BLES or voice service, AT&T contends that successor providers of voice service should not be subject to the same requirements as an ILEC that is withdrawing BLES. Therefore, AT&T believes that the term voice service should be deleted from the rule and "affected customer" should be defined as a residential customer currently receiving BLES service that will be disconnected by the withdrawing ILEC.

{¶ 167} Regarding the requirement in proposed rule 4901:1-6-21(A)(3), for the one-time publication of newspaper notice, AT&T contends that R.C. 4927.10 contains no such requirement. Further, AT&T submits that newspaper notice would serve no purpose since the ILEC will be notifying customers individually. AT&T also questions the benefit of newspaper notice due to the reduction in newspaper subscribership.

{¶ 168} Finally, AT&T contends that proposed rule 4901:1-6-21(A)(5) should be amended to be consistent with the requirement set forth in 47 C.F.R. 63.71(a)(3) requiring that a carrier withdrawing service under 47 U.S.C. 214 must provide notice of the "points of geographic areas of service affected." AT&T believes that this revision is necessary in order to reduce the potential for customer confusion and will reduce the possibility of conflicting or duplicative requirements. (AT&T Oct. 26, 2015 Initial Comments at 14-19.)

{¶ 169} Similar to AT&T, OTA and Cincinnati Bell submit that proposed rule 4901:1-6-21 should be modified due to the fact that it is inconsistent with the requirements set forth in R.C. 4927.10. Specific to proposed rule 4901:1-6-21(A), OTA asserts that divisions (1)-(5) should be deleted since they include application requirements, rather than the notice process contemplated under R.C. 4927.10. According to OTA, an application is only required in a scenario in which the ILEC seeks a waiver of the requirement to provide BLES pursuant to R.C. 4927.11. (OTA Oct. 26, 2015 Initial Comments at 11-12; Cincinnati Bell Oct. 26, 2015 Initial Comments at 2.)

{¶ 170} OCTA objects to the requirement that the ILEC identify potential willing providers in its notice to customers. In particular, OCTA submits that it is unclear how the ILEC will know if a provider of voice service would be willing to provide service in the area specified at the time that a notice is published or sent to customers. (OCTA Oct. 26, 2015 Initial Comments at 8.)

{¶ 171} Consumer Groups submit that the filing of an application is appropriate to begin the process for withdrawing BLES to residential customers. In support of their position, Consumer Groups assert that while the applicable statute does not mention the word "application," the Commission must have some administrative mechanism to handle the ILEC's plans to withdraw basic service from residential customers and to ensure that the ILEC is providing proper notice to customers. Additionally, Consumer Groups contend that the application should not be filed until

the FCC 47 U.S.C. 214 application has been approved. (Consumer Groups' Oct. 26, 2015 Initial Comments at 8-12.)

{¶ 172} Consistent with its recommendations regarding proposed rule 4901:1-6-07, Consumer Groups recommend that proposed rule 4901:1-6-21(A)(3) should require the filing of the notice provided consistent with proposed rule 4901:1-6-07(C)(4). Additionally, Consumer Groups recommend that ILECs should be required to notify the Commission and the collaborative when the carrier applies to the FCC seeking to withdraw the interstate component from BLES consistent with 47 U.S.C. 214(e). Consumer Groups believe that this information will assist the collaborative in identifying customers who lack reasonable and comparatively priced alternatives and will allow for the potential participation in the FCC proceeding.

{¶ 173} Consumer Groups submit that in addition to the filing of a copy of the customer notice pursuant to proposed rule 4901:1-6-21(A)(2), the telephone company should also be required to file under seal the name, address, and telephone number of each affected customer in order to assist with the Staff's investigation and that the collaborative members should have access to the information. Finally, Consumer Groups aver that while AT&T believes that the identification of alternative providers is not necessary until a customer either is identified by the collaborative process or files a petition, the burden of this identification should fall on the ILEC at the time of the filing of the application. Further, Consumer Groups assert that the Commission must investigate the identified carriers as to whether the services are "reasonable and comparatively priced." (Consumer Groups' Oct. 26, 2015 Initial Comments at 11-14, 24.)

{¶ 174} AT&T and OTA believe that there is no statutory basis or need to require ILECs to file with the Commission under seal customer information in order to support the collaborative process (AT&T Nov. 9, 2015 Reply Comments at 17; OTA Nov. 9, 2015 Reply Comments at 11). OCTA is not opposed to including the affected

customer information (name, address, and telephone number under seal) in conjunction with the ILEC's filing inasmuch as the information will assist in finding a willing provider for the identified customers. At a minimum, OCTA recommends that the filing made with the Commission should clearly designate the telephone exchanges involved in the withdrawal/abandonment and that they be identified in the customer notices and on any included maps. (OCTA Nov. 9, 2015 Reply Comments at 5-6.)

{¶ 175} Upon a review of the comments filed regarding proposed rule 4901:1-6-21(A),[6] the Commission finds that to be consistent with R.C. 4927.10, the rule should require the filing of a notice rather than an application that will trigger the 120-day statutory time frame allotted for the Commission investigation set forth in R.C. 4927.10(B).

{¶ 176} Based on R.C. 4927.10(A), it is clear that the FCC order allowing an ILEC to withdraw the interstate-access component of its BLES under 47 U.S.C. 214 is a necessary precedent prior to the filing of the WBL notice which triggers the 120-day time frame referenced in R.C. 4927.10. The process set forth in R.C. 4927.10 includes the requisite customer notice and potential customer petition and/or Commission/collaborative investigation prior to the withdrawal or abandonment of BLES. The adopted rule properly reflects these conditions and time frames. The 120-day process is necessary to provide for the proper customer notification and ensure that the resulting Commission/collaborative analysis, if any, is completed in a timely matter prior to an ILEC withdrawing BLES. Therefore, the notice filing should not be made until the FCC 47 U.S.C. 214 application has been approved. It would be premature for the Commission to engage in our analysis without all of the necessary information before it, and would not provide the public with sufficient time to file petitions with the Commission. However, concurrent with the filing of its 47 U.S.C. 214 application with the FCC, an ILEC should provide a copy of the application on the Chief of the

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6 Due to the addition of a new paragraph (A), the comments being discussed here are found in adopted paragraph (B) in the attachment to this order.

Telecommunications and Technology Division of the Rates and Analysis Department and the Chief of the Telecommunications Section of the Legal Department.

{¶ 177} Through the protections provided in adopted rule 4901:1-6-21(B), while ILECs will have the flexibility to withdraw BLES, residential customers must be ensured that they will have access to a reasonable and comparatively priced voice service prior to the withdrawal of BLES. As an administrative agency, the Commission has the appropriate jurisdiction to establish rules for carrying out its authority consistent with R.C. 4927.10. In fact, through Section 363.30 of H.B. 64, the General Assembly has instructed the Commission to adopt rules to implement R.C. 4927.10. This includes the establishment of rules to carry out our obligation to ensure reasonable customer notice pursuant to R.C. 4927.10(A) and to ensure that residential customers have access to reasonable and comparatively priced voice service upon the withdrawal of BLES pursuant to R.C. 4927.10(B). In order to carryout this analysis, and at the same time properly inform a residential customer of how they will be impacted by the requested withdrawal, it is appropriate to require the ILEC to identify the known providers of a reasonable and comparatively priced voice service to serve a customer. Among other things, a list of known providers should be available from the collaborative to assist the ILEC with this notification function.

{¶ 178} Proposed Paragraph (B) Staff proposed that an ILEC or willing provider not discontinue offering voice service within an exchange without first filing an application for the withdrawal of voice service (WVS) at least 120 days prior to the withdrawal. The application is subject to a 120-day automatic approval process and must include:

(a) a copy of the customer notice 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 Commission,

(b) a copy of the notice published one-time in the non-legal section of a newspaper of general circulation throughout the area subject to the application,

(c) an identification of at least one alternative provider offering a reasonable and comparatively priced voice service to affected customers, regardless of the technology or facilities used by the willing provider, and

(d) a clear and detailed description of the geographic boundary of the ILEC's service area to which the requested withdrawal would apply.

Additionally, Staff proposed that all ILECs and willing providers shall comply with the provisions of proposed rules 4901:1-6-26(E), (I), and (J).

{¶ 179} For the same concerns expressed regarding proposed rules 4901:1-6-01(F), 4901:1-6-01(QQ), and 4901:1-6-02(C), AT&T submits that successor providers of voice services should not be subject to the same requirements of withdrawing voice services as apply to an ILEC that is withdrawing its provision of BLES. Therefore, AT&T contends that proposed 4901:1-6-21(B) should be removed in its entirety. (AT&T Oct. 26, 2015 Initial Comments at 19-20.)

{¶ 180} OTA requests that proposed 4901:1-6-21(B) be removed as the Commission lacks the statutory authority to regulate the withdrawal of voice service. Further, OTA asserts that the Commission has improperly imposed a new carrier of last resort obligation with respect to voice service provided by willing providers or ILECs. (OTA Oct. 26, 2015 Initial Comments at 12-13.)

{¶ 181} According to OCTA, voice service currently has no carrier of last resort obligations and there is nothing in R.C. 4927.10 that imposes a carrier of last resort obligation on voice services provided by a willing provider. Rather, OCTA states that

R.C. 4927.10 only addresses prohibitions and requirements for an ILEC abandoning or withdrawing BLES. OCTA also notes that, pursuant to R.C. 4927.01(A)(18), voice service is not the same as BLES. Therefore, OCTA opines that there should be no withdrawal or abandonment obligations on an alternative provider of voice services. In regard to proposed rule 4901:1-6-21(B)(5), OCTA asserts that the reference to Ohio Adm.Code 4901:1-6-26 should not apply to willing providers that are only withdrawing voice service from one or more exchanges but not abandoning telecommunications service entirely from the state of Ohio. (OCTA Oct. 26, 2015 Initial Comments at 9-10.)

{¶ 182} As discussed in proposed rule 4901:1-6-21(A), when an ILEC seeks to discontinue offering BLES in an exchange, the Commission must ensure that involved residential customers have a reasonable and comparatively priced voice service alternative in its place. The Commission finds that providers of reasonable and comparatively priced voice service should have the flexibility to discontinue the offering of such service, as long as they are not the sole provider as addressed in adopted rule 4901:1-6-21(F). The requirements pertaining to the applicable notice filing with the Commission, including the potential applicable customer notice, are now addressed in adopted rules 4901:1-6-21(F) and (G). As noted in the rule, the notice filing is necessary in order for the Commission to exercise its authority pursuant to R.C. 4927.03(A) in order to ensure the protection, welfare, and safety of the public.

{¶ 183} Proposed Paragraph (C) Staff proposed that if a residential customer to whom notice was provided is unable to obtain reasonable and comparatively priced voice service upon the withdrawal of BLES or voice service, the customer may file a formal petition within thirty days of receiving the notice. Additionally, the proposed rule stated that if a residential customer is identified by the collaborative process established under section 749.10 of amended substitute House Bill 64 of the 131st general assembly as a customer who will be unable to obtain reasonable and comparatively priced voice service upon the withdrawal of BLES or voice service that customer shall be treated as though the customer filed a timely petition.

{¶ 184} Similar to its arguments discussed in the comments above, AT&T submits that successor providers of voice services should not be subject to the withdrawal requirements that apply to an ILEC withdrawing its provision of BLES. Additionally, AT&T believes that the proposed rule should be, at a minimum, amended to clarify that a petition from a customer must include the customer's name, service address, and telephone number. (AT&T Oct. 26, 2015 Initial Comments at 20-21.) In response to the comments by Consumer Groups proposing that the Commission allow petitions to be filed by someone acting on behalf of a consumer, AT&T states that it has no objection to allowing authorized persons who manage accounts of others to be able to file petitions on behalf of the customer. In response to the comments by Consumer Groups proposing that the Commission allow additional time to file a petition for those customers who face circumstances beyond their control that would cause delay in receiving the notice, AT&T asserts that H.B. 64 does not allow for any such extension (AT&T Nov. 9, 2015 Reply Comments at 14-15).

{¶ 185} Similar to its arguments discussed in the comments above, OCTA submits that the Commission has no jurisdiction under R.C. 4927.10 to impose obligations on non-ILEC providers of voice service. Therefore, OCTA believes that the reference to requirements for willing providers regarding the withdrawal of voice service should be removed from subsection (C). In support of its position, OCTA distinguishes voice service from BLES and states that voice service has no carrier of last resort obligations. (OCTA Oct. 26, 2015 Initial Comments at 9-10.)

{¶ 186} Consistent with its arguments discussed in the comments above, OTA and Cincinnati Bell request that proposed rule 4901:1-6-21(C) be amended to remove the reference to section (B)(1) as well as the references to the withdrawal of voice service (OTA Oct. 26, 2015 Initial Comments at 13; Cincinnati Bell Oct. 26, 2015 Initial Comments at 2-3).

{¶ 187} Consumer Groups assert that while the proposed rule addresses situations in which the customer or the collaborative process determines that no reasonable and comparatively priced alternative services are available at a customer's residence, the rule does not reference the Commission's statutory obligation to investigate alternative services at the customer's residence. Specifically, Consumer Groups state that, to the extent that the Commission determines that no reasonable and comparatively priced voice will be available to the affected customer at the customer's residence, the Commission must attempt to identify a willing provider of a reasonable and comparatively priced voice service to serve the customer. (Consumer Groups' Oct. 26, 2015 Initial Comments at 14.)

{¶ 188} Additionally, Consumer Groups submit that there may be times when a customer without a reasonable or comparatively priced alternative service is unable to file a petition because of being infirmed or impaired. Therefore, Consumer Groups recommend that the proposed rule be amended to allow for the filing by anyone who files on behalf of the customer with their permission. Further, Consumer Groups believe that the Commission should take into consideration that customers encounter circumstances beyond their control that either delay the receipt of the notice or the response to such notice. As a result of such concerns, Consumer Groups request that the Commission provide such persons with additional time to file a petition. (Consumer Groups' Oct. 26, 2015 Initial Comments at 17-18.)

{¶ 189} Upon a review of the comments filed regarding proposed paragraph (C), the Commission finds that the proposed language should be amended to reflect that the paragraph should be limited to residential customers who file a petition regarding the inability to obtain reasonable and comparatively priced voice service upon the withdrawal of BLES offered by an ILEC and to residential customers identified by the collaborative process as a customer who will be unable to obtain reasonable and comparatively priced voice service upon the withdrawal of BLES offered by an ILEC. Regarding the recommendations of the Consumer Groups, the

Commission notes that adopted rule 4901:1-6-21(E) recognizes that the Commission will attempt to identify a willing provider of reasonable and comparatively priced voice service and establishes protections in the event that one cannot be identified.

{¶ 190} Proposed Paragraph (D) Staff proposed that if no affected residential customers file a petition and no residential customers are identified by the collaborative process, the ILEC or willing provider's application to withdraw or abandon will be automatically approved on the 121st day after the application was filed.

{¶ 191} Consumer Groups contend that proposed rule 4901:1-6-21(D) should be amended to include a process to challenge in writing the assertions made in the ILEC's application to abandon BLES. Such challenges could be directed at representations regarding (a) the FCC's granting of the withdrawal of the interstate access component from the carriers basic service; (b) the identification of the willing provider(s) offering reasonable and comparatively priced service; and (c) the adequacy of the carrier's notices to the customers.

{¶ 192} According to Consumer Groups, a challenge should be accepted via U.S. mail, email, hand delivery, and facsimile. Concerning the 30-day time frame for filing a petition, Consumer Groups believe that the proposed rule should be amended in order to reflect that a petition is considered timely as long as it is sent, and not necessarily received, within the 30-day time-frame. (Consumer Groups Oct. 26, 2015 Initial Comments at 15-19.)

{¶ 193} AT&T and OTA object to the required filing of an application. Rather than an application, AT&T states that the statute only requires the filing of a notice prior to an ILEC withdrawing BLES. AT&T asserts that after 120 days and the requisite FCC approval, the ILEC may withdraw BLES by operation of law. AT&T recognizes that the Commission may require a successor carrier to provide reasonable and comparatively priced voice service to the customer after BLES is withdrawn. (AT&T Oct. 26, 2015 Initial Comments at 21-22; OTA Oct. 26, 2015 Initial Comments at 13-14.)

{¶ 194} Additionally, OTA rejects Consumer Group's contention that the Commission may waive in some fashion the timely customer petition requirement set forth in R.C. 4927.10(B). OTA and AT&T also dismiss Consumer Group's recommendation for a process to challenge the contents of an application. Specifically, they assert that such a process is unnecessary as R.C. 4927.10 does not require an ILEC to file an application with the Commission to withdraw or abandon BLES but, instead, only calls for a notice filing. (OTA Nov. 9, 2015 Reply Comments at 6-8; AT&T Nov. 9, 2015 Reply Comments at 12.) Further, AT&T contends that the Commission cannot lawfully require the ILEC to have obtained FCC approval of its withdrawal of its interstate access component of BLES as a precondition of giving notice of withdrawal. Similarly, AT&T does not believe that the ILEC can be required to identify willing providers as part of the required notice. Therefore, AT&T asserts that there are no basis to challenge anything in the ILEC notice. (AT&T Nov. 9, 2015 Reply Comments at 12-13.)

{¶ 195} OTA and AT&T also argue that Consumers Groups' request that other individuals be able to petition the Commission on behalf of a subscriber is unnecessary in light of the collaborative process established pursuant to H.B. 64. OTA opines that Consumer Group's proposal that other individuals be able to petition the Commission on behalf of a subscriber would violate the Commission's rule on practice before the Commission and the Supreme Court's rules on the unauthorized practice of law. OTA does recognize that OCC could possibly assist those subscribers who are unable to represent themselves. (OTA Nov. 9, 2015 Reply Comments at 6-8.)

{¶ 196} Upon a review of the comments filed regarding proposed rule, the Commission finds that the proposed rule should be amended to remove the references to an application and, instead, reflect the filing of a notice to withdraw or abandon BLES. Petitions may be filed by the individual customer or by their authorized legal counsel. The adopted rule also reflects that in the absence of the formal filing of a customer petition or the identification of residential customers by the collaborative, the

ILEC's notice will be deemed to have satisfied the requirements to withdraw or abandon BLES pursuant to R.C. 4927.10.

{¶ 197} Proposed Paragraph (E) Staff proposed that if no willing provider of a reasonable and comparatively priced voice service is identified, the ILEC or alternative provider requesting the withdrawal must provide or continue to provide a reasonable and comparatively priced voice service, via any technology or service arrangement, to the customer at the customer's residence for not less than twelve months from the date of the order issued by the Commission. If after the initial twelve-month period, no willing provider of a reasonable and comparatively priced service is identified, the ILEC or willing provider requesting the withdrawal must continue to provide service for an additional twelve-month period. If after the second twelve-month period, no willing provider of a reasonable and comparatively priced voice service is identified, the ILEC or willing provider must continue to provide the service at the customer's residence until otherwise authorized by the Commission.

