

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
IMPLEMENTATION OF SUBSTITUTE
HOUSE BILL 402 OF THE 132ND OHIO
GENERAL ASSEMBLY.

CASE NO. 19-173-TP-ORD

FINDING AND ORDER

Entered in the Journal on May 29, 2019

I. SUMMARY

{¶ 1} The Commission adopts amended rules in Ohio Adm.Code Chapter 4901:1-6 pursuant to Substitute House Bill 402 of the 132nd Ohio General Assembly.

II. PROCEDURAL BACKGROUND

{¶ 2} The 132nd Ohio General Assembly adopted Substitute House Bill 402 (Sub. H.B. 402) that, among other things, directed the Commission to: adopt rules that permit incumbent local exchange companies (ILECs) to increase rates for basic local exchange service (BLES) by up to \$2.00 on an annual basis; docket a report no later than three years after the effective date to examine the number of BLES lines in service, the aggregate amount of line loss in the state of Ohio since the bill was enacted, and the change in price for BLES in each exchange area since the effective date; submit a report to the standing committees in the House of Representatives and the Senate; permit, no earlier than four years from the effective date of the legislation, an ILEC to apply for an exemption from the price cap requirements for BLES; exempt telephone companies from treble damages; and, limit the Commission's ability to consider domestic telephone company change of control applications.

{¶ 3} R.C. 106.03, 107.52, 107.53, and 107.54 set forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must perform a review of any proposed or existing rules to determine the impact that a rule has on businesses; attempt to balance properly the critical objectives of regulation and the cost of compliance by the regulated parties; and, amend or rescind rules

in order to eliminate or reduce adverse impacts that an existing or proposed rule might have on businesses.

{¶ 4} Additionally, in accordance with R.C. 121.82, in the course of developing draft rules, the Commission must conduct a business impact analysis 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 the draft rules and the business impact analysis.

{¶ 5} By Entry issued on September 8, 2014, the Commission opened a rulemaking proceeding for the purpose of commencing the five-year review of the rules contained in Ohio Adm.Code Chapter 4901:1-6. *In re 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 (*Retail Rules Case*), Entry (Sept. 8, 2014).

{¶ 6} On January 24, 2019, the Commission opened this case for the purpose of amending the existing Ohio Adm.Code Chapter 4901:1-6 consistent with Sub. H.B. 402.

{¶ 7} On February 7, 2019, the Commission held a workshop in this proceeding to enable interested stakeholders to propose revisions to the rules in Ohio Adm.Code Chapter 4901:1-6 to implement Sub. H.B. 402 for the Commission's consideration. Interested stakeholders attended the workshop. Representatives from AT&T Ohio, Ohio Telecom Association (OTA), and Ohio Cable Telecommunications Association (OCTA) provided comments at the workshop.

{¶ 8} Pursuant to Entry of March 20, 2019, proposed amendments to Ohio Adm.Code Chapter 4901:1-6 to implement Sub. H.B. 402 were issued for comment. Initial comments were filed by: OCTA; OTA; and jointly by Greater Edgmont Community Coalition, the Legal Aid Society of Cleveland, the Legal Aid Society of Southwest Ohio LLC, the Office of the Ohio Consumers' Counsel (OCC), the Ohio Association of Community

Action Agencies, the Ohio Poverty Law Center, Pro Seniors, Inc., and Southeastern Ohio Legal Services (collectively, Consumer Groups). Reply comments were filed by OCTA, OTA, and Consumer Groups.

{¶ 9} On April 18, 2019, OCC filed for intervention in order to provide recommendations for setting parameters, to the extent possible, for the purpose of maximizing consumer protections in Ohio Adm.Code Chapter 4901:1-6.

{¶ 10} As noted above, the Commission, on its own initiative, invited the filing of comments in this proceeding by interested entities. Therefore, the request for intervention in order to file comments is moot.

III. DISCUSSION

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

{¶ 11} In the Entry of March 20, 2019, the Commission Staff (Staff) proposed that the definition of “exchange area” in Ohio Adm.Code 4901:1-6-01(L) be amended to reflect that the definition have the same meaning as set forth in R.C. 4927.12(A).

{¶ 12} No comments were filed relative to this proposed revision.

{¶ 13} The Commission finds that the proposed revision to Ohio Adm.Code 4901:1-6-01 should be adopted.

{¶ 14} In the Entry of March 20, 2019, Staff proposed that Ohio Adm.Code 4901:1-6-01(T) be amended to reflect that the definition of “line loss” have the same meaning as set forth in R.C. 4927.123(A).

