

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Implementation of Substitute House Bill)	Case No. 19-0173-TP-ORD
402 of the 132nd Ohio General Assembly.)	

**REPLY COMMENTS ON PROPOSED RULES AFFECTING OHIOANS' BASIC
TELEPHONE SERVICE**

**BY
GREATER EDMONT COMMUNITY COALITION,
THE LEGAL AID SOCIETY OF CLEVELAND,
LEGAL AID SOCIETY OF SOUTHWEST OHIO LLC,
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL,
OHIO ASSOCIATION OF COMMUNITY ACTION AGENCIES,
OHIO POVERTY LAW CENTER,
PRO SENIORS, INC., AND
SOUTHEASTERN OHIO LEGAL SERVICES**

I. INTRODUCTION

Basic telephone service provides consumers with telephone service without additional services and features that increase consumers' bills unnecessarily.¹ Some consumers prefer this service because they don't want, don't need, or can't afford additional services and features. This proceeding addresses the necessary consumer protections for Ohioans who choose basic local telephone service.

In December 2018 Amended Substitute House Bill 402 ("Am. Sub. HB 402"), which included provisions affecting consumers' basic service, was enacted. Am. Sub. HB 402 raised the annual limit on basic service rate increases and allows telephone companies unlimited increases on basic service charges to customers in four years,

¹ See R.C. 4927.01(A)(1).

among other things. The Public Utilities Commission of Ohio (“PUCO”) has asked for comment on the rules drafted by its staff to implement Sub. HB 402.

On April 10, 2019, Greater Edgmont Community Coalition, The Legal Aid Society of Cleveland, Legal Aid Society of Southwest Ohio LLC, the Office of the Ohio Consumers’ Counsel, Ohio Association of Community Action Agencies, Ohio Poverty Law Center, Pro Seniors, Inc., and Southeastern Ohio Legal Services (collectively, “Consumer Groups”) filed Comments on the draft rules. The draft rules include a provision (proposed Ohio Adm. Code 4901:1-6-14(G)) that will not be effective for four years. To promote administrative efficiency, the Consumer Groups recommend that the PUCO not adopt this rule. The Consumer Groups also recommend that the PUCO clarify proposed Ohio Adm. Code 4901:1-6-29(E)(2) to safeguard that the public is properly notified when a telephone company files a change of ownership application at the Federal Communications Commission.

Comments were also filed by the Ohio Telecom Association (“OTA”) and the Ohio Cable Telecommunications Association (“OCTA”). The Consumer Groups reply to some of the recommendations made by OTA and OCTA in their comments.²

II. RECOMMENDATIONS

A. The availability of basic service to Ohioans is consistent with state policy and should be retained in the PUCO’s rules.

Ohio Adm. Code 4901:1-06-12(A) provides that a telephone company providing basic local exchange service “shall conduct its operations so as to ensure that the service is available, adequate, and reliable consistent with applicable industry standards.” Both

² The fact that the Consumer Groups do not respond to all issues raised in OTA’s and OCTA’s comments should not be construed as acquiescence to any issue not addressed in these Reply Comments.

OTA and OCTA urge the PUCO to remove the word “available” from the rule so that telephone companies would only have to ensure that basic service is adequate and reliable.³ The PUCO should reject this recommendation by OTA and OCTA.

OTA and OCTA cite the following change to state policy in R.C. 4927.02(A)(1) made in Sub. HB 402: “Ensure the ~~availability~~, adequacy and reliability of adequate basic local exchange service ~~or~~ consistent with section 4927.07, 4927.10, and 4927.11 of the Revised Code, and the adequacy and reliability of voice service ~~to citizens~~ throughout the state....”⁴ OTA and OCTA claim that because Sub. HB 402 removed the word “availability” from state policy, the PUCO should delete “available” from Ohio Adm. Code 4901:1-06-12(A). But they ignore that the three statutes now referenced in the state policy section by Sub. HB 402 require service to be available (even though not using the word “available”).