{¶ 198} AT&T and OTA submit that a willing provider does not have to be identified by the Commission unless and until the Commission identifies a customer that is unable to obtain a reasonable and comparatively priced service. Therefore, they recommend that the beginning of the rule reflect that the Commission will attempt to identify a potential successor only if necessary. AT&T and OTA assert that alternative successor providers of voice services should not be subject to the same requirements for withdrawing voice services as apply to an ILEC that is withdrawing its provision of BLES. Finally, OTA requests that the Commission delete (E)(1) and (2) and, instead, insert language that tracks the language of R.C. 4927.10(B)(2) requiring the Commission to extend its initial order prior to the withdrawing or abandoning carrier being required to continue providing service. (AT&T Oct. 26, 2015 Initial Comments at 22-23; OTA Oct. 26, 2015 Initial Comments at 14-15.)

{¶ 199} Consumer Groups believe that the Commission should be specifically obligated to perform an investigation of whether a reasonable and comparatively priced voice service will be available at the residence of a petitioning customer or a customer identified by the collaborative (Consumer Groups' Oct. 26, 2015 Initial Comments at 14-15). OCTA submits that in order to ensure that a fair analysis takes place consistent with the Commission's statutory authority, the Commission should conduct its investigation and base its conclusions regarding any reasonable and comparatively priced voice services on only publicly available information (OCTA Nov. 9, 2015 Reply Comments at 6-7).

{¶ 200} Upon a review of the submitted comments, the Commission finds that proposed paragraph (E) should be amended to reflect that if the Commission's investigation results in a determination that no reasonable and comparatively priced service is available to serve customers identified pursuant to adopted rule 4901:1-6-21(C) and the Commission is unable to identify a willing provider of a reasonable and comparatively priced service, the ILEC requesting the withdrawal must provide or continue to provide a reasonable and comparatively priced voice service via any technology or service arrangement, to the customer at the customer's residence for not less than twelve months from the date of the order issued the Commission. If after the initial twelve-month period the Commission determines that no willing provider of a reasonable and comparatively priced voice has been identified, the ILEC must continue to provide a reasonable and comparatively priced voice service for a second twelve-month period as contemplated by the adopted rule. If after the second twelve-month period, the Commission determines that no willing provider of a reasonable and comparatively priced service has been identified, the ILEC must continue to provide a reasonable and comparatively priced voice service as contemplated by the adopted rule.

{¶ 201} Proposed Paragraph (F) Staff proposed that, pursuant to R.C. 4927.03(A), any interconnected VoIP or any telecommunications service that is provided

as a voice service by a willing provider shall be subject to all of the provisions of this rule regarding the withdrawal or abandonment of voice service.

{¶ 202} AT&T contends that the proposed rule should be rejected because it requires interconnected VoIP providers to be subject to requirements regarding withdrawal or abandonment of service and extends the withdrawal requirements to any provider of voice services. AT&T submits both of these results are in violation of the carrier of last resort reforms set forth in H.B. 64. (AT&T Oct. 26, 2015 Initial Comments at 23-24.)

{¶ 203} Similarly, OTA asserts that R.C. 4927.10 is limited exclusively to an ILEC's withdrawal of BLES and does not authorize the Commission to impose carrier of last resort requirements on any provider withdrawing or abandoning other types of services. In particular, OTA emphasizes that the Commission cannot impose such requirements on technologies that the Commission is expressly prohibited from regulating pursuant to R.C. 4927.03. Further OTA opines that the rule may deter alternative providers from agreeing to be serve as willing providers, thereby reducing the competitive offerings available to customers. (OTA Oct. 26, 2015 Initial Comments at 15-16.) OCTA recognizes that R.C. 4927.03 allows the Commission to exercise its authority over VoIP if the Commission determines that such action is necessary for the protection, welfare, and safety of the public. However, OCTA submits that no such finding has be made at this time. Further, OCTA asserts that nothing in R.C. 4927.10 requires a willing provider to step into the ILEC's shoes or subjects the willing provider to the various utility regulations imposed on telephone companies. (OCTA Oct. 26, 2016 Initial Comments at 10-11.)

{¶ 204} Upon a review of the comments filed regarding proposed paragraph (F), the Commission finds that the proposed paragraph should be amended to reflect that if a sole provider of voice service seeks to withdraw or abandon such service, it

shall notify the Commission at least thirty days prior to the withdrawal of voice service consistent with the authority granted to the Commission in R.C. 4927.03(A).

{¶ 205} Specifically, the Commission highlights our responsibility, pursuant to R.C. 4927.03, to regulate any interconnected VoIP service or any telecommunications service that employs technology that became available for commercial use only after September 13, 2010, to ensure the protection, welfare, and safety of the public. Absent this obligation, which may be placed upon either the ILEC or the remaining sole provider of voice service, the protection, welfare, and public safety of those identified as at risk residential subscribers who do not have access to voice services may be jeopardized. Specifically, the Commission highlights the need for access to voice service in order to have access to 9-1-1, emergency services, and for the purpose of transmitting information related to medical devices.

{¶ 206} In the scenario in which an entity is the sole provider of voice service in a particular geographic area, the abandonment or withdrawal of such service will result in the inability of affected customers to access these services. Therefore, in order to ensure that all subscribers have access to emergency services, pursuant to its approval of adopted rule 4901:1-6-21(G), the sole provider of voice service, regardless of the technology utilized for its provisioning, may be subject to the all of the provisions of approved rule 4901:1-6-21 on a case-by-case basis.

{¶ 207} Proposed Paragraph (G) Staff proposed that a provider of voice service wishing to become a willing provider pursuant to R.C. 4927.10 must file an affidavit in the applicable WBL or WVS case.

{¶ 208} Proposed Paragraph (H) Staff proposed that every willing provider shall file a zero-day registration filing with the Commission.

{¶ 209} AT&T contends that there should not be any duties or obligations placed on successor providers simply because they provide service to customers who

previously received service from an ILEC. Further, AT&T avers that, pursuant R.C. 4927.10(B), potential successor providers need not be identified until the Commission ascertains a customer who is unable to obtain a reasonable and comparatively priced voice service and that even in that situation, the ILEC is the entity responsible for identifying potential successor carriers. (AT&T Oct. 26, 2015 Initial Comments at 24.) OTA asserts that the process established in the proposed rule is not consistent with the statutory process set forth in R.C. 4927.10 (OTA Oct. 26, 2015 Initial Comments at 16). OCTA claims that nothing in R.C. 4927.10 provides the Commission with the authority to establish administrative rules that require a Commission registration process for a willing provider (OCTA Oct. 26, 2015 Initial Comments at 11).

{¶ 210} The Commission finds that proposed paragraphs (G) and (H) should not be adopted inasmuch as an entity should not be required to register with the Commission solely on the basis of it being a willing provider nor should it be required to make a filing in another company's WBL or WVS docket. Rather, as discussed in adopted rule 4901:1-6-21(F), the Commission's primary concern pertains to the necessary protections in the situation in which the carrier is the sole provider of voice service and, therefore, the essential link to the provision of emergency services for an identified group of customers.

{¶ 211} Proposed Paragraph (I) Staff proposed that the requirements of R.C 4905.10, 4905.14, and 4911.18 apply to willing providers and that willing providers be required to submit an annual assessment report and to pay the prescribed annual assessment for the maintenance of the Commission.

{¶ 212} AT&T contends that R.C. 4927.10 does not address the imposition of assessments on successor carriers who provide voice services. Additionally, AT&T reiterates its argument that the proposed rules should not place any duties and obligations on successor providers simply because they provide service to customers who previously received BLES from the ILEC. (AT&T Oct. 26, 2015 Initial Comments at

26.) OTA asserts that a willing provider may or may not be a public utility and, therefore, its liability for an assessment is determined solely by its public utility status (OTA Oct. 26, 2015 Initial Comments at 16). OCTA contends that if a willing provider is not subject to this requirement due to the technology that it is using to provide service, then there is nothing in R.C. 4927.10 that provides the Commission with this authority (OCTA Oct. 26, 2015 Initial Comments at 11). Verizon submits that the proposed rule would improperly impose assessment and filing obligations on all willing providers, although not all such entities are subject to the requirement under Ohio law (Verizon Oct. 26, 2015 Initial Comments at 2).

{¶ 213} Upon a review of the comments filed regarding paragraph (I), the Commission finds that the proposed paragraph should not be adopted inasmuch as an entity should not be required to file an annual assessment report and pay an annual assessment solely on the basis of it being a willing provider. Rather, as discussed in adopted rule 4901:1-6-21(F), the Commission's primary concern pertains to the necessary protections in the situation in which the carrier is the sole provider of voice service and, therefore, the essential link to the provision of emergency services for an identified group of customers.

{¶ 214} Proposed Paragraph (J) Staff proposed that the Commission affirmatively state that the Commission has jurisdiction over willing providers' provision of TRS. Staff also proposed that the Commission affirmatively state that the Commission has authority over willing providers with respect to addressing carrier access policy and for creating and administering mechanisms for carrier access reform. Additionally, Staff proposed that the Commission affirmatively state that it has jurisdiction to consider an application filed by a willing provider seeking certification as an ETC.

{¶ 215} AT&T submits that proposed paragraph (J) would impose an overwhelming amount of regulation not contemplated by H.B. 64. According to AT&T,

to the extent that the Commission has such jurisdiction over entities that may be willing providers such jurisdiction exists independently of H.B. 64 and, therefore, does not need to be addressed in rules adopted in this case. (AT&T Oct. 26, 2015 Initial Comments at 26-27.) Similarly, OCTA submits that the introduction of R.C. 4927.10 alone is not a sufficient basis to impose Commission authority over telecommunications services that are not already subject to the Commission's authority. However, OCTA recognizes that if a willing provider is already subject to these requirements as a telephone company, it should continue to comply. (OCTA Oct. 26, 2015 Initial Comments at 11.)

{¶ 216} The Commission finds that to the extent that the Commission already has authority over a willing provider as a telephone company, such jurisdiction should independently continue to remain in effect. Therefore, there is no need to adopt proposed paragraph (J).

J. Comments on Ohio Adm.Code 4901:1-6-22 Inmate Operator Service

{¶ 217} Proposed Paragraph (A) Staff proposed the substitution of language in order to establish that the maximum rate of any usage sensitive charge that may be applied by an inmate operator service (IOS) provider to any intrastate IOS call shall not exceed twenty-five cents per minute for collect calls, and a twenty-one cents per minute for debit or pre-paid calls.

{¶ 218} The Commission recognizes that, pursuant to its October 22, 2015, decision *In re Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Second Report and Order, the FCC, acting on its mandate to ensure that rates for phone calls are just, reasonable, and fair for all Americans, preempted intrastate rates for toll service and capped all interstate, and local and in-state long-distance inmate calling rates under a specified tiered plan. On March 7, 2016, as clarified on March 23, 2016, the D.C. Circuit Court of Appeals in *In re Global Tel*Link Securus Technologies Inc. et al., v. Federal Communications Commission and the United States of America*, issued a stay of the FCC's

decision to apply 47 C.F.R 64.6030 to intrastate calling services. On August 4, 2016, the FCC adopted its Order on Reconsideration in WC Docket No. 12-375. On November 2, 2016, the D.C. Circuit in *In re Global Tel*Link Securus Technologies, Inc. et al.*, issued a stay of the FCC's Order on Reconsideration. In light of this decision, the Commission finds that proposed paragraph (B) should be amended to reflect that the maximum rate of any usage sensitive charge that may be applied by an IOS provider to any intrastate IOS call shall be $0.25 per minute for collect calls and $0.21 per minute for debit or prepaid calls.

{¶ 219} Consumer Groups point out that 47 C.F.R. 64.710(a) requires that the service provider disclose, upon request, how charges will be collected and how complaints will be resolved. In order to provide consumers the same protections for intrastate calls that are provided on the interstate level, Consumer Groups propose that clarifying language be added to the proposed rule. (Consumer Groups' Feb. 6, 2015 Initial Comments at 15-16.)

{¶ 220} The Commission agrees with Consumer Groups regarding the need for clarifying language. Therefore, clarifying language should be added as a new paragraph (A) to adopted rule 4901:1-6-22 stating that "All IOS providers must, on intrastate IOS calls, disclose immediately to the billed party, upon request and at no charge to the billed party, the methods by which its rates or charges for the call will be collected, and the methods by which complaints concerning such rates, charges, or collection practices will be resolved."

K. *Comments on Ohio Adm.Code 4901:1-6-25 Withdrawal of telecommunications services*

{¶ 221} Proposed Paragraph (B)(4) Staff proposed that adopted rule 4901:1-6-21 be included in the list of rules that must be complied with prior to an ILEC discontinuing the provision of BLES.

{¶ 222} No entities filed any specific comments in response to the proposed rule.

{¶ 223} The Commission finds that the proposed language is reasonable and should be adopted.

L. Comments on Ohio Adm.Code 4901:1-6-26 Abandonment

{¶ 224} Staff proposed no changes for this rule.

{¶ 225} AT&T reiterates its prior concerns that it raised when this rule was first proposed in 10-1010. Specifically, AT&T believes that the rule creates a loophole, which allows a CLEC to delay a collection action and stop paying for wholesale services while continuing to receive wholesale services from the underlying ILEC. As a result, AT&T avers that the serving ILEC will continue to suffer financial losses. AT&T notes that in some cases the services involved are collocation or transport services for which no Ohio end user customers are involved. In other cases, the services do involve retail services to end users for which the CLEC will continue to collect revenue during the pendency of the abandonment case.

{¶ 226} AT&T also believes that this rule is unnecessary since, pursuant to Ohio Adm.Code 4901:1-7-27(B), the Commission has the ability to delay disconnection. AT&T points out that, unlike Ohio Adm.Code 4901:1-7-27(B), the current rule fails to recognize that the requirements of interconnection agreements should be recognized and enforced. Based on its stated concerns, AT&T believes that the Commission should modify the rule to except from the rule those situations where disconnection for nonpayment is being pursued. (AT&T Feb. 6, 2015 Initial Comments at 15-17.) To address AT&T's concern, OCTA recommends beginning paragraph (I) with "Except in the case of disconnection for nonpayment*** (OCTA Mar. 6, 2015 Reply Comments at 1-2).

{¶ 227} Consumer Groups reject the recommendations proposed by AT&T and OCTA. Rather, Consumer Groups state that the rule protects consumers who have already paid the CLEC for service. They assert that customers should not lose service they paid for while trying to find another provider to replace the one that is abandoning service. (Consumer Groups' Mar. 6, 2015 Reply Comments at 16, 17.)

{¶ 228} After considering the comments on this rule, the Commission declines to adopt an automatic exception for disconnection for nonpayment. However, as was the case in the last retail rule making proceeding, this would not preclude an underlying LEC from seeking Commission consideration of the ability to limit liability in an abandonment proceeding.

M. Comments on Ohio Adm.Code 4901:1-6-27 Carrier of last resort

{¶ 229} Proposed Paragraph (A) Staff proposed that adopted rule 4901:1-6-21 be included in the list of exceptions to when an ILEC is obligated to provide BLES to all persons or entities in its service area requesting that service, and that service shall be provided on a reasonable and nondiscriminatory basis.

{¶ 230} No comments were filed in regard to this rule.

{¶ 231} The Commission finds that the proposed revision to Ohio Adm.Code 4901:1-6-27 should be adopted.

N. Comments on Ohio Adm.Code 4901:1-6-31 Emergency and Outage Operations

{¶ 232} Relative to this rule, in the Entry of January 7, 2015, Staff proposed the replacement of "Ohio 9-1-1 coordinator with "statewide emergency services internet protocol network steering committee or its designee" in paragraph (C).

{¶ 233} OTA and AT&T request that the Commission modify Ohio Adm.Code 4901:1-6-31 to mirror the reporting requirements of the FCC regarding emergency and outage conditions. OTA points out that the rule contains numerous additional

provisions beyond the existing FCC rules. In order to reduced perceived unnecessary administrative complexity and potential additional reporting burdens, OTA recommends that the Commission modify Ohio Adm.Code 4901:1-6-31 by deleting (B)-(G). (OTA Feb. 6, 2015 Initial Comments at 8-9; AT&T Feb. 6, 2015 Initial Comments at 17.)

{¶ 234} Cincinnati Bell believes that this rule should be limited to information reasonably necessary to fulfill the Commission's obligations with respect to emergency and outage operations under federal law. According to Cincinnati Bell, some of the sections [e.g., (F)(2) and (3) and (F)(10)(a)] go beyond any federal requirements and are not required by most of its competitors. Cincinnati Bell believes that the content of emergency plans should be driven by customers, risk management, and the market, rather than by perceived regulatory need. According to Cincinnati Bell, only the second and third sentences of proposed paragraph (A) are necessary for the Commission to fulfill its obligation. Cincinnati Bell believes that all of the remaining language is redundant, competitively burdensome, and/or adds complexity and should be deleted. (Cincinnati Bell Feb. 6, 2015 Initial Comments at 4-5.)

{¶ 235} Consumer Groups opine that the commenters' recommended changes should be rejected. In support of their position, Consumer Groups point out that under the FCC's rules, state commissions receive only the federal information that the U.S. Department of Homeland Security provides to them. Therefore, Consumer Groups believe that the Commission could be without important information that effects Ohioans. Consumer Groups also point out that the rule helps disseminate information to customers who are affected by a major outage and to appropriate state officials. Specific to (F)(2), Consumer Groups note that the rule requires priority treatment in restoring out-of-service trouble of an emergency nature for customers with a documented medical or life-threatening condition. Consumer Groups submit that absent this requirement, customers may have no telephone service for an extended period of time. (Consumer Groups' Mar. 6, 2015 Reply Comments at 17-18.)

{¶ 236} In considering the comments of the parties with regard to emergency and outage operations, the Commission agrees with Consumer Groups that receiving only that information provided under the federal rules places the Commission in a position of possibly not receiving complete or adequate information in an emergency or outage situation. The information required in the proposed rule ensures that the Commission will remain sufficiently informed throughout these situations. Further, as Consumer Groups point out, the proposed rule ensures that customers with documented medical or life-threatening conditions receive priority treatment in an outage situation where they may otherwise have no telephone service for an extended period of time, which would place them at increased risk. Accordingly, the Commission rejects the revisions proposed by OTA, AT&T, and Cincinnati Bell and adopts the rule as proposed.

O. *Comments on Ohio Adm.Code 4901:1-6-37 Assessments and Annual Reports*

{¶ 237} In the Entry of January 7, 2015, Staff proposed language clarifying that both the annual report and the annual assessment report shall be limited to information necessary for the Commission to calculate the assessment provided for in R.C. 4905.10. In the Entry of September 23, 2015, Staff proposed language requiring that CETCs be subject to the required filing of an annual report and that willing providers be subject to the required filing of an annual assessment report.