{¶ 15} No comments were filed relative to this proposed revision.

{¶ 16} The Commission finds that the proposed revision to Ohio Adm.Code 4901:1-6-01 should be adopted.

{¶ 17} In the Entry of March 20, 2019, Staff proposed that Ohio Adm.Code 4901:1-6-01(W) be amended to reflect that “long run service incremental cost” (LRSIC) be defined as the cost for a new or existing product that is equal to the per unit cost of increasing the volume of production from zero to a specified level, while holding all other product and service volumes constant.

{¶ 18} While OCTA opines that LRSIC is consistent with Sub. H.B. 402 and with the Commission’s precedent in *In re the Commission-Ordered Investigation of the Existing Local Exchange Competition Guidelines etc.*, Case Nos. 99-998-TP-COI et al. (99-998), Opinion and Order at 4 and Attach. 16-17 (Dec. 6, 2001), OCTA submits that the proposed definition is insufficient inasmuch as it does not expressly include the forward-looking nature of the long-run incremental costs (OCTA Initial Comments at 3).

{¶ 19} In support, OCTA claims that the Federal Communications Commission (FCC) in *In re Implementation of Local Competition in the Telecommunications Act of 1996*, FCC 96-325 at ¶620 (Aug. 8, 1996), emphasized the importance of forward-looking pricing for competitive markets. Additionally, OCTA submits that the Commission has previously defined LRSIC as “the forward-looking economic cost of a new or existing product that is equal to the per-unit cost of increasing the volume production from zero to a specified level, while holding all other product and service volumes constant. *See*, 99-998 at 4 and Attach. at 16-17; *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, Opinion and Order (Mar. 7, 2006) and Entry on Rehearing (May 3, 2006); and *In re the Review of Chapter 4901:1-6, Ohio Administrative Code*, Case No. 06-1345-TP-ORD, Opinion and Order (Jun. 6, 2007) and Entry on Rehearing (Aug. 1, 2007). Specifically, OCTA believes that in these prior cases the Commission was defining incremental cost for a price floor and that the price floor was based on a forward-looking LRSIC. (OCTA Initial Comments at 3-4.)

{¶ 20} OTA recommends that the Commission reject OCTA’s proposal to adopt a specific definition of LRSIC based on forward-looking costs. In particular, OTA states that

OCTA's recommendation should be rejected because it does not reflect the situational nature of the cost review. In response to OCTA's arguments that the Commission has used forward-looking LRSIC in the past, OTA submits that the prior rules cited by OCTA [Rule 4901:1-6-01(A)(9), 4901:1-4-01(K), and 4901:1-6-01(M)] did not survive the subsequent changes in Ohio law. (OTA Reply Comments at 3-4.)

{¶ 21} OTA opines that, consistent with R.C. 4927.12, while an ILEC may lower its BLES rate, the reduction cannot be less than the incremental cost. Additionally, OTA notes that, pursuant to R.C. 4927.12(A), incremental cost has the meaning as defined by the Commission. Further, OTA recognizes that the Commission chose not to define incremental cost but, instead, proposed to add a definition for LRSIC. OTA emphasizes that the Commission should be cognizant of the specific context when attempting to define incremental costs. Therefore, OTA submits that the Commission should be open to alternative approaches to defining incremental costs when an ILEC is seeking to decrease rates, so long as the definition used in the particular case is designed to maintain or increase investment in telecommunications in Ohio. Additionally, OTA opines that the decision should be on an individual application basis and should only be an issue if the application suggests that the pricing is anticompetitive. (OTA Initial Comments at 2-3.)

{¶ 22} Specific to the LRSIC definition set forth in proposed Ohio Adm.Code 4901:1-6-01(W), OTA recommends that it should be replaced with a generic definition of "incremental cost" that represents the amount of money that it would cost a company to make an additional unit of product. In support of its position, OTA believes that its definition of "incremental cost" would permit the parties to demonstrate the costs that it believes are incremental and to provide a basis for the adoption of the party's particular approach to its cost analysis. (OTA Initial Comments at 3.)