Specifically, R.C. 4927.11 addresses access to basic service.⁵ R.C. 4927.11(A) requires that, with certain exceptions, “an incumbent local exchange carrier *shall* provide basic local exchange service to all persons or entities in its service area requesting that service, and that service shall be provided on a reasonable and nondiscriminatory basis.” (Emphasis added.) In other words, all local telephone companies must guarantee that basic service is available to all customers, with some exceptions. Thus, contrary to OTA and OCTA, retaining the word “available” in Ohio Adm. Code 4901:1-06-12(A) is consistent with R.C. 4927.11. The PUCO should keep the word “available” in the rule to

³ OTA Comments at 5-6; OCTA Comments at 7.

⁴ Strikethroughs in the passage denote deletions from the statute and underlining signifies additions.

⁵ R.C. 4927.07 and R.C. 4927.10 address withdrawal of telephone services.

be consistent with R.C. 4927.11 and to protect consumers in the availability of basic service.

In fact, the only portion of Ohio Adm. Code 4901:1-06-12(A) that might be inconsistent with state policy is the reference to “applicable industry standards.” The term “applicable industry standards” is not explained in the rule. The state policy in R.C. 4927.01(A) expressly states that the adequacy and reliability of basic local service must be consistent with R.C. 4927.07, R.C. 4927.10, and R.C. 4927.11. The PUCO should consider replacing the ambiguous phrase “applicable industry standards” with references to the three statutes.

B. If the PUCO adopts detailed rules for applications to allow unlimited price increases for consumers’ basic service – which cannot occur for at least four years – the PUCO should adopt the PUCO Staff’s proposal that the statutory representative of residential consumers, OCC, receive advanced notice of such applications.

The Consumer Groups recommend that the PUCO not adopt detailed rules regarding applications to allow telephone companies unlimited price increases for consumers’ basic service. We noted that under R.C. 4927.123 such applications cannot even be filed for at least four years.⁶ The statute could be amended by the time such applications may be considered.⁷ Further, rules implementing R.C. 4927.123 are unnecessary at this time to bring the PUCO’s rules into conformity with Sub. HB 402.⁸ The Consumer Groups noted that it would be administratively efficient for the PUCO to refrain from adopting detailed rules implementing R.C. 4927.123 at this time.⁹

⁶ Consumer Groups Comments at 3.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 4.

But if the PUCO does adopt rules implementing R.C. 4927.123, it should adopt the PUCO Staff's proposed rule that OCC be given advance notice of applications for unlimited price increases for consumers' basic service. OCTA opposed the PUCO Staff's proposal on the basis that Sub. HB 402 does not require advance notice to OCC when a telephone company applies for unlimited price increases to consumer's basic service.¹⁰ However, the PUCO has some discretion in implementing rules to conform with Sub. HB 402.

For example, Ohio Adm. Code 4901:1-06-14(F)(5) requires that OCC be notified of increases to customers' basic service rates. Notice to OCC was not included in previous laws setting parameters for price increases for consumers' basic service. Yet the PUCO included notice to OCC in its rules and the rules were approved by the legislature's Joint Committee on Agency Rule Review. The PUCO should have the same discretion regarding rules implementing Sub. HB 402.

OCC is the statutory representative of residential consumers. Thus, providing OCC notice of applications for unlimited price increases for consumers' basic service helps protect consumers. The PUCO should retain the PUCO Staff's proposal that OCC receive advance notice of telephone companies' applications for unlimited price increases to residential consumers' basic service.

III. CONCLUSION

The suggestions made by OTA and OCTA discussed above would reduce consumer protections in the PUCO's rules. The PUCO should not allow this to happen. To protect consumers, the Consumer Groups recommend that the PUCO reject the rule changes proposed by OTA and OCTA that are discussed above.

¹⁰ OCTA Comments at 10.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Reply Comments was served on the persons stated below via electronic transmission this 22nd day of April 2019.

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Summary: Reply Reply Comments on Proposed Rules Affecting Ohioans' Basic Telephone Service by Greater Edgemont Community Coalition, The Legal Aid Society of Cleveland, Legal Aid Society of Southwest Ohio LLC, The Office of the Ohio Consumers' Counsel, Ohio Association of Community Action Agencies, Ohio Poverty Law Center, Pro Seniors, Inc., and Southeastern Ohio Legal Services electronically filed by Ms. Jamie Williams on behalf of Etter, Terry Mr.