{¶ 238} AT&T and OTA contend that the Commission cannot assess a fee on wireless resellers since such entities do not fall under the jurisdiction of the Commission inasmuch as they are not public utilities (AT&T Feb. 6, 2015 Initial Comments at 17-18; OTA Oct. 26, 2015 Initial Comments at 16-17). Additionally, AT&T asserts that R.C. 4927.10 does not provide the mechanism for the Commission to impose assessments on successor carriers who provide voice service. Specifically, AT&T asserts that the rules should not impose duties and obligations on successor providers simply because they provide service to customers who previously received BLES from an ILEC. Therefore, AT&T posits that to the extent that a duty to pay assessments is being proposed for

carriers that would not otherwise be subject to them, it is contrary to H.B. 64. (AT&T Oct. 26, 2015 Initial Comments at 27-28.)

{¶ 239} OCTA contends that additional language is needed in paragraph (B) of this rule in order to ensure that proper information is available in telephone companies' annual reports in order to allow for the proper calculation of pole attachment and conduit rates. AT&T does not object to this recommendation. (OCTA Feb. 6, 2015 Initial Comments at 2-3; AT&T Mar. 6, 2015 Reply Comments at 5.)

{¶ 240} The Commission notes that there is no longer a distinction between an annual report and an annual assessment report. Instead, all entities shall file on an annual basis an "Annual Report for Fiscal Assessment."

{¶ 241} The Commission agrees with the assertions of AT&T and OTA that the Commission cannot issue annual assessments on wireless resellers or willing providers providing service via unregulated technologies since such entities do not fall under the jurisdiction of the Commission inasmuch as they are not public utilities. However, to clarify, it was the Commission's intent for wireless resellers of Lifeline service to merely pay an assessment to offset the costs incurred by the Commission in administration of the CETC designation process and ongoing oversight of CETC's in Ohio in accordance with federal law and consistent with the determinations set forth in in 10-2377. The implementation of this authority includes wireless resellers.

{¶ 242} The Commission agrees with OCTA's clarification of this rule that the annual report for fiscal assessment include information necessary to calculate the pole attachment and conduit occupancy rates in a manner consistent with the requirements of Ohio Adm.Code Chapter 4901:1-3. This additional language shall be included in the final rules.

P. Additional rules requiring changes

{¶ 243} The Commission notes that although its Entry of January 7, 2015, indicated the proposed deletion of Ohio Adm.Code 4901:1-6-21, the revised rules attached to that Entry did not denote the actual proposed deletion. The Commission highlights that the associated Business Impact Analysis did reflect the proposed deletion and no parties filed comments with respect to this rule.

IV. CONCLUSION

{¶ 244} Upon consideration of the record as a whole, including the Staff proposal and all comments and reply comments submitted in response to it, the Commission enacts the rules attached as the appendix to this Finding and Order for the reasons discussed above.

{¶ 245} The rules are posted on the Commission's Docketing Information System (DIS) website at http://dis.puc.state.oh.us/. To minimize the expense of this proceeding, the Commission will serve a paper copy of this Finding and Order only. Interested persons are directed to input the case number 14-1554-TP-ORD into the Case Lookup Box to view the rules, as well as this Finding and Order, or to contact the Commission's Docketing Division to request a paper copy.

V. ORDER

{¶ 246} It is, therefore,

{¶ 247} ORDERED, That Ohio Adm.Code 4901:1-6-03, 4901:1-6-04, 4901:1-6-06, 4901:1-6-11, , 4901:1-6-13, 4901:1-6-15, 4901:1-6-16, 4901:1-6-18, 4901:1-6-20, 4901:1-6-23, 4901:1-6-26, 4901:1-6-28, 4901:1-6-29, 4901:1-6-30, 4901:1-6-32, 4901:1-6-33, 4901:1-6-34, and 4901:1-6-35 be filed as no change rules as set forth in the appendix to this Finding and Order. It is, further,

{¶ 248} ORDERED, That Ohio Admin 4901:1-6-01, 4901:1-6-02, 4901:1-6-05, 4901:1-6-07, 4901:1-6-08, 4901:1-6-09, 4901:1-6-10, 4901:1-6-12, 4901:1-6-14, 4901:1-6-17,

4901:1-6-19, 4901:1-6-22, 4901:1-6-24, 4901:1-6-25, 4901:1-6-27, 4901:1-6-31, 4901:1-6-36, and 4901:1-6-37 be amended as set forth in the attached appendix to this Finding and Order. It is, further,

{¶ 249} ORDERED, That current Ohio Adm.Code 4901:1-6-21 be rescinded and new Ohio Adm.Code 4901:1-6-21 be enacted as set forth in the attached appendix to this Finding and Order. It is, further,

{¶ 250} ORDERED, That the rescinded and adopted rules be filed with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission, in accordance with divisions (D) and (E) of R.C. 111.15. It is, further,

{¶ 251} ORDERED, That the final rules be effective on the earliest date permitted by law. Unless otherwise ordered by the Commission, the five-year review date for Ohio Adm.Code Chapter 4901:1-6 shall be in compliance with R.C. 106.03. It is, further,

{¶ 252} ORDERED, That to the extent not addressed in this Finding and Order, all other arguments raised are denied. It is, further,

{¶ 253} ORDERED, That a notice of this Finding and Order be sent to the Telephone Industry list-serve. It is, further,

{¶ 254} ORDERED, That a copy of this Finding and Order, without any attachments, be served upon all regulated telephone companies and all radio common carriers, the office of the Ohio Consumers' Counsel, the Ohio Telecom Association, and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Asim Z. Haque, Chairman

Lynn Slaby

M. Beth Trombold

Thomas W. Johnson

M. Howard Petricoff

JSA/vrm/dah

Entered in the Journal

NOV 3 0 2016

Barcy F. McNeal
Secretary

DRAFT - NOT FOR FILING

4901:1-6-01 Definitions.

As used within this chapter, these terms denote the following:

(A) "Alternative operator services (AOS)" means any intrastate operator-assisted services, other than inmate operator services (IOS), in which the customer and the end user are totally separate entities. The AOS provider contracts with the customer to provide the AOS; however, the AOS provider does not directly contract with the billed party to provide the services even though it is the billed party who actually pays for the processing of the operator-assisted calls. AOS does not include coin-sent calls.

(B) "Alternative provider" includes a telephone company, including a wireless service provider, a telecommunications carrier, and a provider of internet-protocol enabled services, including voice over internet protocol.

(C) "Basic local exchange service" (BLES) shall have the meaning set forth in division (A)(1) of section 4927.01 of the Revised Code.

(D) "Bundle or package of services" shall have the meaning set forth in division (A)(2) of section 4927.01 of the Revised Code.

(E) "Carrier access" shall have the meaning set forth in division (A)(3) of section 4927.01 of the Revised Code.

(F) "Carrier of last resort" means an incumbent local exchange carrier (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.

~~(F)~~(G) "Commission" means the public utilities commission of Ohio.

~~(G)~~(H) Competitive eligible telecommunications carrier (CETC)" means a carrier, other than an incumbent local exchange carrier, designated by a state commission as an eligible telecommunications carrier.

~~(H)~~(I) "Competitive emergency services telecommunications carrier (CESTC)" means a telephone company that is a 9-1-1 system service provider that with respect to a service area, that was not an incumbent 9-1-1 system service provider on or after the date of enactment of the Telecommunications Act of 1996 (1996 act) 110 Stat. 60, 47 U.S.C. 151 et seq.) or its successor or assignee of an incumbent local exchange.

~~(I)~~(J) "Competitive local exchange carrier (CLEC)" means, with respect to a service area, any facilities-based and nonfacilities-based local exchange carrier that was not an incumbent local exchange carrier on the date of enactment of the 1996 act or is not an

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entity that, on or after such date of enactment, became a successor or assignee of an incumbent local exchange carrier.

~~(J)~~(K) "Customer" means any person, firm, partnership, corporation, municipality, cooperative organization, government agency, etc., that agrees to purchase a telecommunications service and is responsible for paying charges and for complying with the rules and regulations of the telephone company. For purposes of this chapter, customer means a retail customer except where the term is specifically designated within a rule to mean a wholesale customer of the telephone company.

~~(K)~~(L) "Eligible telecommunications carrier (ETC)" means a carrier designated by a state commission as defined in ~~subpart C of FCC~~ 47 C.F.R. 54.201.

~~(L)~~(M) "Exchange area" means a geographical service area established by an incumbent local exchange carrier and approved by the commission, which embraces a city, town, or village and a designated surrounding or adjacent area. There are currently seven hundred thirty eight exchanges in the state.

~~(M)~~(N) "Facilities-based CLEC" means, with a respect to a service area, any local exchange carrier that uses facilities it owns, operates, manages or controls to provide basic local exchange services to consumers on a common carrier basis; and that was not an incumbent local exchange carrier on the date of the enactment of the 1996 act. Such carrier may partially or totally own, operate, manage or control such facilities. Carriers not included in such classification are carriers providing service(s) solely by resale of the incumbent local exchange carrier's local exchange services.

~~(N)~~(O) "Federal poverty level" shall have the meaning set forth in division (A)(4) of section 4927.01 of the Revised Code.

~~(O)~~(P) "Flat rate" service means unlimited number of local calls at a fixed charge.

~~(P)~~(Q) "Incumbent local exchange carrier (ILEC)" shall have the meaning set forth in division (A)(5) of section 4927.01 of the Revised Code.

~~(Q)~~(R) "Inmate operator services (IOS)" means any intrastate telecommunications service initiated from an inmate telephone, i.e., a telephone instrument set aside by authorities of a secured correctional facility for use by inmates or juvenile offenders.

~~(R)~~(S) "Internet protocol-enabled services" shall have the meaning set forth in division (A)(6) of section 4927.01 of the Revised Code.

(T) "Interstate-access component" shall have the same meaning as set forth in division (A)(7) of section 4927.01 of the Revised Code.

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~~(S)~~(U) "Large ILEC" means any ILEC serving fifty thousand or more access lines in Ohio.

~~(T)~~(V) "Local exchange carrier" shall have the meaning set forth in division (A)(~~7~~8) of section 4927.01 of the Revised Code.

~~(U)~~(W) "Local service area" shall have the meaning set forth in division (A)(~~8~~9) of section 4927.01 of the Revised Code.

~~(V)~~(X) "Nonresidential service" means a telecommunication service primarily used for business, professional, institutional or occupational use.

~~(W)~~(Y) "Postmark" means a mark, including a date, stamped or imprinted on a bill or a piece of mail which serves to record the date of its mailing, which in no event shall be earlier than the date on which the item is actually deposited in the mail. The postmark of a bill that is sent electronically must appear on the electronic bill and shall in no event be earlier than the date which it is electronically sent.

~~(X)~~(Z) "Preferred carrier freeze" (PCF) means a service that prevents a change in a customer's preferred carrier selection, unless the customer gives consent for such change to the carrier from whom the freeze was requested.

~~(Y) "Provider of last resort" means 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.~~

~~(Z)~~(AA) "Public safety answering point" (PSAP) means a facility to which 9-1-1 system calls for a specific territory are initially routed for response and where personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider, or transferring the call to the appropriate provider.

(BB) "Reasonable and comparatively priced voice service" is a voice service that incorporates the definition set forth in division (B)(3) of section 4927.10 of the Revised Code and is presumptively deemed competitively priced, subject to rebuttal, if the rate does not exceed either : (1) the ILEC's BLES rate by more than twenty percent or; (2) the federal communications commission's (FCC) urban rate floor as defined in 47 C.F.R. 54.318(a).

~~(AA)~~(CC) "Regulated service" means service under the jurisdiction of the commission.

~~(BB)~~(DD) "Residential service" means a telecommunications service provided primarily for household use.

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~~(CC)~~(EE) "Small business" shall have the meaning set forth in division (A)(~~9~~10) of section 4927.01 of the Revised Code.

~~(DD)~~(FF) "Tariff" means a schedule of rates, tolls, rentals, charges, classifications, and rules applicable to services and equipment provided by a telephone company that has been filed or posted in such places or in such manner as the commission orders.

~~(EE)~~(GG) "Telecommunications" shall have the meaning set forth in division (A)(~~10~~11) of section 4927.01 of the Revised Code.

~~(FF)~~(HH) "Telecommunications carrier" shall have the meaning set forth in division (A)(~~11~~12) of section 4927.01 of the Revised Code.

~~(GG)~~(II) "Telecommunications relay service (TRS)" means intrastate transmission services that provide the ability for an individual who has a hearing or speech impairment to engage in a communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual, who does not have a hearing or speech impairment, to communicate using voice communication services by wire or radio. TRS includes services that enable two-way communication between an individual who uses a telecommunications device for the deaf or other nonvoice terminal device and an individual who does not use such a device.

~~(HH)~~(JJ) "Telecommunications service" shall have the meaning set forth in division (A)(~~12~~13) of section 4927.01 of the Revised Code.

~~(II)~~(KK) ~~(II)~~ "Telephone company" shall have the meaning set forth in division (A)(~~13~~14) of section 4927.01 of the Revised Code.

~~(JJ)~~(LL) "Telephone exchange service" shall have the meaning set forth in division (A)(~~14~~15) of section 4927.01 of the Revised Code.

~~(KK)~~(MM) "Telephone toll service" shall have the meaning set forth in division (A)(~~15~~16) of section 4927.01 of the Revised Code.

~~(LL)~~(NN) "Traditional service area" means the area in which an ILEC provided basic local exchange service on the date of enactment of the ~~Telecommunications Act of~~ 1996 act, ~~110 Stat. 60, 47 U.S.C. 153,~~ and includes any commission-approved changes to an ILEC's traditional service area after that date.

~~(MM)~~(OO) "Voice over internet protocol service" (VoIP) shall have the meaning set forth in division (A)(~~16~~17) of section 4927.01 of the Revised Code.

(PP) "Voice service" shall have the same meaning as set forth in division (A)(18) of section 4927.01 of the Revised Code.

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(QQ) "Willing provider" is any provider, identified by the commission through its investigation process, voluntarily offering a reasonable and comparatively priced voice service on the date an ILEC files a notice to withdraw or abandon BLES, to any residential customer affected by the withdrawal or abandonment of BLES.

~~(NN)~~(RR) "Wireless service" shall have the meaning set forth in division (A)~~(17)~~(19) of section 4927.01 of the Revised Code.

~~(OO)~~(SS) "Wireless service provider" shall have the meaning set forth in division (A)~~(18)~~(20) of section 4927.01 of the Revised Code.

4901:1-6-02 Purpose and scope.

(A) The rules set forth in Chapter 4901:1-6 of the Administrative Code, apply to all incumbent local exchange carriers (ILECs), competitive local exchange carriers (CLECs), and other providers of telecommunication services, unless otherwise specified in this chapter or commission order.

(B) A wireless service provider and a reseller of wireless service are exempt from all rules in Chapter 4901:1-6 of the Administrative Code, except rules 4901:1-6-24 (wireless service provisions), 4901:1-6-09, eligible telecommunications carrier (ETC), 4901:1-6-19, lifeline requirements for ETCs (where the wireless service provider or reseller of wireless service has attained ETC status), and 4901:1-6-36, telecommunications relay service (TRS).

(C) A provider of interconnected voice over internet protocol-enabled service is exempt from all rules in Chapter 4901:1-6 of the Administrative Code, except for ~~rule 4901:1-6-~~ rules 4901:1-6-21 (withdrawal of BLES) as applicable for the protection, welfare, and safety of the public, and ~~36~~4901:1-6-36 ~~(TRS)~~.

(D) A provider of any telecommunications service that, consistent with Section 4927.03 of the Revised Code ~~is~~was not commercially available as of September 13, 2010, and that employs technology that became available for commercial use only after September 13, 2010, is exempt from all rules set forth in Chapter 4901:1-6 of the Administrative Code, except for ~~rule~~rules 4901:1-6-21 and where applicable, 4901:1-6-36 ~~(TRS)~~, in the event such provider is subsequently required under federal law to provide to its customers access to ~~telecommunications relay service~~TRS.

(E) The commission may, upon application or upon a motion filed by a party, waive any requirement of this chapter, for good cause shown, other than a requirement mandated by statute from which no waiver is permitted.

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(F) Any telephone company seeking a waiver(s) of rules contained in this chapter shall specify the period of time for which it seeks such a waiver(s), and a detailed justification in the form of a motion filed in accordance with rule 4901-1-12 of the Administrative Code.

(G) Waiver requests are not deemed to be granted unless approved by order of the commission. Waiver requests made in proceedings which have an automatic approval time frame will toll any automatic approval time frames set forth in rule 4901:1-6-05 of the Administrative Code.

(H) Each citation contained within this chapter that is made either to a section of the United States Code or a regulation in the code of federal regulation is intended, and shall serve, to incorporate by reference the particular version of the cited matter that was effective on ~~September 13, 2010~~October 1, 2016.

"No Change"

4901:1-6-03 Investigation **and monitoring.**

Consistent with applicable law, nothing contained within this chapter, shall in any way preclude the commission or its staff from:

(A) Requiring a telephone company to furnish additional information necessary to carry out its authority under Title 49 of the Revised Code.

(B) Monitoring a telephone company's compliance with the law or any of the commission's rules and orders.

(C) Initiating an investigation into a telephone company's compliance with the law or any of the commission's rules and orders.

"No Change"

4901:1-6-04 Application and notice filings.

(A) For all applications required to be filed under this chapter, a telephone company shall use the most up-to-date telecommunications filing form for telephone-related applications and notice filings. This form may change from time-to-time without further commission entry. Commission staff will maintain a current, updated copy to provide to applicants. The most recent version of the form will be posted on the commission's web site.

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(B) The applicant shall complete the telecommunications filing form in its entirety and supply all required attachments and affidavits as outlined on the form.

(C) The telecommunications filing form shall be signed by counsel for the applicant, an officer of the applicant, or an authorized agent of the applicant, and shall identify any agents or employees authorized to make filings on behalf of the applicant before the commission.

(D) Failure to utilize the current telecommunications filing form for any initial filing as well as failure to include the required attachments as outlined on the form may result in immediate dismissal of the application. The commission, the legal director, the deputy legal director, or an attorney examiner has the authority to issue the entry dismissing an application under this rule.

(E) All amendments, motions, and other supplemental pleadings to an open case under these rules need not use the telecommunications filing form, but must clearly state the case number such filings are in reference to.

~~"No Change"~~

4901:1-6-05 Automatic approval and notice filing process.