{¶ 23} In response to OTA's proposed revisions, OCTA opines that OTA's proposal fails to comport with the legislative intent of Sub. H.B. 402 which, according to OCTA, requires an actual limit on price decreases and the continuation of the requirement

that telecommunication services be provided at reasonable rates. Additionally, OCTA believes that Sub. H.B. 402 does not dispense with protections against anti-competitive behaviors, such as below-cost pricing, cross-subsidizations, or price squeezes. Further, while OTA submits that the circumstances of individual price-decrease applications are important to determining how to measure incremental costs, OCTA asserts that OTA did not identify any specific circumstances that would justify establishing a different price floor depending on why the ILEC has applied for a price decrease. Therefore, OCTA reiterates that LRSIC should be defined based on forward-looking economic cost and the incremental cost price floor for BLES should be set forth in Ohio Adm.Code 4901:1-6-14(C) and (H). (OCTA Reply Comments at 3-4.)

{¶ 24} The Commission finds that the proposed definition of LRSIC is not appropriate for the purpose of analyzing pricing in a competitive market. Additionally, consideration of theoretical forward-looking pricing fails to recognize the actual additional cost to offer BLES to an additional subscriber utilizing the existing network. Therefore, the Commission concludes that "incremental cost," and not LRSIC, should be utilized in Ohio Adm.Code Chapter 4901:1-6. Specifically, "incremental cost" is defined as "the additional cost (expense) incurred by an ILEC to offer BLES to an additional subscriber, excluding cost recovered through service establishment/installation charges, over existing and/or new facilities." Such a definition will provide a defined standard, while providing flexibility on a company-specific basis.

B. Comments on Ohio Adm.Code 4901:1-6-06 Suspensions.

{¶ 25} In the March 20, 2019 Entry, Staff proposed that paragraph D be added to this rule to reflect that for-profit ILEC BLES pricing flexibility applications filed pursuant to Ohio Adm.Code 4901:1-6-14(C)(1)(c) are subject to one full suspension of the automatic approval process and must be approved or denied no later than 90 days after the date of the suspension. Additionally, an application under full suspension is entirely precluded from taking effect.

{¶ 26} No comments were filed relative to this proposed revision.

{¶ 27} The Commission finds that the proposed revision to Ohio Adm.Code 4901:1-6-06 should be adopted.

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

{¶ 28} In the Entry of March 20, 2019, consistent with R.C. 4927.17(A), Staff proposed that clarifying language be added to paragraph (A) of this rule to reflect that the requirement in R.C. 4927.17(A) to provide at least 15 days advanced notice to customers should apply to any retail service required to be tariffed, as set forth in Ohio Adm.Code 4901:1-6-11. Additionally, Staff proposed that clarifying language be added to reflect that customer notice is not required for a decrease in rates, unless otherwise specified in this chapter.

{¶ 29} OCTA contends that, rather than referencing Ohio Adm.Code 4901:1-6-11, the rule should reflect that customer notice is required for material changes pertaining to any retail service required to be tariffed by the Commission or the FCC and to any wholesale service for which there is no other applicable notice requirement. OCTA also believes that the rule should not preclude notices to wholesale customers for rate decreases inasmuch as decreases to wholesale rates are a material change to wholesale customers that require them to plan for and verify rate changes. (OCTA Initial Comments at 6.)

{¶ 30} The Commission finds that the proposed revision to Ohio Adm.Code 4901:1-6-07 should be adopted and OCTA's proposed changes should be rejected. In reaching this determination, the Commission points out that while Ohio Adm.Code Chapter 4901:1-6 pertains to retail telecommunication services, wholesale services are addressed in Ohio Adm.Code Chapter 4901:1-7, which is not the subject of this proceeding. Additionally, the Commission notes that OCTA will be made aware of tariffed retail service rate changes upon the notice filing in the applicable docket (e.g., TRF, ATA, CIO).

{¶ 31} Notwithstanding this determination, the Commission recognizes that, consistent with R.C. 4927.17, advance notice is required relative to material changes in the rates, terms, and conditions of any wholesale service to which there is no other applicable notice requirement. Therefore, the Commission will address OCTA's requested revision in the context of the next review of Ohio Adm.Code Chapter 4901:1-7.

D. Comments on Ohio Adm.Code 4901:1-6-12 Service Requirements for BLES

{¶ 32} Although Staff did not propose any edits to Ohio Adm.Code 4901:1-6-12, OCTA and OTA both propose that "available" be deleted from Ohio Adm.Code 4901:1-6-12(A). In support of its proposal, OCTA notes that pursuant to Sub. H.B. 402, "availability" was deleted from R.C. 4927.02(A)(1). Therefore, OCTA and OTA submit that a similar revision should be incorporated in Ohio Adm.Code 4901:1-6-12(A). (OCTA Initial Comments at 7; OTA Initial Comments at 5-6.)

{¶ 33} Consumer Groups object to the removal of "available" from Ohio Adm.Code 4901:1-6-12(A). In support of their position, Consumer Groups note that, pursuant to Sub. H.B. 402, the three statutes (i.e., R.C. 4927.07, 4927.10, and 4927.11) now referenced in R.C. 4927.02(A)(1) require service to be available. For example, Consumer Groups highlight that R.C. 4927.11(A) requires, with a few exceptions, that "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." Therefore, Consumer Groups submit that retaining the word "available" in Ohio Adm.Code 4901:1-6-12(A) is consistent with R.C. 4927.11. (Consumer Groups' Reply Comments at 2-4.)

{¶ 34} Additionally, in order to be consistent with the state policy referenced in R.C. 4927.01(A), Consumer Groups recommend that the Commission consider replacing "applicable industry standards" with the specific references to R.C. 4927.07, R.C. 4927.10, and R.C. 4927.11 (Consumer Groups' Reply Comments at 4).

{¶ 35} The Commission agrees with Consumer Groups' recommendation to substitute R.C. 4927.07, R.C. 4927.10, and R.C. 4927.11 for "applicable industry standards." Additionally, the Commission finds that "available" should be retained in Ohio Adm.Code 4901:1-6-12(A). In reaching this decision, the Commission agrees with Consumer Groups that R.C. 4927.07, 4927.10, and 4927.11, which are referenced in R.C. 4927.02(A)(1), are all premised on the availability of BLES. This same underlying assumption is present in the carrier of last resort requirement incorporated in Ohio Adm.Code 4901:1-6-27.

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

{¶ 36} Staff proposed revised language in Ohio Adm.Code 4901:1-6-14(C)(1)(a)(i) pertaining to the applicability of LRSIC as the incremental cost for the purpose of the rule. Based on its placement in paragraph (C), the language applied to for-profit ILEC BLES pricing flexibility when the ILEC increased rates prior to September 13, 2010.

{¶ 37} According to OCTA, the Staff proposed language in Ohio Adm.Code 4901:1-6-14(C)(1)(a)(i) should be identified as a new subsection of paragraph (B), which describes the BLES regulatory framework in general terms. OCTA believes that this change will be more consistent with the Staff's stated intent that incremental cost be LRSIC for the purposes of the entire rule. (OCTA Initial Comments at 8-10.)

{¶ 38} The Commission finds that the revisions to Ohio Adm.Code 4901:1-6-14(C) set forth in the attached appendix should be adopted. Additionally, OCTA's proposed revisions are denied. In reaching this determination regarding the OCTA's comments, the Commission notes that we did not adopt Staff's proposed revised language pertaining to the applicability of LRSIC as the appropriate definition for "incremental cost."

{¶ 39} In a new proposed paragraph (E) for Ohio Adm.Code 4901:1-6-14, Staff added language to provide the ability of a high-cost ILEC to increase its rates by any amount in order to comply with the eligibility requirements prescribed by the FCC for the federal universal service high-cost program.

{¶ 40} The Commission is not adopting Staff's proposed language regarding the federal universal high cost program and for-profit ILEC BLES price increases. In reaching this decision, the Commission notes that, subsequent to issuing Staff's proposals for comment on March 20, 2019, the FCC eliminated the rule requiring the establishment of a rate floor for rural eligible telecommunication carriers (ETCs). *See In re Connect America Fund*, WC Docket No. 10-90, Report and Order (rel. April 15, 2019). Accordingly, it is no longer necessary to have a rule addressing this topic.

{¶ 41} In proposed Ohio Adm.Code 4901:1-6-14(F), Staff recommended language incorporating a reference to proposed paragraph (E) discussed above.

{¶ 42} No comments were filed relative to this proposed revision.

{¶ 43} Consistent with the determination set forth in Paragraph 40, the Commission finds that the recommended revision to Ohio Adm.Code 4901:1-6-14(F) is no longer necessary.

{¶ 44} In draft Ohio Adm.Code 4901:1-6-14(G), consistent with Sub. H.B. 402, Staff proposed a process for an ILEC to apply for an exemption from the requirements of Ohio Adm.Code 4901:1-6-14(C).

{¶ 45} Consumer Groups submit that it is premature for the Commission to adopt a rule now that might (or might not) go into effect in four years. According to Consumer Groups, the Commission should not adopt a rule on its books that has no effect. Further, Consumer Groups point out that R.C. 4927.123 may undergo changes before its substance takes effect. Consumer Groups contend that since Sub. H.B. 402 only requires the Commission to amend its rules to the extent necessary to bring them in conformity with the legislation, only those rules that have effect now need to be adopted. (Consumer Groups' Initial Comments at 2-4.)