(A) Many filings pursuant to the rules adopted in this chapter are subject to an automatic approval process or a notice filing. With the exception of zero-day notices, an automatic time frame will begin on the day after a filing is made with the commission's docketing division. Furthermore, under an automatic approval process, if the commission does not take action before the expiration of the filing's applicable time frame, the filing shall be deemed approved and become effective on the following day, or later date if requested by the company. For example, a filing subject to a thirty-day process will, absent suspension or other commission action, become effective on the thirty-first day after the initial filing is made with the commission. Unless otherwise ordered, any motions not ruled upon by the commission during the filing's applicable ~~timeframe~~ time frame are deemed to be denied.

(B) A filing subject to the zero-day notice procedure will be effective on the same day the filing is made with the commission. Notice filings are not considered to be commission-approved.

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4901:1-6-06 Suspensions.

(A) Unless otherwise provided in law, the commission, legal director, deputy legal director, or attorney examiner may impose a full or partial suspension of any automatic approval process, notice filing, or tariff approved pursuant to this chapter, if such filing is contrary to law or the rules of the commission.

(B) Under this rule, if a tariff filing is contrary to law or the rules of the commission, the commission may require a telephone company to discontinue provision of the affected tariffed telecommunications service(s) or, under partial suspension, cease offering the affected tariffed telecommunications service(s) to new customers, or take other actions with regard to the affected service(s) as the commission may require.

(C) Unless the law specifically precludes suspension of an automatic approval process, a pending application under full or partial suspension will be automatically approved sixty days from the date of suspension if all issues are resolved. If all issues are not resolved by the sixtieth day, the application will be either dismissed by entry or suspended a second time. Any such second suspension shall be accompanied by notice to the applicant explaining the rationale for the additional suspension. Applications under a second suspension cannot be approved without a commission entry or order.

(1) Under this paragraph, an application under full suspension is entirely precluded from taking effect.

(2) Under this paragraph, an application under partial suspension is permitted to take effect, in part or in its entirety, under the proposed terms and conditions, subject to further review by the commission. The applicant is put on notice that the commission, subsequent to further review, may modify the rates and/or terms and conditions of tariffed telecommunications service(s) affected by the application.

(D) A full or partial suspension of tariffed telecommunications services may also be imposed, after an application has been approved under the automatic approval process or is subject to a zero-day notice filing, if an ex post facto determination is made that the tariff may not be in the public interest, or is in violation of law or commission rules.

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4901:1-6-07 Customer notice requirements.

(A) Except for notices for abandonment or withdrawal of telecommunications service or withdrawal of basic local exchange service (BLES) pursuant to rules 4901:1-6-26, ~~and~~ 4901:1-6-25, ~~AND~~ and 4901:1-6-21 of the Administrative Code, respectively, and upward alterations of ~~basic local exchange service~~ (BLES) rates pursuant to rule 4901:1-6-14 of the Administrative Code, a telephone company shall provide at least fifteen days advance notice to its affected customers, of any material change in the rates, terms, and conditions of a service and any change in the company's operations that are not transparent to customers and may impact service. Customer notice is not required for a decrease in rates.

(B) For abandonment or withdrawal of telecommunications service and upward alterations of BLES rates, a telephone company shall provide at least thirty days advance notice to its affected customers in accordance with rules 4901:1-6-26, 4901:1-6-25, and 4901:1-6-14 of the Administrative Code, respectively.

(C) For withdrawal of BLES by an incumbent local exchange carrier (ILEC), the ILEC shall provide at least one hundred and twenty days advance notice to its affected customers in accordance with rule 4901:1-6-21 of the Administrative Code. The notice must explain how the customer is directly impacted and any customer action necessary as a result of the application. The notice shall be provided via direct mail or, if the customer consents, via electronic means.

~~(C)~~(D) For every customer notice, a telephone company shall provide to the commission a copy of the actual customer notice and an affidavit verifying that the customer notice was provided to affected customers. A copy of the applicable customer notice must be provided to commission staff no later than the date it is provided to customers by emailing the text of the customer notice to a commission-provided electronic mailbox at: Telecomm-Rule07@~~puc.state.oh.us~~puco.ohio.gov.

~~(D)~~(E) Every customer notice shall 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.

~~(E)~~(F) Notice shall be provided to affected customers in any reasonable manner, including bill insert, bill message, direct mail, or, if the customer consents, electronic means.

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~~(F)~~(G) For change in operation applications filed pursuant to rule 4901:1-6-29 of the Administrative Code, the customer notice must explain how the customer will be directly impacted by the application and what customer action, if any, is necessary as a result of such application.

~~(G)~~(H) At a minimum, the notice for a withdrawal or abandonment of service should provide the proposed effective date of the service withdrawal, instructions to the customers on how they may obtain replacement service(s), and the commission's toll-free and TTY-TDD telephone numbers.

~~(H)~~(I) In the event that the commission staff determines that a notice provided to customers is not consistent with the law or commission rules, the commission staff may require the company to re-notice customers.

~~"No Change"~~

4901:1-6-08 Telephone company certification.

(A) Any telephone company desiring to offer telecommunication services in Ohio shall file an application for certification (ACE) with the commission using the most up-to-date telecommunications filing form available from the commission's web site. The telecommunications filing form shall be signed by counsel for the applicant, an officer of the applicant, or an authorized agent of the applicant and shall identify any agents or employees authorized to make filings on behalf of the applicant before the commission. The form serves to identify the specific types of telecommunication services the applicant wishes to offer, and to verify the applicant's commitment to comply with all applicable commission rules and regulations.

(B) Paragraph (A) of this rule does not apply to any incumbent local exchange carrier (ILEC) with respect to its geographic service area as that area existed on September 13, 2010. An ILEC or its holding company seeking to operate outside of its geographic service area as that area existed on September 13, 2010 shall file an application for certification.

(C) Certificate timeline

(1) Interested persons who can show good cause why such application should not be granted must file with the commission a written statement detailing the reasons, as well as a motion to intervene, within fifteen calendar days after the application is docketed. The applicant may respond to any motion to intervene no later than seven calendar days after the filing and service of the motion.

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(2) Absent full or partial suspension, applications seeking certification as a telephone company will be approved in accordance with the thirty-day automatic approval process described in rule 4901:1-6-05 of the Administrative Code.

(D) The commission's docketing division will assign a tariff filing (TRF) docket number, if applicable, and inform the applicant of that number within fourteen days of filing so that the applicant may finalize its tariff and price lists prior to the automatic approval date of the ACE. Failure to file all necessary tariff revisions requested by commission staff prior to the thirtieth day from initial filing of the ACE application will result in suspension or dismissal of the application. Final tariffs, where applicable, must be filed in the ACE case as well as in the applicant's TRF docket no later than ten days after the automatic approval date.

(E) Minimum information required to be filed by all applicants seeking certification as a telephone company to operate in the state of Ohio shall include:

(1) A certificate of good standing and a certificate to operate as an out-of-state entity issued by the Ohio secretary of state and, if applicable, fictitious name authorization.

(2) The company's name and address, and if available, e-mail address and web site.

(3) The name of a contact person and that person's contact information.

(4) A general description and list of the types of telecommunications service(s) proposed to be offered and a description of the general geographic area served (maps are not required).

(5) Verification that the applicant will follow federal communications commission (FCC) accounting requirements, if applicable.

(6) Documentation attesting to the applicant's satisfactory technical expertise relative to the proposed service offering(s).

(7) Documentation indicating the applicant's satisfactory corporate structure, managerial expertise, and ownership.

(8) Information pertaining to any similar operations provided by the applicant in other states.

(9) Evidence of notice to the Ohio department of taxation, public utilities tax division, of the applicant's intent to provide service.

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(10) Any waivers sought by the applicant, submitted pursuant to rule 4901:1-6-02 of the Administrative Code.

(11) Documentation attesting to the applicant's financial viability, including, at a minimum, an actual and pro forma income statement and balance sheet.

(12) For competitive local exchange carriers (CLECs), a notarized affidavit signed by an authorized employee and accompanied by the bona fide request for interconnection letter sent to the ILEC that verifies that the applicant has entered into negotiations to establish an interconnection and/or transport and termination agreements with, at a minimum, the ILEC(s) serving the geographic area(s) where the applicant will be providing its services. If the agreements(s) have already been filed with the commission for approval, the specific case numbers should be stated. To the extent the agreements have not been filed, the applicant should state the estimated ~~timeframe~~ time frame for such filing. An applicant that intends to provide service to customers by solely reselling the retail services of an underlying facilities-based CLEC is exempt from this requirement. A CLEC shall not start providing service before it files with the commission, for the commission's approval, an interconnection and/or transport and termination agreement with the ILEC and/or a resale agreement with another CLEC as required pursuant to this rule.

(F) Additional requirements to be submitted by a telephone company seeking to offer basic local exchange service (BLES) or other services required to be tariffed under Chapter 4927. of the Revised Code and rule 4901:1-6-11 of the Administrative Code include:

(1) Proposed tariffs, including a full description of proposed services and operations as well as all relevant terms and conditions for BLES and other retail services set forth in rule 4901:1-6-11 of the Administrative Code if offered to customers. Tariffs may incorporate by reference the exchanges of an ILEC if the applicant is proposing to mirror the ILEC's local service areas in its entirety. If an applicant is a facilities-based CLEC, it must provide a carrier-to-carrier tariff, which at a minimum includes an access tariff. Other wholesale services set forth in rule 4901:1-6-11 of the Administrative Code, if offered to wholesale customers, must also be tariffed in its carrier-to-carrier tariff.

(2) A list of the ILECs in whose territory the applicant intends to serve. If the applicant is not mirroring an ILEC's entire local service area, the CLEC shall specifically define its local service area.

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(3) Nothing precludes the staff of the commission from requiring additional information consistent with this chapter.

(G) Scope of operating authority

(1) The commission shall grant statewide operating authority to a telephone company seeking to offer telecommunications services provided that the company meets the associated certification requirements.

(2) A CLEC shall update its certification if it seeks to expand its operation within its statewide authorization subsequent to certification. To do so, the CLEC must file in its TRF case a notarized affidavit signed by an authorized employee verifying that the CLEC has an interconnection and/or transport and termination traffic agreement with the ILEC serving the territory into which the CLEC intends to expand and identifying the specific case numbers in which the agreements were filed. The CLEC must also file any tariff update, if applicable.

(H) The commission may suspend or reject the certification application of a telephone company if it finds, within thirty days after filing and based on the information provided in the application, that the applicant lacks financial, technical, or managerial ability sufficient to provide adequate service to the public consistent with law.

(I) Suspension or revocation of certificate

Nothing contained within these rules precludes the commission, after reasonable notice and an opportunity to be heard, from suspending, rescinding or conditionally rescinding the certification of a telephone company upon a demonstration that the company has engaged in a pattern of conduct in violation of Ohio law. This includes the failure to comply with the rules of the commission, including the failure to file the requisite annual reports and the failure to pay all corresponding assessments.

4901:1-6-09 Eligible telecommunications carriers.

(A) Competitive eligible telecommunication carrier (CETC)

Pursuant to 47 U.S.C. 214(e), upon request and consistent with the public interest, convenience, and necessity, the commission may, upon application, designate a CETC where that applicant meets the requirements of 47 U.S.C. 214, 47 C.F.R. 54.201(d) and 47 C.F.R. 54.202. The commission may subject such designation of CETC authority to additional conditions consistent with the public interest, convenience, and necessity.

(B) In order to be designated a CETC pursuant to 47 U.S.C. 214(e), a facilities-based telephone company must:

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(1) File an application with the commission demonstrating its compliance with all federal and state CETC and lifeline requirements pursuant to 47 C.F.R. 54.201 to 209, rule 4901:6-19 of the Administrative Code, where applicable, and this rule.

(2) Telephone companies not previously designated as a CETC and requesting CETC authority, shall file the application for CETC designation with the commission using the most up-to-date telecommunications filing form and must include all completed exhibits as required by the filing form. Commission staff will maintain a current, updated copy of the filing form with the list of CETC required exhibits. The most recent version of the form will be posted on the commission's website. An application for CETC designation shall be filed under a TP-UNC case purpose code and shall not be subject to an automatic approval process. Rather, a CETC designation can be granted only by a commission order approving such request.

(C) Eligible telecommunications carrier (ETC) reporting requirements

In order to be eligible for federal universal service funding in any given year, all ETCs, i.e., incumbent local exchange carrier ETCs and CETCs, must comply with the following annual reporting requirements:

(1) No later than August thirty-first of each year, an ETC receiving high cost funding must file an affidavit with the commission stating that all federal high-cost support provided to the carrier for service areas in Ohio will be used only for the provision, maintenance, and upgrading of facilities and services for which the support was intended pursuant to 47 U.S.C. 254(e).

(2) No later than ~~August~~ January thirty-first of each year, or a date otherwise designated by the universal service administration company (USAC), an ETC receiving lifeline support must file a completed copy of the federal communications commission (FCC) annual lifeline certification and verification affidavit, that is submitted to USAC, with the commission.

(D) Revocation or relinquishment of ETC designation

(1) The commission may revoke, consistent with commission and FCC rules and regulations, an ETC designation if it finds that the company has failed to comply with any state or federal ETC requirements, including the failure to pay all corresponding assessments.

(2) An ETC may seek to relinquish its ETC designation for an area pursuant to 47 C.F.R. 54.205 through the filing of a nonautomatic application with the commission under the case purpose code TP-UNC. An ETC will not be relieved of its ETC designation until the commission issues an order granting the request.

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4901:1-6-10 Competitive emergency services telecommunications carrier certification.

(A) An applicant seeking authority as a competitive emergency services telecommunications carrier (CESTC) in the state of Ohio, must submit an application for certification (ACE) with the items set forth in paragraph (E) of rule 4901:1-6-08 of the Administrative Code and any additional items requested by commission staff. A competitive local exchange carrier, or an incumbent local exchange carrier operating outside of its traditional service area, seeking to offer CESTC service, subsequent to initial certification, shall file a thirty-day ACE seeking CESTC authority with a proposed CESTC tariff and any additional items requested by commission staff.

(B) Certificate timeline

(1) Interested entities who can show good cause why such application should not be granted must file with the commission a written statement detailing the reasons, as well as a motion to intervene, within fifteen calendar days after the application is docketed. The applicant shall respond to any motion to intervene within seven calendar days after the filing and service of the motion.

(2) Absent full or partial suspension, applications seeking certification as a CESTC will be approved in accordance with the thirty-day automatic approval process described in rule 4901:1-6-05 of the Administrative Code.

(C) A CESTC may not operate as a 9-1-1 system service provider until such time as the county has amended its 9-1-1 plan to identify that carrier as the 9-1-1 carrier of choice for a public safety answering point (PSAP)(s) serving end users in that county for the designated telecommunications traffic.

(D) A CESTC authorized to act as a 9-1-1 system service provider to a PSAP must carry all calls for that PSAP for those services designated to it by the PSAP. In addition to the ILEC, there may be no more than one CESTC designated by the PSAP as set forth in the approved county plan.

(E) Once the county plan has been amended, a CESTC shall update its tariff to reflect the PSAP(s) served by the CESTC and which type of telecommunications traffic will be provided to that PSAP. Contracts between a CESTC and all individual counties for the provision of emergency service to a PSAP(s) within that county shall be submitted to the ~~state of Ohio's 9-1-1 coordinator~~ statewide emergency services internet protocol network steering committee or its designee.

(F) A CESTC shall interconnect with each PSAP in a county and adjacent 9-1-1 systems across county lines to ensure transferability of all 9-1-1/E9-1-1 calls.

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(G) The commission shall grant a CESTC, statewide operating authority provided the company meets the associated certification requirements. As a CESTC seeks to expand its operation within its statewide authorization, it must update its tariff by filing, in its TRF case, an up-to-date list of the counties in which the CESTC is actually provisioning service.

"No Change"

4901:1-6-11 Tariff services.

(A) Services required to be tariffed

(1) The rates, terms, and conditions for 9-1-1 service provided in this state by a telephone company or a telecommunications carrier, and for each of the following provided by a telephone company, shall be approved and tariffed by the commission and shall be subject to all applicable laws, including rules or regulations adopted and orders issued by the commission or the federal communications commission, and including, as to 9-1-1 service, sections 4931.40 to 4931.70 and 4931.99 of the Revised Code:

(a) Basic local exchange service (BLES), including BLES installation and reconnection fees and lifeline service rates or discounts.

(b) Carrier access.

(c) N-1-1 service.

(d) Pole attachments and conduit occupancy under section 4905.71 of the Revised Code.

(e) Pay telephone access lines.

(f) Toll presubscription.

(g) Excess construction charges.

(h) Inmate operator services.

(i) Telecommunications relay service.

(2) All other telecommunications services offered by a telephone company shall not be included in tariffs filed with the commission, but shall still be subject to commission oversight and regulation as provided in Chapter 4927. of the Revised Code and Chapter 4901:1-6 of the Administrative Code.

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(B) Tariffing requirements

All tariffs for services required to be tariffed under paragraph (A) of this rule, shall include both the appropriate issued (the date the tariff was filed with the commission) and effective (the date the service(s) will be offered) dates. All tariffs shall include, at a minimum, the following elements:

(1) A title page and a table of contents.

(2) A description of all services offered along with all terms and conditions associated with the provision of each service.

(3) For BLES, a description of the actual BLES local service area in which a customer may complete a call without incurring a toll charge. Any change to a local service area must be reflected in the tariff on file with the commission.

(4) A complete list of rates, relative to the provision of each service.

(5) For BLES, a statement informing customers that all telephone companies offering BLES are subject to the commission's service requirements for BLES found in rule 4901:1-6-12 of the Administrative Code.

(6) For tariffs filed requiring prior commission approval, each final tariff sheet must exhibit the commission authority by designating the case number in which the tariff was approved, the automatic date of effectiveness or commission order date, the effective date of the tariff sheet, the name of the telephone company, and the name of an officer of the telephone company. This information should be included in a header, a footer, or a combination thereof.

(7) For tariffs filed pursuant to a zero-day notice filing, each final tariff sheet should include the effective date of the tariff sheet, the name of the telephone company, and the name of an officer of the telephone company. This information should be included in a header, a footer, or a combination thereof.

(C) Tariff filing (TRF) docket

(1) The commission shall maintain and designate for each telephone company offering tariffed telecommunications services a TRF docket for the filing of final tariffs and filings subject to a zero-day notice procedure.

(2) The docketing division will assign a TRF docket number when a telephone company seeks to obtain initial certification.

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(3) For applications in which new or revised tariff pages are involved, such tariff page(s) shall be filed in final form in the TRF docket and include the appropriate application purpose code, where applicable. For filings subject to a zero-day notice procedure, such notice shall include a filing form, description of filing request, final tariff pages, and, if applicable, a customer notice. For nonautomatic applications and those applications subject to an automatic approval process (other than the zero-day notice process), final tariff pages must be filed within ten calendar days after the approval date. The effective date on the tariffs shall be a date no sooner than the date the final tariffs are filed with the commission.