{¶ 46} To the extent that the Commission determines that it must adopt a rule implementing R.C. 4927.123 at this time, Consumer Groups recommend that it should not

be detailed due to the fact that there may be changes to the rules before they become effective. Instead, Consumer Groups believe that the rule should reference the enabling statute. (Consumer Groups' Initial Comments at 2-4.) Additionally, to the extent that the Commission determines that it must adopt a rule implementing R.C. 4927.123 at this time, Consumer Groups state the rule should require that OCC receive advance notice of an application for unlimited price increases for consumers' basic service. In support of its position, OCC references the requirement in Ohio Adm.Code 4901:1-6-14(F)(5) that requires that OCC be notified of increases to customers' basic service rates. (Consumer Groups' Reply Comments at 5.)

{¶ 47} OCTA objects to any requirement that an ILEC may only apply for an exemption after providing 30 days' notice to affected customers. OCTA submits that Sub. H.B. 402 does not condition the filing of an exemption application on having first provided notice to others, including OCC, of a rate increase. (OCTA Initial Comments at 10.) Additionally, OCTA asserts that, consistent with Section 3 of Sub. H.B. 402, the BLES rate exemption process must be included in the current rules at this time. To the extent that the enabling statute subsequently changes, OCTA believes that the Commission can make adjustments to its rules at that time. OCTA rejects Consumer Groups' proposal to simply reference R.C. 4927.123 instead of providing more details in the rule. In support of its position, OCTA notes that a standalone statutory reference would not identify what should be in an exemption application, does not identify the process, and does not specify the important limitation that an ILEC exemption does not allow for an ILEC to alter its BLES rates below its incremental costs. (OCTA Reply Comments at 6-8.)

{¶ 48} Similar to OCTA, OTA recommends that the Commission reject Consumer Groups' recommendation to delay the adoption of proposed Ohio Adm.Code 4901:1-6-14(G). OTA contends that Section 3 of Sub. H.B. 402 mandates that the Commission amend its rules to bring them into conformity with the new law. OTA argues that nothing in Sub. H.B. 402 permits a partial implementation of rules by the Commission. Additionally, OTA

opines that a further delay in the implementation of the rules would create additional uncertainty into financial decisions that are made over years. (OTA Reply Comments at 3.)

{¶ 49} The Commission finds that proposed Ohio Adm.Code 4901:1-6-14(G) should be adopted with the exception of the language in proposed Rule 4901:1-6-14(G)(1) requiring at least a 30-day notice prior to filing for an exemption. In reaching this determination, the Commission agrees with OCTA and OTA that Sub. H.B. 402 does not condition the filing of an exemption application on having first provided notice to others, including OCC. Interested persons may become aware of an exemption application by monitoring the Commission's docketing system for the filing of a "BEX" application.

{¶ 50} Additionally, the Commission agrees that, consistent with Section 3 of Sub. H.B. 402, the BLES rate exemption process must be included in the current rules at this time. To the extent that the enabling statute subsequently changes, the Commission can make adjustments to its rules at that time.

{¶ 51} In proposed Ohio Adm.Code 4901:1-6-14(H), Staff set forth a process for a decrease in BLES rates by a for-profit ILEC. Included in the proposed process is the requirement that the filing include a 30-day customer notice and an affidavit attesting that the decreased rate is not below the ILEC's incremental cost.

{¶ 52} OCTA agrees with Staff's proposal requiring an advance customer notice. OCTA believes that rather than simply requiring an affidavit attesting that the rate decrease is not below the ILEC's incremental cost, an ILEC should be required to provide an actual demonstration that any price decrease does not fall below the company's LRSIC. OCTA submits that absent this necessary information, Staff will be unable to ensure compliance with the statutory floor and unable to evaluate whether any enforcement is necessary for noncompliant pricing.

{¶ 53} OTA rejects OCTA's proposal to require a detailed demonstration that a price reduction does not violate the cost floor. In support of its position, OTA notes that

there is no statutory authority to impose such a requirement. OTA points out that R.C. 4927.12(B) removed a 30-day Commission notification requirement. Further, OCTA believes that filing requirements should be minimal when customers will benefit from a reduction in rates and that a Commission investigation should only occur if there is some demonstration of anticompetitive effect. (OTA Reply Comments at 4-5.)