4901:1-6-12 Service requirements for BLES.

(A) A local exchange carrier (LEC) providing basic local exchange service (BLES) shall conduct its operations so as to ensure that the service is available, adequate, and reliable consistent with applicable industry standards.

(B) The fact that a LEC providing BLES fails to comply with any provision(s) within this chapter, or with other applicable federal or state telecommunications law, does not by itself constitute inadequate service as a matter of law. Rather, the question as to whether BLES is legally inadequate requires a formal determination by the commission, preceded by a hearing pursuant to section 4927.21 of the Revised Code unless the hearing is waived by the complainant and the respondent.

(C) A LEC shall provide BLES pursuant to the following standards:

(1) BLES shall be installed within five business days of the receipt by a telephone company of a completed application for new access line service, unless the customer requests or agrees to a later date.

(2) The requirement to install BLES in paragraph (C)(1) of this rule is not applicable where any of the following exist:

(a) A customer or applicant has not met pertinent tariff requirements.

(b) The need for special equipment or service.

(c) Military action, war, insurrection, riot, or strike.

(d) The customer misses an installation appointment.

(3) A LEC shall make reasonable efforts to repair a BLES outage within twenty-four hours, excluding Sundays and legal holidays, after the outage is reported to the telephone company.

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(4) A BLES service outage or service-affecting problem shall be repaired within seventy-two hours after it is reported to the telephone company.

(5) If a BLES outage is reported to the telephone company and lasts more than seventy-two hours, the LEC shall credit every affected BLES customer, of which the LEC is aware, in the amount of one month's charges for BLES.

(6) The customer credit in paragraph (C)(5) of this rule is not applicable if the condition or failure to repair occurs as a result of any of the following:

(a) A customer's negligent or willful act.

(b) Malfunction of customer-owned telephone equipment or inside wire.

(c) Military action, war, insurrection, riot, or strike.

(d) Customer missing a repair appointment.

(7) No LEC shall establish a due date for payment earlier than fourteen consecutive days after the date the bill is postmarked for a bill for BLES provided to customers. The postmark date may appear on the bill rather than on the envelope, as long as the postmark date is never earlier than the date the bill actually enters the mail.

(8) A LEC may disconnect BLES for nonpayment of any amount past due on a billed account not earlier than fourteen days after the due date of the customer's bill, provided that the customer is given notice of the disconnection seven days before the disconnection.

(9) Such notice of disconnection may be included on the customer's next bill, provided the bill is postmarked at least seven days prior to the date of disconnection of service reflected on the bill, and provided that the disconnection language is clearly highlighted such that it stands apart from the customer's regular bill language. The notice shall identify the total dollar amount that must be paid to maintain BLES, the earliest date disconnection may occur, and the following statement:

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"If you have a complaint in regard to this disconnection notice that cannot be resolved after you have called (name of the utility), or for general utility information, residential and business customers may contact the public utilities commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) from eight a.m. to five p.m. weekdays, or at http://www.puco.ohio.gov. Hearing or speech ~~inpaired~~ impaired customers may contact the PUCO via 7-1-1 (Ohio relay service)."

For residential disconnection notices, the text shall also include:

"The Ohio consumers' counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from eight a.m. to five p.m. weekdays, or at http://www.pickocc.org."

(10) A LEC may require a deposit, not to exceed two hundred thirty percent of a reasonable estimate of one month's service charges, for the installation of BLES for any person that it determines, in its discretion, is not creditworthy.

(11) A LEC shall, unless prevented from doing so by circumstances beyond the telephone company's control or unless the customer requests otherwise, reconnect a customer whose basic local exchange service was disconnected for nonpayment of past due charges not later than one business day after the day the earlier of the following occurs:

(a) The receipt by the LEC of the full amount of past due charges.

(b) The receipt by the LEC of the first payment under a mutually agreed upon payment arrangement.

"No Change"

4901:1-6-13 Warm line service.

Every telephone company providing telephone exchange service shall maintain access to 9-1-1 service on a residential customer's line for a minimum of fourteen consecutive days immediately following any disconnection for nonpayment of a customer's telephone exchange service.

4901:1-6-14 BLES pricing parameters.

(A) Rates for basic local exchange service (BLES) offered by a local exchange company (LEC) shall be subject to the tariff requirements and pricing constraints set forth in this rule.

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(B) BLES regulatory framework

(1) BLES shall only be offered by LECs pursuant to approved tariffs on file with the commission. A LEC offering BLES shall maintain a complete, up-to-date tariff on file at the offices of the commission at all times.

(2) The tariff for BLES shall contain all rates, terms, and conditions for BLES and installation and reconnection fees for BLES.

(3) The BLES pricing flexibility for incumbent local exchange carriers (ILECs) set forth in this rule shall be applied to the monthly recurring rates for the network access line component or equivalent of a single residential BLES line or a primary small business BLES line.

(4) BLES is considered BLES for purposes of these rules regardless of what other a la carte services and features to which a customer may subscribe.

(5) A bundle or package of telecommunications services which includes telephone exchange service is not subject to the pricing constraints contained in paragraph (C) of this rule and section 4927.12 of the Revised Code and may be priced at market-based rates.

(6) An ~~incumbent local exchange carrier (~~ILEC~~)~~ offering BLES outside of its traditional service area or a competitive local exchange carrier (CLEC) affiliate of an ILEC offering BLES within or outside of that ILEC's traditional service area shall follow all BLES rules in this chapter that are applicable to CLECs offering BLES.

(C) For-profit ILEC BLES pricing flexibility

(1) Upon not less than thirty day's notice, pursuant to paragraph (F)(5) of this rule, a for-profit ILEC may increase its rates for BLES:

(a) If the ILEC, within twelve months prior to September 13, 2010, increased the ILECs' rates for BLES for the exchange area, both of the following apply:

(i) The ILEC may not alter its rates for BLES for the exchange area upward by any amount during the period that ends twelve months after the date of the last increase of the rates for BLES.

(ii) In no event may the ILEC during the twelve-month period that begins immediately after the end date of the period described in paragraph (C)(1)(a)(i) of this rule, and during any subsequent twelve-month period, alter the ILEC's monthly rates for BLES upward for an exchange area by more than one dollar and twenty-five cents.

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(iii) An ILEC may make multiple rate increases, in the exchange to which the application applies, within the twelve-month period that begins on the thirty-first day after the company files the application, and during any subsequent twelve-month period in compliance with paragraph (F)(5) of this rule, as long as the multiple increases do not exceed the one dollar and twenty-five cents annual price increase cap. An ILEC does not have to increase the carrier's monthly rates for BLES for residential and business customers concurrently.

(b) If the ILEC did not, within twelve months prior to September 13, 2010, increase the ILEC's rates for BLES for an exchange area, and if the commission has made a prior determination that the exchange area qualified for alternative regulation of BLES under Chapter 4901:1-4 of the Administrative Code, as that chapter existed on September 13, 2010, in no event may the ILEC, during the twelve-month period that begins on September 13, 2010, and during any subsequent twelve-month period, alter the ILEC's monthly rates for BLES upward for the exchange area by more than one dollar and twenty-five cents.

(c) If the commission has not made a prior determination that the exchange area qualified for alternative regulation of BLES under Chapter 4901:1-4, of the Administrative Code, as that chapter existed on September 13, 2010, an ILEC may not alter its rates for BLES upward for that exchange area unless the ILEC first applies to the commission and the commission determines that the application demonstrates that two or more alternative providers offer, in the exchange area, competing service to the BLES offered by the ILEC in the exchange area, regardless of the technology and facilities used by the alternative provider, the alternative provider's location, and the extent of the alternative provider's service area within the exchange area.

(i) Upon the filing of an application under paragraph (C)(1)(c) of this rule pursuant to a BLS case purpose code, the commission shall be deemed to have found that the application meets the requirements of that paragraph unless the commission, within thirty days after the filing of an application, issues an order finding that the requirements have not been met.

(ii) In no event may an ILEC that applies to the commission under paragraph (C)(1)(c) of this rule, during the twelve-month period that begins on the thirty-first day after the company files the application, and during any subsequent twelve-month period, alter the carrier's

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monthly rates for BLES upward for the exchange area to which the application applies by more than one dollar and twenty-five cents.

(2) Banking

Any rate increase allowed by this rule that is not used during a twelve-month period by a for-profit ILEC may not be used in any subsequent year.

(D) Not-for profit ILEC pricing flexibility.

At any time, and upon no less than thirty days' notice pursuant to paragraph (F)(5) of this rule, a not-for-profit mutual ILEC may increase its rates for BLES by any amount.

(E) In no event may an ILEC, before January 1, 2012, alter its rates for BLES upward for a customer receiving lifeline service.

(F) ILEC BLES application, process, and notice

(1) If the commission has not made a prior determination that the exchange area qualified for alternative regulation of BLES under Chapter 4901:1-4 of the Administrative Code, as that chapter existed on September 13, 2010, a for-profit ILEC must file an application seeking approval to obtain BLES pricing flexibility as set forth in paragraph (C)(1)(c)(i) of this rule, using the most up-to-date telecommunications filing form, under the case purpose code TP-BLS.

(2) A for-profit ILEC shall establish or maintain a tariffed rate cap for BLES consistent with paragraphs (C)(1)(a)(ii), (C)(1)(b), and (C)(1)(c)(ii) of this rule. Such ILECs shall file an updated tariff, for each exchange area with BLES pricing flexibility, at the end of each exchange's twelve-month period, to reflect the new anniversary date and, as necessary, the new tariffed rate cap for BLES. Such tariff shall be filed as a zero-day tariff amendment (ZTA).

(3) A for-profit ILEC's BLES price change(s) below its annual tariffed cap for BLES is subject to a zero-day notice filing under the company's tariff filing (TRF) docket.

(4) A not-for-profit ILEC's BLES rates may be established and changed in its tariff pursuant to a zero-day notice filing under the company's tariff filing (TRF) docket.

(5) Increases in an ILEC's BLES rates pursuant to paragraphs (C) and (D) of this rule require customer notice, consistent with the requirements of rule 4901:1-6-07 of the Administrative Code, to all affected customers, including the Ohio consumers' counsel (OCC) if residential BLES is involved, not less than thirty days prior to the rate increase. A copy of the applicable customer notice must be provided to commission staff no later than the date it is provided to customers by emailing the

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text of the customer notice to a commission-provided electronic mailbox at: Telecomm-Rule07@~~puc.state.oh.us.~~puco.ohio.gov.

(G) CLEC BLES pricing flexibility, process, and notice:

(1) CLECs may establish the tariffed rate(s) for any BLES offerings based on the marketplace.

(2) A CLEC's BLES rate change(s) is subject to a zero-day notice filing under the company's tariff filing (TRF) docket.

(3) A CLEC may increase its BLES rates on no less than thirty days' written notice to affected customers, including OCC if residential BLES is involved. Such increases require customer notice consistent with the requirements of rule 4901:1-6-07 of the Administrative Code. A copy of the applicable customer notice must be provided to commission staff no later than the date it is provided to customers by emailing the text of the customer notice to a commission-provided electronic mailbox at: Telecomm-Rule07@~~puc.state.oh.us~~puco.ohio.gov.

(H) New services, change in terms and conditions and expansion of local service area

(a) In order to introduce BLES or for an expansion of a local service area, a LEC must docket a zero-day notice filing (ZTA) with the commission to amend its tariff, in accordance with the process set forth in rule 4901:1-6-04 of the Administrative Code. The ZTA will take effect in accordance with paragraph (B) of rule 4901:1-6-05 of the Administrative Code.

(b) Material changes in terms and conditions of an existing BLES by a LEC, including the introduction of a nonrecurring service charge, surcharge or fee to BLES by a CLEC, shall be filed through a thirty-day application for tariff amendment (ATA) filing. A standard of reasonableness will be applied to these charges including, but not limited to, a comparison with similar charges previously approved by the commission and similar charges assessed by other providers. Such application requires a customer notice to be filed in accordance with rule 4901:1-6-07 of the Administrative Code.

(I) BLES late payment charges

Late payment charges for BLES may be introduced or increased through a thirty-day ATA filing. A standard of reasonableness will be applied to late payment charges including, but not limited to, a comparison with similar charges previously approved by the commission and similar charges assessed by non-regulated providers. Such

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application requires a customer notice to be filed in accordance with rule 4901:1-6-07 of the Administrative Code.

(J) BLES installation and reconnection fees

Any ILEC nonrecurring service charges for installation and reconnection of a single residential or primary business BLES line shall be included in the BLES tariff and ~~will continue to be capped at the tariffed rates for such charges in existence as of September 13, 2010~~ may be increased through a thirty-day application for tariff amendment (ATA) filing. A standard of reasonableness will be applied to nonrecurring service charges for installation and reconnection. Applications for increases to nonrecurring reconnection charges requires a customer notice to be filed in accordance with rule 4901:1-6-07 of the Administrative Code.

"No Change"

4901:1-6-15 Directory information.

(A) A local exchange carrier (LEC) providing basic local exchange service (BLES) shall make available to its customers at no additional charge a telephone directory in any reasonable format, including but not limited to a printed directory, an electronic directory accessible on the internet or available on a computer disc, or free directory assistance. The telephone directory shall include all published telephone numbers in current use within the ILEC local calling area, including numbers for an emergency such as 9-1-1, the local police, the state highway patrol, the county sheriff and fire departments, the Ohio relay service, operator service, and directory assistance.

(B) Upon customer request, a LEC providing BLES shall make available to BLES customers the option to have a printed directory at no additional charge.

(C) A LEC providing BLES shall also provide its BLES customers with a free listing in that directory, with reasonable accommodations made for private listings.

"No Change"

4901:1-6-16 Unfair or deceptive acts and practices.

(A) Telephone companies shall not commit any unfair or deceptive act or practice in connection with the offering or provision of any telecommunications service in this state.

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(B) A failure to comply with any of the following requirements in connection with the offering or provision of any telecommunications service shall constitute an unfair or deceptive act or practice by a telephone company:

(1) Any communication by a telephone company, including but not limited, to solicitations, offers, contract terms and conditions, or customer agreements, as well as any other communications whether written or oral, shall be truthful, clear, conspicuous, and accurate in:

(a) Disclosing applicable information, including but not limited to: material terms and conditions, material limitations, contract length, prices, fees, features, rates, termination fees or penalties, discretionary charges, government mandated charges, and estimated taxes for services offered.

(b) Identifying, in written or printed advertising or promotional literature, any material exclusions, reservations, limitations, modifications, or conditions, which must be located in close proximity to the operative words in the solicitation, offer, or marketing materials.

(2) Telephone companies shall disclose the company's name and contact information on any written service solicitation, marketing material, offer, contracts, or agreement, as well as on any written response to a service-related inquiry or complaint the company receives from a customer or others.

(3) Local exchange carriers (LECs) shall inform customers calling the company to report a service outage or service problem of their rights and responsibilities concerning the repair and maintenance of customer-owned equipment, inside wire, and the use of a network interface device (NID) to test for service problems. During such call, the LEC must notify the customer of any charges that the company imposes for a diagnostic visit.

(4) In the event a NID is not in place, the LEC shall inform a customer calling to report a service outage or service problem that the LEC is required to visit the customer premise at no charge to diagnose whether service difficulties exist with network wire or inside wire.

(5) As applicable, and in any reasonable manner, a LEC shall provide customers a description of the NID. That description shall include: all customer options for repairing inside wire; the function and probable location of a NID; and an explanation as to how to use a NID to test for service problems. The explanation shall also detail the customer's rights and responsibilities concerning NID installation if a NID is not present on the premise and the customer's responsibility to utilize a NID to diagnose service problems or risk a service fee.

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(C) Nothing in this rule precludes the commission from finding additional acts or practices, in addition to those identified in paragraph (B) of this rule, to constitute an unfair or deceptive act or practice in connection with the offering or provision of telecommunications service in this state either through rulemaking under section 4927.03 of the Revised Code or through an adjudication under section 4927.21 of the Revised Code. The commission shall provide notice to all telephone companies of such adjudications. No telephone company is liable for damages or forfeitures for engaging in any act, practice, or omission for which it does not have prior notice either under paragraph (B) of this rule, or through another rulemaking under section 4927.03 of the Revised Code, or an adjudication under section 4927.21 of the Revised Code, that engaging in such act or practice is an unfair or deceptive act. This does not preclude the commission, however, from ordering an appropriate customer credit or remedy for a complainant in the context of an adjudication of an individual complaint, if the commission determines that the company has committed an unfair or deceptive act or practice against that complainant. In the absence of prior notice that an act or practice is unfair or deceptive under paragraph (B) of this rule, or through rulemaking under section 4927.03 of the Revised Code, or an adjudication under section 4927.21 of the Revised Code, the commission shall allow the company adequate time to implement any procedures or practices the commission determines appropriate to remedy the violation.

(D) Telephone companies shall upon request of any applicant or customer, either inform the applicant or customer of, or make available at no charge, a copy of its credit and deposit policies.

(E) Telephone companies in possession of customer proprietary network information shall protect customer information in accordance with 47 U.S.C. 222 and in accordance with the rules and procedures prescribed by the federal communications commission at 47 C.F.R. 64.2001 to 64.2011.

(F) Telephone companies that furnish credit information acquired from their own experiences with customers to consumer reporting agencies must comply with the federal Fair Credit Reporting Act.

(G) Telephone companies that provide alternative operator services (AOS) shall provide the same consumer information and protections to intrastate callers or billed parties as required for interstate AOS in accordance with 47 C.F.R. 64.703. A failure of a telephone company to do so shall constitute an unfair or deceptive act or practice.

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4901:1-6-17 Truth in billing requirements.

(A) Every telephone company shall comply with the federal communications commission's truth in billing requirements in 47 C.F.R. ~~64.201~~64.2401 and shall, in conformance with those requirements, accurately identify on every bill all services rendered, the providers of those services, and all billed charges, fees, and taxes so that they are clear and not misleading.

(B) Every customer's bill shall include a statement that customers with bill questions or complaints should contact the telephone company first, as well as the following text:

"If your complaint is not resolved after you have called (name of the utility), or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.puco.ohio.gov. Hearing or speech ~~impaired~~ impaired customers may contact the PUCO via 7-1-1 (Ohio Relay Service)."

For residential bills the text shall also include:

"The Ohio Consumers' Counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.pickocc.org."

"No Change"

4901:1-6-18 Slamming and preferred carrier freezes.

(A) Providers of telecommunications service, in the course of submitting or executing a change on behalf of a subscriber in the selection of a telephone company, shall obtain authorization from the subscriber and verification of that authorization in accordance with the rules and procedures prescribed by the federal communications commission (FCC) at 47 C.F.R. 64.1100 to 64.1170. For purposes of this rule, the term "subscriber" has the same meaning as it does within the context of the rules and procedures prescribed by the FCC.

(B) The submitting provider of telecommunications service shall maintain and preserve records of verification of a subscriber's authorized switch of provider of telecommunications service in accordance with the rules and procedures prescribed by the FCC.

(C) Any provider of telecommunications service that is informed by a subscriber or the commission of an unauthorized provider change shall follow the commission's informal complaint procedures and the remedies prescribed by the FCC for the

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resolution of informal complaints of unauthorized changes of providers of telecommunications service.

(D) The commission, upon complaint by any person or its own initiative, has jurisdiction under sections 4905.73 and 4905.26 of the Revised Code concerning any violation of this rule and may order remedies as delineated under the rules and procedures prescribed by the FCC and in effect at the time of the violation, as well as enforce the duties and remedies provided for under sections 4905.72 and 4905.73 of the Revised Code.

(E) A provider of telecommunications service shall offer a preferred carrier freeze (PCF), only in accordance with the rules and procedures prescribed by the FCC.

(F) All telecommunications providers that offer PCFs shall be required to refrain from attempting to retain a customer's account during the process of changing a customer's preferred carrier selection, or otherwise to provide such information to its marketing staff or any affiliate.

4901:1-6-19 Lifeline requirements.

(A) An incumbent local exchange carrier (ILEC) that is an eligible telecommunications carrier (ETC) under 47 C.F.R. 54.201 shall implement lifeline service throughout the ILEC ETC's traditional service area for its eligible residential customers.

(B) Lifeline service shall be a flat-rate, monthly, primary access line service with touch-tone service and shall provide all of the following:

(1) A recurring discount to the monthly basic local exchange service rate that provides for the maximum contribution of federally available assistance;

(2) Not more than once per customer at a single address in a twelve-month period, a waiver of all nonrecurring service order charges for establishing service;

(3) Free blocking of toll service, 900 service, and 976 service;

(4) A waiver of the federal universal service fund end user charge;

(5) A waiver of the telephone company's service deposit requirement.

(C) The ILEC ETC may offer to lifeline service customers any other services and bundles or packages of service at the prevailing prices, less the lifeline discount.

(D) The ILEC ETC also shall offer special payment arrangements to lifeline service customers that have past due bills for regulated local service charges, with the initial

payment not to exceed twenty-five dollars before service is installed, and the balance for regulated local service charges to be paid over six, equal monthly payments. Lifeline service customers with past due bills for toll service charges shall have toll restricted service until the past due toll service charges have been paid or until the customer establishes service with another toll provider.

(E) Every large ILEC required to implement lifeline service shall establish an annual marketing budget for promoting lifeline service and performing outreach regarding lifeline service. Every large ILEC shall work with the advisory board established in paragraph (F) to reach consensus, where possible, regarding an appropriate budget for promoting lifeline and performing outreach and regarding how the budget will be spent. All funds allocated to this budget shall be spent for the promotion and marketing of lifeline service and outreach regarding lifeline service and only for those purposes and not for any administrative costs of implementing lifeline service.

(F) All activities relating to the promotion of, marketing of, and outreach regarding lifeline service provided by the large ILECs shall be coordinated through a single advisory board composed of staff of the public utilities commission, the office of the consumers' counsel (OCC), consumer groups representing low income constituents, two representatives from the Ohio association of community action agencies, and every large ILEC. Commission staff shall, with the assistance of the office of the consumers' counsel, work with the advisory board to reach consensus on the organization of the board and all activities relating to the promotion of, marketing of, and outreach regarding lifeline service. However, where consensus is not possible, the commission's staff shall make the final determination. Decisions on the organization of the board and decisions of the advisory board including decisions on how the lifeline marketing, promotion, and outreach activities are implemented are subject to commission review.

(G) All other aspects of an ILEC ETC's state-specific lifeline service shall be consistent with federal requirements. The rates, terms, and conditions for the ILEC's lifeline service shall be tariffed in accordance with rule 4901:1-6-11 of the Administrative Code.

(H) Eligibility for lifeline service under this rule shall be based on either of the following criteria:

(1) An individual's verifiable participation in any federal or state low-income assistance program that limits assistance based on household income. These programs include:

(a) Medical assistance under Chapter 5111. of the Revised Code (medicaid) or any state program that might supplant Medicaid;

(b) Supplemental nutritional assistance program (SNAP/food stamps);

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(c) Supplemental security income (SSI) under Title XVI of the Social Security Act;

~~(d) Social security disability insurance - blind and disabled (SSDI);~~

~~(e)~~(d) Federal public housing assistance, or section 8; or

~~(f) Home energy assistance programs (HEAP, LIHEAP, E-HEAP);~~

~~(g) National school lunch program's free lunch program (NSL);~~

~~(h)~~(e) ~~Temporary assistance for needy families (TANF/Ohio works)~~Veteran's and Survivor's Pension Benefits.

~~(f) General assistance, including disability assistance (DA).~~

The commission may add or remove programs from this list as required by federal or state law.

(2) Other verification that an individual's household income is at or below one hundred ~~fifty~~thirty-five per cent of the federal poverty level. ILEC ETC's may use any reasonable method of verification. Consistent with federal law, examples of acceptable documentation include the following:

(a) State or federal income tax return;

(b) Current income statement or W-2 from an employer;

(c) Three consecutive months of current pay stubs;

(d) Social security statement of benefits;

(e) Retirement/pension statement of benefits;

(f) Unemployment/workmen's compensation statement of benefits;

(g) Any other legal document that would show current income (such as a divorce decree or child support document).~~;~~ or

(h) Veteran's Administration statement of benefits.

(I) All ILEC ETCs must verify customer eligibility consistent with the federal communications commission's (FCC) requirements in 47 C.F.R. 54, to enroll customers into lifeline assistance who qualify through household income-based requirements.

~~(J) The commission shall work with the appropriate state agencies that administer federal~~

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~~or state low-income assistance programs and with carriers to negotiate and acquire information necessary to verify an individual's eligibility and the data necessary to automatically enroll eligible persons for lifeline service.~~

~~(K)~~(J) To the extent that ~~appropriate state agencies are able to accommodate automatic enrollment, every~~ an ILEC ETC is the only service provider in a particular exchange, the ILEC ETC where possible, ~~shall automatically enroll customers into lifeline assistance who participate in a qualifying program~~may provide automatic enrollment at its election. ILEC ETCs electing to enroll subscribers via automatic enrollment shall take all necessary steps to ensure that there is no duplication of lifeline service for a specific subscriber.

~~(L)~~(K) An ILEC ETC shall provide written notification if the carrier determines that an individual is not eligible for lifeline service enrollment and shall provide the person an additional thirty days to prove eligibility.

~~(M)~~(L) An ILEC ETC shall provide written customer notification if a customer's lifeline service benefits are to be terminated due to failure to submit acceptable documentation for continued eligibility for that assistance and shall provide the customer an additional ~~sixty~~thirty days to submit acceptable documentation of continued eligibility or dispute the carrier's findings regarding termination of the lifeline service.

~~(N)Commission staff will maintain on the commission's website a copy of boilerplate customer notices that are compliant with the FCC's requirements. Any ILEC ETC choosing to create and use its own customer notice shall submit its proposed notice to commission staff for approval.~~

(M) Following any continuous thirty-day period of nonusage of a lifeline service that does not require the ETC to assess or collect a monthly fee from its subscriber, an ETC shall notify the customer through any reasonable means that he/she is no longer eligible to receive lifeline benefits, and shall afford the customer a fifteen-day grace period during which the customer may demonstrate usage.

~~(O)~~(N) An ILEC ETC shall establish procedures to verify an individual's continuing eligibility for both program and income-based criteria consistent with the FCC's requirements in 47 C.F.R. 54.409 to 54.410. ILEC ETCs shall maintain records to document compliance with these requirements and shall attest, as part of the periodic ETC certification process by the commission, that they comply with the FCC's requirements.

~~(P)~~(O) An ILEC ETC may recover through a customer billing surcharge on retail customers of the ILEC's telecommunications service other than lifeline service customers, any lifeline service discounts and any other lifeline service expenses that are not recovered through federal or state funding and that are approved by the commission under this

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paragraph. The surcharge may not include recovery of expenses related to the marketing and promotion of lifeline service. The surcharge may be established through one of the following means:

(1) An ILEC ETC that chooses to establish a customer billing surcharge to non-lifeline customers, to recover lifeline service discounts and expenses identified in this paragraph shall file a thirty-day application for tariff amendment (ATA). Such application may request recovery of lifeline service discounts that are not recovered through federal or state funding such as federal universal service fund end user charges, service connection charges, blocking of 900/976, recurring discount maximizing the contribution of federally available assistance, and recurring retail price differences between the frozen lifeline service rate and residential BLES rates, as well as lifeline service expenses that are not recovered through federal or state funding such as administrative expenses for the sole purpose of verifying the eligibility and enrolling of lifeline customers. An applicant must provide documentation to support its proposed surcharge and its compliance with this rule. Absent suspension or other commission action, the application shall be deemed approved and become effective on the thirty-first day or later date if requested by the company.

(2) An ILEC ETC requesting recovery of any expenses not specified in paragraph (~~P~~O)(1) of this rule shall file an application with the commission, using the most up-to-date telecommunications filing form, under the TP-UNC case purpose code. An applicant must provide documentation to support its proposed customer billing surcharge and its compliance with this rule and must further support its request for recovery of any expenses not specified in paragraph (~~P~~O)(1) of this rule with a detailed supporting memorandum. Absent suspension or commission action, the application shall be deemed approved and become effective on the one hundred twenty-first day or later date if requested by the company.

(~~Q~~)(P) If an ILEC ETC chooses to establish a customer billing surcharge to recover its lifeline expenses under paragraph (~~P~~O)(1) or (~~P~~O)(2) of this rule, the lifeline surcharge shall not appear in the section of the bill reserved for taxes and government-mandated charges as set forth in 47 C.F.R. 64.2400 to 64.2401.

(~~R~~)(Q) An ILEC ETC that is authorized to establish a customer billing surcharge under either paragraph (~~P~~O)(1) or (~~P~~O)(2) of this rule shall annually file with the commission a report that identifies actual amounts recovered and the actual lifeline service discounts and any other lifeline service expenses incurred for the prior period. The company shall provide such data as necessary to enable the commission to validate such amounts to ensure that the company did not over recover its approved expenses from customers. The commission shall establish for each such company the ~~timeframe~~time

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frame for filing this report when the commission approves any such billing surcharge. The annual filing may be contained in a request to adjust the billing surcharge in accordance with paragraph (~~P~~O)(1) or (~~P~~O)(2) of this rule, but shall be provided via a separate filing and docketed in a generic case number to be established by the commission, if no adjustment to the billing surcharge is sought. Any over-recovery or under-recovery shall be offset against or added to the next year's recovery.

(~~S~~)(R) Every ILEC ETC shall file with the commission in its annual ~~assessment~~ report for fiscal assessment the number of its customers who receive, at the time of filing of the report, lifeline service.

(~~T~~)(S) Upon request of commission staff, additional information regarding customer subscription to and disconnection of lifeline service shall be provided to commission staff in accordance with rule 4901:1-6-30 of the Administrative Code.

(~~U~~)(T) Competitive eligible telecommunication carriers (CETCs) lifeline requirements.

(1) The lifeline requirements found in paragraphs (B), (C), (D), (G), (H), (I), (J), (K), (L), (M), and (N)~~, and (O),~~ of this rule apply to the lifeline service offered by any CETC, as applicable to that CETC's service offerings.

(2) The flat-rate requirement of paragraph (B) of rule 4901:1-6-19 of the Administrative Code does not apply to a CETC's free wireless lifeline service offerings.

(~~2~~)(3) A CETC shall provide to commission staff, upon request, information regarding the number of its lifeline customers and any additional information regarding customer subscription to and disconnection of lifeline service in the manner and ~~timeframe~~ time frame determined by commission staff.

(4) A CETC that offers lifeline service that includes a defined local calling area shall establish a toll-free or local customer service number in order that customers can raise customer service concerns free of charge.

(5) A CETC that does not have a defined local calling area shall not deduct minutes for customer service-related calls.

(6) A CETC shall, at a minimum, accept customer service and repair calls at its customer service number during all normal business hours.

(~~T~~U) The payment of financial incentives by ILEC ETCs and CETCs to community organizations for client referrals is permitted provided the payments are non-tiered and the arrangements are nonexclusive.

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4901:1-6-20 Discounts for persons with communications disabilities.

(A) In accordance with section 4927.14 of the Revised Code, telephone companies that provide toll service shall, upon written application and certification of their disabled status by a residential disabled customer or a disabled member of a customer's household, offer one of the following applicable discounts to persons with communication disabilities:

(1) No less than a straight seventy per cent discount off the basic message toll service (MTS) current price list day rates on a twenty-four hour a day basis.

(2) A forty per cent discount off the intrastate, interexchange, customer-dialed, station-to-station calls occurring between eight a.m. and four fifty-nine p.m. Monday to Friday; a sixty per cent discount off of the intrastate, interexchange, customer-dialed, station-to-station calls occurring between five p.m. and ten fifty-nine p.m. Sunday to Friday, and New Year's day, Independence day, Labor day, Thanksgiving, and Christmas; and a seventy per cent discount off the intrastate, interexchange, customer-dialed, station-to-station calls occurring between eleven p.m. and seven fifty-nine a.m. any day; and eight a.m. and four fifty-nine p.m. Sunday, and all day Saturday.

(3) For MTS which is offered similar to the mileage-banded rate structure established in the commission's April 9, 1985 opinion and order in case No. 84-944-TP-COI, with the traditional day, evening, and night/weekend discounts: the "evening" discount off the intrastate, interexchange, customer-dialed, station-to-station calls placed during the "day" period Monday to Friday; and the "night/weekend" discount off the intrastate, interexchange, customer-dialed, station-to-station calls placed during the "evening" period Sunday to Friday, New Year's day, Independence day, Labor day, Thanksgiving, and Christmas. Furthermore, the "night/weekend" discount plus an additional discount equivalent to no less than ten per cent of the company's current price list day rates for basic MTS shall be made available for intrastate, interexchange, customer-dialed, station-to-station calls placed during the "night/weekend" period any day, the "day" period Sunday, and all day Saturday.

(B) Certification of disabled status can be evidenced by either a certificate from a physician, health care official, state agency, or diploma from an accredited educational institution for the disabled.

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(C) The aforementioned discounts are also applicable to all MTS and directory assistance calls placed through the telecommunications relay service. The discounts shall not apply to sponsor charges associated with calls placed to pay-per-call services, such as 900, 976, or 900-like calls. Additionally, certified disabled individuals who utilize telebraille devices are eligible to receive free access to local and intrastate long distance directory assistance. Lines maintained by nonprofit organizations and governmental agencies are also eligible to receive a discount off of their MTS rates upon written application and verification that such lines are maintained for the benefit of the disabled.

4901:1-6-21 ~~**Termination of community voicemail pilot program**~~ **Carrier's withdrawal or abandonment of basic local exchange service (BLES) or voice service.**

~~The commission shall require the chosen vendor(s), as part of the competitive bidding process for the community voicemail service pilot program, to address in their competitive bids the manner in which recipients of services under the community voicemail service pilot program will be notified or educated of the program's termination. The commission will, upon selecting a vendor, establish the manner in which recipients of services under the community voicemail service pilot program will be notified or educated of the program's termination.~~

(A) The collaborative process, established under section 749.10 of amended substitute House Bill 64 of the 131st General Assembly, shall evaluate what alternative reasonable and comparatively priced voice services are available to residential BLES customers and the prospect of the availability of a reasonable and comparatively priced voice service where none exist for the purpose of identifying any exchanges or residential BLES customers with the potential to not have access to a reasonable and comparatively priced voice service.

~~(A)~~(B) An incumbent local exchange carrier (ILEC) shall not discontinue offering BLES within an exchange without filing a notice for the withdrawal of BLES (WBL) to withdraw such service from its tariff. Receipt of this notice by the commission, will trigger the one hundred and twenty-day statutory time frame allotted for the commission investigation set forth in division (B) of section 4927.10 of the Revised Code. As part of this notice and investigation process an ILEC must provide the following:

(1) A copy of the federal communication commission order that allows the ILEC to withdraw the interstate-access component of its BLES under 47 U.S.C. 214.

(2) A copy of the notice of the withdrawal or abandonment of BLES sent to all affected customers. The notice must state that those affected customers unable to obtain

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reasonable and comparatively priced voice service the right to file a petition, with the commission. The notice shall provide the affected customers with the commission's and the office of the Ohio consumers' counsel's (OCC) toll-free telephone number and website address for additional information regarding the notice of the withdrawal or abandonment of BLES and filing of a petition. For purposes of rule 4901:1-6-21 of the Administrative Code, "affected customers" means a residential customer receiving BLES that will be discontinued by the withdrawing or abandoning ILEC.

(3) A copy of the notice published concurrent to the WBL filing. The notice shall be published one-time in the non-legal section of a newspaper of general circulation throughout the area subject to the application. The notice shall provide the affected customers with the commission's and OCC's toll-free telephone number and website address for additional information regarding the application and filing of a petition.

(4) An attachment to the notice must either: (1) reference any finding of providers of reasonable and comparatively priced voice service, identified by the collaborative process established under section 749.10 of amended substitute House Bill 64 of the 131st General Assembly, offering that voice service in the exchanges the ILEC is withdrawing or abandoning BLES with this notice; or (2) identify a provider of a reasonable and comparatively priced voice service offering that service, as of the date of the notice filing, to affected customers, regardless of the technology or facilities used by the provider. All affected customers do not have to receive service from the same provider of reasonable and comparatively priced voice service.

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

(C) If a residential customer to whom notice has been given, pursuant to paragraph (B)(2) of this rule, is unable to obtain reasonable and comparatively priced voice service upon the withdrawal or abandonment of BLES offered by an ILEC, the customer may file a petition, in the assigned WBL case number, with the commission within thirty-days of receiving the notice. For purposes of this rule, a petition is a written statement in any format from an affected customer claiming that the customer will be unable to obtain reasonable and comparatively priced voice service upon the withdrawal or abandonment of BLES offered by an ILEC. Alternatively, if a residential customer is identified by the collaborative process established under section 749.10 of amended substitute House Bill 64 of the 131st General Assembly as a customer who will be

unable to obtain reasonable and comparatively priced voice service upon the withdrawal or abandonment of BLES offered by an ILEC, that customer shall be treated as though the customer filed a timely petition.