{¶ 54} The Commission finds that the revision to add proposed language to Ohio Adm.Code 4901:1-6-14(H) is adopted with the exception of the proposed 30-day customer notice. Additionally, the Commission finds that language should be added to the proposed rule to reflect that "a decrease in an ILEC's BLES rate is presumptively deemed above the carrier's incremental cost, subject to rebuttal, if the rate decrease is not more than twenty percent of the ILEC's BLES rate at the time of the decrease." In reaching this determination, the Commission concludes that such a process is consistent with the flexibility afforded by Sub. H.B. 402, while establishing a mechanism to allow for parties to rebut the presumption regarding the nature of the decreased BLES rate relative to its incremental cost. Additionally, the Commission notes that there is no current requirement for advanced customer notice specific to a BLES rate decrease.

F. Comments on Ohio Adm.Code 4901:1-6-19 Lifeline Requirements

{¶ 55} In its proposed amendment to Ohio Adm.Code 4901:1-6-19(B), Staff recommended the removal of the requirement of "flat-rate" from the definition of Lifeline service.

{¶ 56} No comments were filed relative to this proposed revision.

{¶ 57} The Commission finds that the proposed revision to Ohio Adm.Code 4901:1-6-19 should be adopted.

{¶ 58} In its proposed amendment to Ohio Adm.Code 4901:1-6-19(H), Staff recommended the addition of "consistent with the FCC's requirements set forth in 47 C.F.R. 54.410***."

{¶ 59} No comments were filed relative to this proposed revision.

{¶ 60} The Commission finds that the proposed revision to Ohio Adm.Code 4901:1-6-19 should be adopted.

{¶ 61} In its proposed amendment to Ohio Adm.Code 4901:1-6-19(T)(2), Staff proposed the removal of the free flat-rate Lifeline service offering obligation for wireless competitive ETCs.

{¶ 62} No comments were filed relative to this proposed revision.

{¶ 63} The Commission finds that the proposed revision to Ohio Adm.Code 4901:1-6-19 should be adopted.

G. *Comments on Ohio Adm.Code 4901:1-6-29 Telephone Company Procedures for Notifying the Commission of Changes in Operations*

{¶ 64} In its proposed amendment to Ohio Adm.Code 4901:1-6-29(C)(1), Staff proposed the addition of the clarifying language “subject to the exception set forth in paragraph (E)(2).”

{¶ 65} In its proposed addition of Ohio Adm.Code 4901:1-6-29(E)(2), Staff recommended the following language:

Paragraph (E)(1) of this rule does not apply in any instance where there is a pending application with the federal communications commission (FCC) regarding either the acquisition of control of a domestic telephone company or a holding company controlling a domestic telephone company or a merger of a domestic telephone company. A domestic telephone company or a holding company controlling a domestic telephone company that files an application with the FCC seeking authority for a transfer of control or merger shall file notice of the application with the public utilities commission of Ohio

following the procedures set forth in paragraph (C) of this rule. Such notice shall include an internet link to the application.

{¶ 66} While recognizing that Ohio Adm.Code 4901:1-6-29 is currently captioned as “Procedures for merger and change in control of a LEC providing BLES,” OCTA submits that the rule should be renamed due to the fact that Sub. H.B. 402 is broader than simply changes in control applications for LECs providing BLES. Specifically, OCTA believes that the caption should reflect “Procedures for changes in control applications of a domestic telephone company or holding company of a domestic telephone company and for mergers of domestic telephone companies.” Additionally, while OCTA believes that a domestic telephone company or holding company that files an application with the FCC seeking authority for a transfer of control or merger should file notice of the application with the Commission on the same day, OCTA emphasizes that the form and timing of the notice filing must be set forth in the rule. (OCTA Initial Comments at 12-13; OCTA Reply Comments at 4-5.)

{¶ 67} OTA and Consumer Groups point out that while proposed Ohio Adm.Code 4901:1-6-29(E)(2) requires that a notice filing be made with the Commission consistent with Ohio Adm.Code 4901:1-6-29(C), proposed revisions to Ohio Adm.Code 4901:1-6-29(C) specifically exempt companies that are providing notice under paragraph (E)(2) from the requirements of paragraph (C). In order to address this conflict, OTA and Consumer Groups both recommend that the rule should be amended to establish a requirement for a stand-alone notice that is described in paragraph (E)(2). (OTA Initial Comments at 4-5; Consumer Groups’ Initial Comments at 4-5.)

{¶ 68} Specifically, OTA recommends that the next to last sentence of paragraph (E)(2) should be modified to read:

A domestic telephone company or holding company controlling a domestic telephone company that files an application with the FCC seeking authority

for a transfer of control or merger shall file notice of the application with the public utilities commission of Ohio.