(D) If no affected residential customers file a petition and no residential customers are identified by the collaborative process set forth in section 749.10 of amended substitute House Bill 64 of the 131st General Assembly, the ILEC's notice to withdraw or abandon will be deemed to have satisfied the requirements to withdraw or abandon BLES pursuant to section 4927.10 of the Revised Code.

(E) If the commission's investigation determines that no reasonable and comparatively priced voice service is available to the customers, identified in paragraph (C) of this rule, at the customer's residence and the commission cannot identify a willing provider of a reasonable and comparatively priced voice service to serve the customer, the ILEC requesting the withdrawal or abandonment must provide a reasonable and comparatively priced voice service, via any technology or service arrangement, to the customer at the customer's residence for not less than twelve months from the date of the order issued by this commission. This order will also address all petitions filed or all customers identified through the collaborative process.

(1) If after the initial twelve-month period, the commission has not identified a willing provider of a reasonable and comparatively priced voice service to serve the customers, identified in paragraph (C) of this rule, the ILEC requesting the withdrawal or abandonment must continue to provide a reasonable and comparatively priced voice service, via any technology or service arrangement, to the customer at the customer's residence for an additional twelve-month period.

(2) If after the second twelve-month period, the commission has not identified a willing provider of a reasonable and comparatively priced voice service to serve the customers, identified in paragraph (C) of this rule, the ILEC requesting the withdrawal or abandonment must continue to provide a reasonable and comparatively priced voice service, via any technology or service arrangement, to the customer at the customer's residence until otherwise authorized by the commission.

(F) If the sole provider of voice service seeks to withdraw or abandon such voice service, it shall notify the Commission at least thirty days prior to the withdrawal or abandonment through the filing of a withdrawal of voice service (WVS) consistent with the authority granted to the commission in division (A) of section 4927.03 of the Revised Code.

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(G) If the Commission determines that: (1) a residential customer of voice service will not have access to 9-1-1 service if the customer's current provider withdraws or abandons its voice service; or (2) the current provider of voice service is the sole provider of emergency services to residential customers, pursuant to the authority granted to the commission in division (A) of section 4927.03 of the Revised Code, that provider may be subject to all the provisions of this rule, on a case-by-case basis.

4901:1-6-22 Inmate operator service.

(A) All inmate operator service (IOS) providers must, on intrastate IOS calls upon request, immediately disclose to the billed party, the methods by which its rates or charges for the call will be collected and the methods by which complaints concerning such rates, charges or collections practices will be resolved.

~~(A)~~(B) The maximum rate of any usage sensitive charge that may be applied by an ~~inmate operator service (IOS)~~ provider to any intrastate IOS call shall not exceed ~~thirty-six~~twenty-five cents per minute ~~of use~~for collect calls and twenty-one cents per minute for debit or prepaid calls. ~~The maximum amount of any operator assistance charge or call set up fee that may be applied by an IOS provider to any intrastate IOS call shall not exceed two dollars and seventy-five cents.~~

~~(B)~~(C) Notice of any change in IOS rates, whether upward or downward, must be filed by the IOS provider with the commission in the form of a new pricing list in the IOS provider's TRF docket.

~~(C)~~(D) All IOS providers must furnish, on all intrastate IOS calls, at the beginning of the call before the billed party incurs any charges, immediate and full rate disclosures that quote the actual intrastate price lists rates for all components of the call. However, IOS providers may allow a billed party an opportunity to affirmatively decline receiving the required rate quote.

~~(D)~~(E) ~~IOS providers may not charge a billed party surcharges in addition to the IOS service charges set forth in their commission approved tariff which, in turn, must comply with the per minute and per call rate caps set forth in paragraph (A) of this rule. This restriction means that no surcharges, including, but not limited to, bill rendering charges, nonsubscriber charges, property imposed fees, and any additional charge which the entity contracting for the IOS service may request the IOS provider to bill a billed party, may be levied by the IOS provider on the billed party. Any surcharges imposed by an entity contracting with the IOS provider are to be levied separately by the entity contracting with the IOS provider~~ The maximum rate of any ancillary charges that may be applied by an IOS provider on any intrastate IOS call shall be consistent with 47 C.F.R. part 64, subpart FF.

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~~(E)~~(F) IOS providers may not charge for uncompleted calls.

~~(F)~~(G) Each IOS provider must include in its contract with each of its customers language requiring that the customer permit the IOS provider to take whatever steps are necessary to ensure that the IOS provider is in compliance with all of the established requirements and restrictions pertaining to IOS.

~~(G)~~(H) Upon request, each IOS provider must provide, as directed by the commission or its staff, information concerning its operations.

~~(H)~~(I) On all intrastate IOS calls, the IOS provider must allow the billed party to terminate at no charge before the call is connected.

"No Change"

4901:1-6-23 Pay telephone access lines.

(A) Upon request, an incumbent local exchange carrier (ILEC) must provide a pay telephone access line and local usage on the pay telephone access line to payphone service providers, within the ILEC's normal installation intervals.

(1) The rates, terms, and conditions for pay telephone access lines shall be tariffed and shall be filed through a thirty-day application for tariff amendment (ATA) filing in accordance with rule 4901:1-6-05 of the Administrative Code.

(2) All ILECs' currently tariffed pay telephone access line rates are deemed reasonable, unless the commission determines otherwise through another commission proceeding.

(3) Subsequent increases in rates and changes to the terms and conditions, for tariffed pay telephone access lines, shall be filed through a thirty-day ATA filing in accordance with rule 4901:1-6-05 of the Administrative Code. Such applications require supporting documentation including, but not limited to, documentation showing that the rate is in compliance with the federal communications commission's (FCC) new services test for pay telephone access lines, if applicable.

(B) Provisioning of pay telephone access lines including the rates, terms, and conditions of such lines is subject to the applicable laws, including rules or regulations adopted and orders issued by the commission or the FCC.

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4901:1-6-24 Wireless service provisions.

(A) The commission has authority over wireless service and wireless service providers to the extent set forth in this rule and section 4927.03 of the Revised Code.

(B) Registration

No wireless service provider shall operate in the state of Ohio without first registering with the commission. Every wireless service provider desiring to offer wireless service in Ohio shall file a zero-day registration notice in a radio common carrier (RCC) filing with the commission utilizing the telecommunications filing form discussed in rule 4901:1-6-04 of the Administrative Code and providing all of the following:

(1) The company's name.

(2) The company's address.

(3) The name of a contact person and that person's contact information.

(4) A service description, including the general geographic areas served (no maps are required).

(5) Evidence of registration with the Ohio secretary of state.

(6) Evidence of notice to the Ohio department of taxation, public utilities tax division, of its intent to provide service.

(C) Change in operations

Every wireless service provider shall keep its registration information up-to-date by notifying the commission of any changes in its operations (i.e., mergers, abandonment, transfers, name changes, and changes in ownership) by submitting a zero-day notice to the commission for identification purposes utilizing an up-to-date version of the commission's telecommunications filing form under its original RCC case designation code established during the wireless service provider's registration process.

(D) Assessment report

The requirements of sections 4905.10, 4905.14, and 4911.18 of the Revised Code apply to wireless service providers. Wireless service providers are required to submit, at the time and in the manner prescribed by the commission, an annual ~~assessment~~ report for fiscal assessment and to pay the prescribed annual assessment for the maintenance of the commission. A copy of the form is available on the commission's web site or from the commission's fiscal division.

(E) Jurisdiction authorized by federal law and regulations.

The commission has such power and jurisdiction with respect to wireless service providers, consistent with divisions (B) of section 4927.03 and divisions (A) to (D) and (F) of section 4927.04 of the Revised Code, to perform the obligations authorized by or delegated to it under federal law, including federal regulations, which obligations include performing the acts of a state commission as defined in the Communications Act of 1934, 48 Stat. 1064, 47 U.S.C. 153, as amended, with respect to all of the following:

(1) The rights and obligations under section 251 of the Telecommunications Act of 1996.

(2) Mediation and arbitration of disputes and approval of agreements under section 252 of the Telecommunications Act of 1996.

(3) Administration of telephone numbers and number portability.

(4) Certification of telecommunications carriers eligible for universal service funding.

(5) Administration of federal regulations on customer proprietary network information.

(F) Telecommunications relay service, eligible telecommunications carrier and lifeline requirements, 9-1-1, and universal service:

The commission has authority over wireless service, resellers of wireless service, or wireless service providers as set forth in section 4905.84 of the Revised Code and rule 4901:1-6-36 of the Administrative Code, as well as, sections 4931.40 to 4931.70 and 4931.99 of the Revised Code. The commission has authority over wireless service providers with respect to addressing carrier access policy and creating and administering mechanisms for carrier access reform as set forth in division (C) of section 4927.15 of the Revised Code. To the extent that a wireless service provider or reseller of wireless service seeks certification in Ohio as a telecommunications carrier eligible for universal service funding under 47 U.S.C. 214(e), the commission has authority to consider such application under rule 4901:1-6-09 of the Administrative Code and to impose requirements with respect to lifeline service under rule 4901:1-6-19 of the Administrative Code if the carrier seeks to withdraw funds from the universal service fund for the provision of lifeline service.

(G) Compliance and enforcement

The commission has such authority over wireless service providers under section 4927.20 of the Revised Code as is necessary to enforce compliance with every order, direction, and requirement of the commission made under authority of this rule,

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consistent with division (B) of section 4927.03 of the Revised Code. The commission has authority to adjudicate any dispute between telephone companies and wireless service providers or between wireless service providers that is within the commission's jurisdiction under section 4927.21 of the Revised Code.

(H) Wireless resellers

The commission has such authority over resellers of wireless service as set forth in division (B) of section 4927.03 of the Revised Code.

4901:1-6-25 Withdrawal of telecommunications services.

(A) Except as provided in paragraphs (B), (D), and (E) of this rule, a telephone company may cease offering any telecommunications service, by providing a notice of withdrawal of such service or services.

(1) Notice, consistent with rule 4901:1-6-07 of the Administrative Code, shall be provided to all affected customers, and the chief of the telecommunications and technology division of the ~~utilities~~ rates and analysis department and the chief of the reliability and service analysis division of the service monitoring and enforcement department at least thirty days prior to the effective date that the telephone company will cease providing a specific telecommunications service.

(2) At least thirty days prior to withdrawal of a specific telecommunications service, a telephone company shall provide written notice of its intent to cease providing service to its wholesale customers and to any telephone company wholesale provider of its services, if applicable.

(B) Withdrawal of basic local exchange service (BLES)

(1) A competitive local exchange carrier (CLEC) shall not discontinue offering BLES within an exchange(s) without filing a zero-day notice filing (ZTA) to withdraw such service or services from its tariff. CLECs must include with the notice filing the actual customer notice and an affidavit verifying that this customer notice has been provided to affected customers at least thirty days prior to the effective date that the CLEC will cease providing BLES.

(2) A CLEC ceasing to offer BLES shall return all deposits, including applicable interest, to its customers who do not convert to another service with the CLEC, no later than ninety days after filing its withdrawal notice filing unless a court of competent jurisdiction orders otherwise.

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(3) At least thirty days prior to withdrawal of BLES, a CLEC shall provide written notice of its intent to cease providing service, to any telephone company from which the applicant obtains wholesale services, if applicable.

(4) An incumbent local exchange carrier shall not discontinue providing BLES without complying with the provisions of rule ~~4901:1-621~~ 4901:1-6-21 or 4901:1-6-27 of the Administrative Code.

(C) A local exchange carrier proposing to withdraw telecommunications service(s) within an exchange or other geographical area shall provide a list of its assigned area code prefix(es) or thousand block(s). Such information shall also include any proposed dates or timelines, due to its withdrawal of such telecommunications service(s), wherein the telephone company's area code prefix(es) or thousand block(s) would be reassigned to another carrier and/or returned to the North American numbering plan administrator or pooling administrator. This requirement does not apply where the telecommunications service(s) to be withdrawn does not require the assignment of telephone numbers, or the use of such telephone numbers will continue to be required for other services provided by the local exchange carrier.

(D) Withdrawal of tariffed services other than BLES

A telephone company may not cease offering any services required to be tariffed pursuant to paragraphs (A)(1)(b) to (A)(1)(i) of rule 4901:1-6-11 of the Administrative Code, without first filing an application to withdraw such service(s) from its tariff, using the most up-to-date telecommunications filing form, and without obtaining prior commission approval. Such an application shall be designated under a TP-UNC case purpose code and shall not be subject to an automatic approval process.

(E) Interconnection and resale agreements approved under the Telecommunications Act of 1996 are subject to the terms of the agreements, federal law, and Chapter 4901:1-7 of the Administrative Code.

"No Change"

4901:1-6-26 Abandonment.

(A) A telephone company seeking to abandon entirely telecommunications service in this state, including its tariff and certificate of public convenience and necessity, shall not abandon the service(s) it provides under a certificate without filing an abandonment application (ABN) to abandon service and to cancel its certificate of operation.

(B) Abandonment applications shall be filed at least thirty days prior to the effective date that the telephone company will cease providing service. The application shall include

copies of any notices provided pursuant to paragraphs (C) to (D) of this rule, as well as an affidavit verifying that the customer notice was provided to affected customers, and shall include the list pursuant to paragraph (J) of this rule.

(C) At least thirty days prior to abandoning operations, a telephone company shall provide written notice of its intent to cease providing service to any telephone company from which the applicant obtains wholesale services.

(D) At least thirty days prior to abandoning operations, a telephone company shall provide written notice of its intent to abandon service to its retail customers and wholesale customers, and to any telephone company wholesale provider of its services, if applicable, consistent with rule 4901:1-6-07 of the Administrative Code. If the telephone company does not have any retail customers at the time it seeks to abandon service and cancel its certificate, customer notice to retail customers is not required with its application.

(E) A telephone company abandoning operations shall return all deposits, including applicable interest, to its customers no later than ninety days after filing its abandonment application unless a court of competent jurisdiction orders otherwise.

(F) If the commission does not act upon the application within thirty days of the filing date, a telephone company's application will be approved in accordance with the thirty-day automatic approval process described in rule 4901:1-6-05 of the Administrative Code and its certificate of public convenience and necessity will be canceled.

(G) This rule does not apply to basic local exchange service provided by an incumbent local exchange carrier.

(H) An abandoning telephone company may not discontinue services provided to any customer or telephone company until the abandonment application has been approved by the commission.

(I) No telephone company may discontinue services provided to a local exchange carrier (LEC) that has filed an application to abandon service prior to the commission ruling on such application to abandon service.

(J) Where applicable, the LEC abandoning operations shall provide a list of its assigned area code prefix(es) or thousands block(s) including any proposed dates or timelines, due to its abandonment proceedings, wherein the LEC's area code prefix(es) or thousands block(s) would be reassigned to another carrier and/or returned to the North American numbering plan administrator or pooling administrator.

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4901:1-6-27 ~~Provider~~ Carrier of last resort ~~(POLR)~~(COLR).

(A) Except as otherwise provided in this rule, or rule 4901:1-6-21 of the Administrative Code, an incumbent local exchange carrier (ILEC) shall provide basic local exchange service (BLES) to all persons or entities in its service area requesting that service, and that service shall be provided on a reasonable and nondiscriminatory basis.

(B) An ILEC is not obligated to construct facilities and provide BLES, or any other telecommunications service, to the occupants of multitenant real estate, including, but not limited to, apartments, condominiums, subdivisions, office buildings, or office parks, if the owner, operator, or developer of the multitenant real estate does any of the following to the benefit of any other provider of telecommunications service:

(1) Permits only one provider of telecommunications service to install its facilities or equipment during the construction or development phase of the multitenant real estate;

(2) Accepts or agrees to accept incentives or rewards that are offered by a provider of telecommunications service to the owner, operator, developer, or occupants of the multitenant real estate and are contingent on the provision of telecommunications service by that provider to the occupants, to the exclusion of services provided by other providers of telecommunications service; or

(3) Collects from the occupants of the multitenant real estate any charges for the provision of telecommunications service to the occupants, including charges collected through rents, fees, or dues.

(C) An ILEC not obligated to construct facilities and provide BLES pursuant to paragraph (B) of this rule shall notify the commission of that fact within one hundred twenty days of receiving knowledge thereof. Such notification shall be filed in a zero-day notice under a ZTA case caption including, where applicable, any necessary tariff revisions outlining the geographic boundaries of the ILEC's service area to which the notification would apply. In addition, the notice shall specify the circumstances under which the company qualifies to invoke paragraph (B) of this rule.

(D) An ILEC that receives a request from any person or entity to provide BLES under the circumstances described in paragraph (B) of this rule shall, within fifteen days of receipt of such request, provide notice to the requesting person or entity specifying whether the ILEC will provide the requested service. If the ILEC provides notice that it will not serve the person or entity, the notice shall:

(1) Explain the reason for not offering the requested BLES; and

(2) Describe the person's or entity's right to file a complaint with the commission under section 4927.21 of the Revised Code within thirty days after receipt of the notice.

(E) In resolving any complaint under paragraph (D) of this rule, the commission's determination shall be limited to whether any circumstance described in paragraphs (B)(1) to (B)(3) of this rule exists. Upon a finding by the commission that such a circumstance exists, the complaint shall be dismissed. Upon a finding that such circumstances do not exist, the person's or entity's sole remedy shall be provision by the ILEC of the requested service within a reasonable time, as determined by the commission.

(F) When the circumstances described in paragraph (B) of this rule cease to exist, and a person or entity subsequently requests that the ILEC provide BLES, the ILEC shall be required to provide BLES to such real estate, unless the ILEC files with the commission a request for waiver pursuant to paragraph (G) of this rule and such request is granted. In the event that the commission determines that the ILEC should not be required to provide BLES, the commission will initiate a commission proceeding for determining a successor telephone company.

(G) An ILEC may apply to the commission for a waiver from compliance with paragraph (A) of this rule in circumstances other than those listed in paragraph (B) of this rule, through an application for waiver (WVR) filing.

(1) The application for waiver of the ILEC's obligation under paragraph (A) of this rule shall include, at the minimum, all of the following:

(a) A clear and detailed description of the geographic boundary of the ILEC's service area to which the requested waiver would apply;

(b) The requested effective date of the waiver;

(c) A clear identification of class of customer impacted by the waiver, if any customer-class limitation of waiver is requested, and the number of persons or entities who would be impacted by the requested waiver;

(d) A clear explanation of the rationale behind the requested waiver, including an unusual technical limitation or an economic analysis demonstrating a financial hardship to provide BLES in the requested geographic area and an identification of any available alternative providers of telecommunications service;

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(e) A proposed newspaper customer notice, consistent with paragraph (G)(2) of this rule;

(f) A clear explanation as to whether the requested waiver would apply only to prospective customers or to the entire customer-base in the requested geographic area;

(g) A clear explanation of how customers would otherwise have access to BLES or alternative service offerings that are just and reasonable; and

(h) A clear explanation of how the requested waiver would be just, reasonable, and not contrary to the public interest.

(2) The ILEC applying for the waiver shall provide, with its application, a draft copy of its proposed customer notice to be published one time in a newspaper of general circulation throughout the service area identified in the application. In addition, the ILEC shall also provide any other notice required by the commission in the waiver proceeding to any affected persons who are or would be potentially impacted by the requested waiver. For purposes of this rule, affected persons shall include, at a minimum, any existing customers of the requesting ILEC within the geographic boundary of the ILEC's service area to which the requested waiver would apply. Upon the filing of a waiver application filed under this paragraph, the commission, attorney examiner, or legal director shall issue an entry which addresses customer notice content and service, establishes a reasonable opportunity for comment, schedules a hearing as set forth in paragraph (G)(3) of this rule, and addresses any other procedural matters.

(3) The commission shall order a public hearing in the service area(s) identified in the application pursuant to paragraph (G)(1)(a) of this rule.

(4) No later than one hundred twenty days after the filing of a complete application pursuant to paragraph (G) of this rule, the commission either shall issue an order granting the waiver if, upon investigation, it finds the waiver to be just, reasonable, and not contrary to the public interest, and that the applicant demonstrates a financial hardship or an unusual technical limitation, or shall issue an order denying the waiver based on a failure to meet those standards and specifying the reasons for the denial.

(H) A waiver application filed under paragraph (G) of this rule that does not contain all of the information required by paragraph (G)(1) of this rule will be considered deficient and will not trigger the one hundred twenty-day review period in paragraph (G)(4) of this rule until the date that a complete application has been filed by the applicant. The commission, the legal director, or an attorney examiner has the authority to issue an

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entry either dismissing the application or establishing the date that the application is complete and begin the one hundred twenty-day review period.

"No Change"

4901:1-6-28 Bankruptcy.

A telephone company seeking bankruptcy protection from any jurisdiction under Chapter 7 or 11 of the United States bankruptcy code shall notify the commission by serving notice of the bankruptcy filing on the chief of the telecommunications section of the utilities department. The notification shall include a copy of any and all notices or pleadings filed in the bankruptcy court, specifically setting forth the date and type of bankruptcy, the name and address of the bankruptcy court, the name and address of the bankruptcy attorney, and the name and address of a person at the company who can provide additional information regarding Ohio customers.

"No Change"

4901:1-6-29 Telephone company procedures for notifying the commission of changes in operations.

(A) Every telephone company shall update its certification authority if there is any change in its operations as identified in this rule.

(B) Procedures for notifying the commission of updates to certification authority and certain changes in operations by a local exchange carrier (LEC) providing basic local exchange service (BLES).

(1) A LEC providing BLES shall file a telecommunications filing form pursuant to paragraph (A) of rule 4901:1-6-04 of the Administrative Code and the required attachments as set forth on that form for an application notifying the commission of the following changes in its operations in the appropriate application listed in this paragraph:

(a) ATC - An application to transfer a certificate to a preselected transferee.

(b) ATR - An application to conduct a transaction involving one or more LECs providing BLES for the purchase, sale, or lease of property, plant, or business which may affect the operating authority of a party to the transaction.

(c) ACN - An application to change the name of a LEC providing BLES.

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(2) All applications filed pursuant to paragraph (B)(1) of this rule are subject to a thirty-day automatic approval process as described in rule 4901:1-6-05 of the Administrative Code.

(C) Procedures for notifying the commission of updates to certification authority and certain changes in operations by telephone companies.

(1) All telephone companies, except LECs providing BLES, shall file a telecommunications filing form pursuant to paragraph (A) of rule 4901:1-6-04 of the Administrative Code and the required attachments as set forth on that form when notifying the commission of the following changes in operations (CIO):

(a) For any change in ownership which is transparent to customers.

(b) For an application to transfer a certificate and/or conduct a sale or lease of property, plant, customer base, or business which may affect the operating authority of a party(ies) to the transaction.

(c) For an application by two or more telephone companies to merge.

(d) For an application to change the name of a telephone company.

(2) A CIO application is subject to a zero-day notice filing process as described in rule 4901:1-6-05 of the Administrative Code.

(D) Customer notification

A telephone company shall provide to its affected customers, in accordance with rule 4901:1-6-07 of the Administrative Code, at least fifteen days' advance notice (e.g., direct mail, bill insert, or bill notation) of any change in the company's operations identified by this rule that is not transparent to its customers and may impact service, and file a copy of such notice with the commission concurrent with the filing of an application under this rule. In the alternative, a telephone company subject to the notification procedures set forth in 47 C.F.R. 63.71, may submit evidence of a customer notice already provided for the purpose of informing subscribers of a change in operations consistent with the requirements of the federal communications commission.

(E) Procedures for merger and change in control applications of a LEC providing BLES

A LEC providing BLES shall obtain the prior approval of the commission for a change in control (ACO) or approval of a merger with another telephone company (AMT) under section 4905.402 of the Revised Code. An applicant shall file with the commission a telecommunications filing form pursuant to rule 4901:1-6-04 of the Administrative Code and the required attachments as set forth on that form. An AMT and/or ACO

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application must demonstrate that the change in control or merger will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge. If the commission considers a hearing necessary, it may fix a time and place for hearing. If, after review of the application, and after any necessary hearing, the commission is satisfied that approval of the application will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge, the commission shall approve the application and make such order as it considers proper. If the commission fails to issue an order within thirty days of the filing of the application, or within twenty days of the conclusion of a hearing, if one is held, the application shall be deemed approved.

"No Change"

4901:1-6-30 Company records and complaint procedures.

(A) The commission may investigate or examine the books, records, or practices of any telephone company to the extent of the commission's jurisdiction over the company under sections 4927.01 to 4927.21 of the Revised Code. Telephone companies shall have available for auditing or inspection by commission staff sufficient books, records, contracts, documents, and papers for any purpose incidental to the commission's authority under sections 4927.01 to 4927.21 of the Revised Code, in accordance with this chapter and the rules and procedures prescribed by the federal communications commission.

(a) Such records should be retained by telephone companies for at least eighteen months, unless otherwise specified by the commission.

(b) Upon commission staff request, the telephone company shall provide such records of sufficient detail, to permit review of the telephone company's compliance with the rules of this chapter. Upon request, the telephone company shall provide data or information in a format agreed upon by the commission staff.

(B) A telephone company shall provide commission staff with a company contact, including a toll free number and an e-mail address, for complaint resolution and shall respond to commission and consumer inquiries and complaints in a reasonable and timely manner.

4901:1-6-31 Emergency and outage operations.

(A) Each facilities-based local exchange carrier (LEC) shall design, operate, and maintain its facilities to continue to provide customers with the ability to originate and receive

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calls at all times. The commission will utilize existing FCC rules applicable to emergency and outage operations. Companies shall submit outage reports utilizing, at the company's discretion, either existing FCC reports or a format determined by the commission.

(B) Each facilities-based LEC shall submit, within two hours of discovery, to the commission's outage coordinator and when appropriate, the news media in the affected area, a notification that it has experienced an outage, whenever that outage occurs on any facility that it owns, operates, leases or otherwise utilizes and is both:

(1) Expected to last for a period in excess of thirty minutes.

(2) Potentially affects at least nine hundred thousand user minutes in the incumbent local calling area.

(C) Each facilities-based LEC shall report, by telephone or electronic means, a disruption of 9-1-1 services, which impairs 9-1-1 service within a given county 9-1-1 system, immediately to each county 9-1-1 public safety answering point, to the ~~Ohio 9-1-1 coordinator~~statewide emergency services internet protocol network steering committee or its designee, and to the news media in the affected area, when appropriate.

(D) Each facilities-based LEC experiencing a loss of communications or selective routing to a public safety answering point, as a result of an outage described under paragraphs (B) and (C) of this rule, shall also notify, as soon as possible, by telephone or electronic means, any official who has been designated by the management of the affected 9-1-1 facility as the LEC's contact person for communication outages at that facility; and the LEC shall convey to that person all available information that may be useful to the management of the affected facility in mitigating the effects of the outage on efforts to communicate with that facility.

(E) Each facilities-based LEC experiencing an outage described under paragraphs (B) and (C) of this rule, shall electronically submit to the commission's outage coordinator the same information as that provided to the FCC or the following information:

(1) A notification that it has experienced a outage, which shall include the name of the reporting entity, the date and time of the onset of the outage, a brief description of the problem, the particular service affected, the geographic area affected by the outage, the number of customers affected, an estimate of when the service, including 9-1-1, will be restored, and a contact name and telephone number by which the commission's outage coordinator may contact the reporting entity.

(2) Not later than seventy-two hours after discovering the outage, an initial communications outage report, which shall include all pertinent information then available on the outage and shall be submitted in good faith.

(3) Not later than thirty days after discovering the outage, the provider shall submit electronically a final communications outage report, which shall include all pertinent information on the outage, including any information that was not contained in, or that has changed from that provided in, the initial report.

(F) Each facilities-based LEC shall develop, implement, and maintain an emergency plan and make it available for review by commission staff. The plan shall include, but not be limited to, all of the following:

(1) Procedures for maintaining and annually updating a list of those customers who have subscribed to the federal telecommunications service priority program, as identified in 47 C.F.R. 64, appendix A.

(2) Procedures for priority treatment in restoring out-of-service trouble of an emergency nature for customers with a documented medical or life-threatening condition.

(3) In addition to the telecommunications service priority program, each LEC shall develop policies and procedures regarding those customers who require priority treatment for out-of-service clearance. Such procedures shall include a table of restoration priority, including, but not limited to, subscribers such as police and fire stations, hospitals, key medical personnel, and other utilities.

(4) Procedures for restoring service to priority critical facilities customers.

(5) Identification and annual updates of all of the facilities-based LEC's critical facilities and reasonable measures to protect its personnel and facilities.

(6) Assessments and evaluations of telecommunications facilities available to provide back-up service capabilities.

(7) Procedures for after-action assessments and reporting following activation of any part of the emergency plan. An after-action report will be written and will include lessons learned, deficiencies in the response to the emergency, and deficiencies in the emergency plan.

(8) A current list of the names and telephone numbers of the facilities-based LECs' emergency service personnel to contact and coordinate with in the event of any real or anticipated local or national threats to its ability to provide telecommunications service.

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(9) A current list of the names and telephone numbers of the facilities-based LEC's emergency service personnel that is made available to the commission's emergency coordinator, upon request.

(10) A continuity of operations plan to assure continuance of minimum essential functions during a large scale event in which staffing is reduced. Such plans shall provide for:

(a) Plan activation triggers such as the world health organization's pandemic phase alert levels, widespread transmission within the United States, or a case at one or more locations within Ohio.

(b) Identification of a pandemic coordinator and team with defined roles and responsibilities for preparedness and response planning.

(c) Identification of minimal essential functions, minimal staffing required to maintain such essential functions, and personnel resource pools required to ensure continuance of those functions in progressive stages associated with a declining workforce.

(d) Identification of essential employees and critical inputs (e.g., raw materials, equipment, suppliers, subcontractor services/products, and logistics) required to maintain business operations by location and function.

(e) Policies and procedures to address personal protection initiatives.

(f) Policies and procedures to maintain lines of communication with the public utilities commission of Ohio during a declared emergency.

(G) Each facilities-based LEC shall amend its emergency plan in accordance with the findings identified in the after-action assessment report required under paragraph (F)(7) of this rule.

"No Change"

4901:1-6-32 Boundary changes, and administration of borderline boundaries.

This rule applies to all incumbent local exchange carriers (ILECs).

(A) Except as otherwise provided in this chapter, an ILEC shall continue to make available basic local exchange service (BLES) to all persons and entities in its traditional service area. Commission-maintained telephone exchange boundary maps shall be the official source/documentation of ILEC service areas and boundaries.

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(B) Whenever an ILEC proposes to change the boundary of an exchange area, the ILEC shall file an application seeking to change the boundary. Whenever the exchange area involves the exchange area of two or more ILECs, the application shall be filed jointly by the companies involved.

(C) Such application to change boundaries (ACB) is subject to a fourteen-day automatic approval procedure. An ILEC application submitted for approval shall include:

(1) A description of the change being made to the boundary. The company shall work with staff to ensure that the commission's maps reflect accurately the boundary changes, using the company's latest technology and the telephone boundary quadrangle maps as found on the commission's website as a basis for the boundary change.

(2) The reasons for making the change, and one of the following:

(a) A statement explaining the effect of the change, if any, on existing BLES subscribers.

(b) A statement attesting that the change does not adversely affect the service being furnished to any existing BLES subscriber.

(c) A statement attesting that each existing BLES subscriber whose service is adversely affected has consented to the change.

(D) Any borderline boundary dispute between ILECs or between an ILEC and a customer shall be subject to the complaint procedures under section 4927.21 of the Revised Code.

"No Change"

4901:1-6-33 Excess construction charges applicable to certain line extensions for the furnishing of local exchange telephone service.

(A) An incumbent local exchange carrier (ILEC) shall provide basic local exchange service (BLES) in its traditional service area to all persons or entities in its service area requesting that service except as otherwise provided in section 4927.11 of the Revised Code.

(B) Where no facilities are available and where an ILEC must construct permanent facilities on public rights-of-way in order to furnish service to an applicant or applicants for service in its traditional service area, the ILEC may require the applicant to pay excess construction charges in accordance with commission-approved tariffs. A credit against the cost of excess construction charges may be given where an applicant performs the

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labor of digging holes, or trimming or removing trees in the right-of-way in accordance with the ILEC's specifications. Where more than one applicant is to be furnished service along the same route, the applicants as a group may be required to share proportionately the excess construction charges.

(C) An ILEC may not charge an applicant for any excess construction charges for BLES unless provisions for such charges are set forth in the company's tariff and approved by the commission.

"No Change"

4901:1-6-34 Filing of contracts, agreements, or arrangements entered into between telephone companies.

When necessary for the commission to carry out sections 4927.01 to 4927.21 of the Revised Code, and only as required by the commission, a telephone company shall file with the commission a copy of any contract, agreement, or arrangement, in writing, with any other public utility relating in any way to the construction, maintenance, or use of its plant or property, or to any service, rate, or charge.

"No Change"

4901:1-6-35 Filing of reports by telephone companies subject to the federal communications commission.

Upon request, each telephone company operating within the state of Ohio shall submit to the director of the utilities department of the commission or the director's designee a copy of any reports filed with the federal communications commission pursuant to 47 C.F.R. 43.

4901:1-6-36 Telecommunication relay services assessment procedures.

(A) This rule is limited to the commission's administration and enforcement of the assessment for the intrastate telecommunications relay service (TRS) in accordance with section 4905.84 of the Revised Code.

(B) For the purpose of funding the TRS, the commission shall collect an assessment to pay for the costs incurred by the TRS provider for providing the service in Ohio, from each service provider that is required under federal law to provide its customers access to TRS, including telephone companies, wireless service providers, resellers of wireless service, and providers of advanced services or internet protocol-enabled services that are competitive with or functionally equivalent to voice-grade, end user access lines,

and other telecommunications services that are competitive with or functionally equivalent to voice-grade, end user access lines in the event such provider is subsequently required under federal law to provide its customers access to telecommunications relay service. For purposes of this rule, advanced services and internet protocol-enabled services have the meanings ascribed to them by federal law, including federal regulations.

(C) Each service provider ~~indentified~~ identified in paragraph (B) of this rule shall be assessed according to a schedule established by the commission.

(D) The commission staff shall allocate the assessment proportionately among the appropriate service providers using a competitively neutral formula. To determine the assessment amount owed by each provider the commission staff shall use the number of voice-grade, end user access lines, or their equivalent, as reflected in each provider's most recent federal communications commission form 477, where applicable. All providers shall submit to the commission staff, on a semi-annual basis, a completed form, as prescribed by the commission staff, which contains the number of the provider's retail customer access lines or their equivalent.

(E) Sixty days prior to the date each service provider is required to make its assessment payment in accordance with paragraph (C) of this rule, the commission staff shall notify each service provider of its proportionate share of the costs to compensate the TRS provider.

(F) The commission staff shall annually reconcile the funds collected with the actual costs of providing TRS when it issues the assessment in accordance with paragraph (E) of this rule and shall either proportionately charge the service providers for any amounts not sufficient to cover the actual costs or proportionately credit amounts collected in excess of the actual costs.

(G) In accordance with division (C) of section 4905.84 of the Revised Code, each service provider that pays the assessment shall be permitted to recover the cost of the assessment. The method of the recovery may include, but is not limited to, a customer billing surcharge. Any telephone company, other than a wireless service provider, that proposes a customer billing surcharge or a change in the surcharge shall file a zero-day notice filing (ZTA) with the commission, in accordance with rule 4901:1-6-04 of the Administrative Code. The ZTA will take effect on the same day the filing is made in accordance with paragraph (B) of rule 4901:1-6-05 of the Administrative Code. Each regulated provider imposing a surcharge on its customers must provide notice to its customers a minimum of fifteen days prior to the effective date of the surcharge in accordance with rule 4901:1-6-07 of the Administrative Code.

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(H) In accordance with division (D) of section 4905.84 of the Revised Code, the commission shall take such measures as it considers necessary to protect the confidentiality of information provided pursuant to paragraph (D) of this rule.

(I) The commission may direct the attorney general to bring an action for immediate injunction or other appropriate relief to enforce commission orders and to secure immediate compliance with this rule.

4901:1-6-37 Assessments and annual reports.

(A) Every telephone company or competitive eligible telecommunications carrier (CETC) and wireless service provider shall file ~~an~~the annual report for fiscal assessment~~and every wireless service provider shall submit an annual assessment report~~, as required by the commission and in the format prescribed by commission entry. The annual report for fiscal ~~and annual~~ assessment ~~report~~ shall be limited to information necessary for the commission to calculate the assessment provided for in section 4905.10 of the Revised Code. The commission shall protect any confidential information in every company and provider report.

(B) In addition to the information necessary for the commission to calculate the assessment provided for in section 4905.10 of the Revised Code, telephone companies subject to section 4905.71 of the Revised Code shall provide in their annual report for fiscal assessment information required by the commission to calculate pole attachment and conduit occupancy rates in a manner consistent with requirements of Chapter 4901:1-3 of the Administrative Code, and any other information the commission determines necessary to fulfill its responsibility under section 4905.71 of the Revised Code. This information shall be provided in the format prescribed in the commission's annual reporting form for telephone companies.

~~(B)~~(C) ~~The commission shall, by commission entry, impose on and collect from each telephone company that is a local exchange carrier an assessment to pay for costs incurred by vendors under any contract for the provision of the community voicemail pilot program in this state.~~ All wireless resellers of lifeline service not presently assessed a fee for the commission's support shall be assessed an annual fee to be determined by the commission.