(OTA Initial Comments at 5). Consumer Groups recommend that paragraph (E)(2) specify the notice procedures (Consumer Groups' Initial Comments at 5).

{¶ 69} The Commission finds that Staff's proposed Ohio Adm.Code 4901:1-6-29(E)(2) should be amended to require that a domestic telephone company or a holding company controlling a domestic telephone company that files an application with the FCC seeking authority for a transfer of control or merger shall file, on the same day the domestic telephone company files its application with the FCC, a telecommunications filing form pursuant to Ohio Adm.Code 4901:1-6-04(A) for a change in operations (CIO). The rule is also modified to reflect that a CIO application is subject to a zero-day notice filing process as described in Ohio Adm.Code 4901:1-6-05.

H. Comments on Ohio Adm.Code 4901:1-6-30 Company Records and Complaint Procedures

{¶ 70} In its proposed addition of a new paragraph (B) to Ohio Adm.Code 4901:1-6-30, Staff recommended the following language:

Following a complaint made to the public utilities commission of Ohio by a consumer concerning basic local exchange service, a telephone company shall permit the commission or commission staff to investigate or inspect the company's plant and facilities implicated by the complaint to the extent the complaint is within the commission's jurisdiction over the company under sections 4927.01 to 4927.21 of the Revised Code.

{¶ 71} No comments were filed relative to this proposed revision.

{¶ 72} The Commission finds that the proposed revision to Ohio Adm.Code 4901:1-6-30 should be adopted.

IV. CONCLUSION

{¶ 73} Upon consideration of the record as a whole, including the submitted comments, the Commission enacts the rules attached as the appendix to this Finding and Order for the reasons discussed above.

{¶ 74} 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 19-173-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

{¶ 75} It is, therefore,

{¶ 76} ORDERED, That Ohio Adm.Code Chapter 4901:1-6 be amended as set forth in the attached appendix to this Finding and Order. It is, further,

{¶ 77} ORDERED, That the 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,

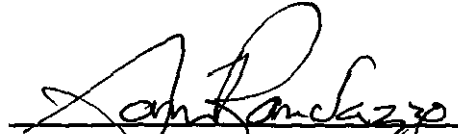
{¶ 78} ORDERED, That the final rules be effective on the earliest date permitted by law. Unless otherwise ordered by the Commission, the five-year review date for the amended rules shall be in compliance with R.C. 106.03. It is, further,

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


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

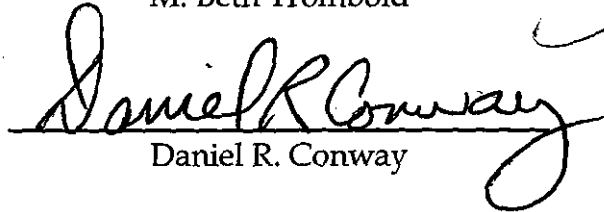
{¶ 81} ORDERED, That a copy of this Finding and Order be served upon all regulated telephone companies and all radio common carriers, OCC, OTA, OCTA, and all other interested persons of record.

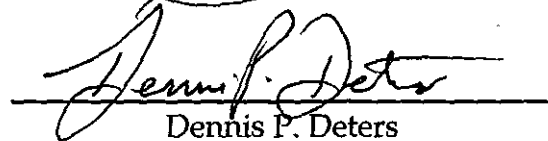
THE PUBLIC UTILITIES COMMISSION OF OHIO


Sam Randazzo, Chairman

M. Beth Trombold


Lawrence K. Friedman

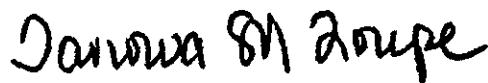

Daniel R. Conway


Dennis P. Deters

JSA /mef

Entered in the Journal

MAY 29 2019



Tanowa M. Troupe
Secretary

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AMENDED

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) "Commission" means the public utilities commission of Ohio.
- (G) "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) "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) or its successor or assignee of an incumbent local exchange.
- (I) "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 entity that, on or after

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

- (J) "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) "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) ~~"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, shall have the meaning set forth in division (A) of section 4927.12 of the Revised Code.~~
- (M) "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) "Federal poverty level" shall have the meaning set forth in division (A)(4) of section 4927.01 of the Revised Code.
- (O) "Flat rate" service means unlimited number of local calls at a fixed charge.
- (P) "Incremental cost" means the additional cost (expense) incurred by an ILEC to offer BLES to an additional subscriber, excluding cost recovered through service establishment/installation charges, over existing and/or new facilities.
- (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.

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

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

(~~U~~) "Line loss" shall have the meaning set forth in division (A) of section 4927.123 of the Revised Code.

(~~T~~)V) "Local exchange carrier" shall have the meaning set forth in division (A)(78) of section 4927.01 of the Revised Code.

(~~U~~)W) "Local service area" shall have the meaning set forth in division (A)(89) 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~~)AA) "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~~)BB) "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.

(~~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.

(~~KK~~LL) "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, 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.

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(NNPP) "Wireless service shall have the meaning set forth in division (A)(1719) of section 4927.01 of the Revised Code.

(ΘΘQQ) "Wireless service provider" shall have the meaning set forth in division (A)(1820) of section 4927.01 of the Revised Code.

AMENDED

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.

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(D) For-profit ILEC BLES pricing flexibility applications, filed pursuant to rule 4901:1-6-14(C)(1)(c) of the Administrative Code, are subject to one full suspension of the automatic approval process and must be approved or denied not later than ninety days after the date of suspension. Under this paragraph, an application under full suspension is entirely precluded from taking effect.

~~(E)~~ 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.

AMENDED

4901:1-6-07 Customer notice requirements.

- (A) Except for notices for abandonment or withdrawal of telecommunications service pursuant to rules 4901:1-6-26 and 4901:1-6-25 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 any retail service required to be tariffed, as set forth in rule 4901:1-6-11 of the Administrative Code, 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 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.
- (D) 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

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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) 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.
- (F) 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) 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) 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.

AMENDED

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 sections 4927.07, 4927.10 and 4927.11 of the Revised Code~~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

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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.
- (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

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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:

"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 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.

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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.

(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 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~~ an 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~~ An ILEC may not alter its rates for BLES for the exchange area upward by any

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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, may alter the ILEC's monthly rates for BLES downward by any amount, but not below the carrier's incremental cost, or upward for an exchange area by not more than two dollars, one dollar and twenty-five cents.~~
 - (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~~ two dollar 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, may alter the ILEC's monthly rates for BLES downward by any amount, but not below the carrier's incremental cost, or upward for the exchange area by not more than one two dollars and twenty-five cents.~~
- (c) If the commission has not made a prior determination that the an 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, at any time, alter the ILEC's rate for BLES for that exchange area downward by any amount, but not below the carrier's incremental cost. The carrier 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

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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, does either of the following: (1) issues an order finding that the requirements have not been met or (2) suspends the automatic approval for good cause shown. The commission should then act to approve or deny the application not later than ninety-days after the date of suspension.

- (ii) ~~In no event may an~~ If an ILEC that applies to the commission under paragraph (C)(1)(c) of this rule and the application is approved or deemed approved under paragraph (C)(1)(c)(i), the ILEC during the twelve-month period that begins on the thirty-first day after the company files the application was deemed approved or the date the commission issues an order approving an application that was suspended, and during any subsequent twelve-month period, may alter the carrier's monthly rates for BLES upward for the exchange area to which the application applies by not more than one-two dollars 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, owned and operated exclusively by and solely for its customers, 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

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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 office of 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 text of the customer notice to a commission-provided electronic mailbox at: Telecomm-Rule07@puco.ohio.gov.

(G) BLES pricing flexibility exemption for ILECs.

Not earlier than four years after the effective date of section 4927.123 as enacted in substitute House Bill 402 of the 132nd General Assembly, an ILEC may apply for an exemption from the requirements of paragraph (C) of this rule for an exchange area subject to paragraph (F)(3) of this rule.

- (1) A for-profit ILEC may apply for an exemption from the requirements of paragraph (C) of this rule provided that:
 - (a) the ILEC shows it has experienced at least fifty percent line loss in the exchange area since January 1, 2002 and one of the following applies:
 - (i) the ILEC, within twelve months prior to September 13, 2010, increased the ILEC's rates for BLES for the exchange area;
 - (ii) 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, or;
 - (iii) the ILEC filed an application for the exchange area that was approved or deemed approved pursuant to paragraph (C)(1)(c) of this rule.

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- (2) Upon the filing of an application under paragraph (F)(1) of this rule pursuant to a BEX 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.
- (3) If an ILEC applies to the commission under paragraph (F)(1) of this rule and the application is approved or deemed approved under paragraph (F)(2), the ILEC shall be exempt from the requirements of paragraph (C) of this rule for the exchange area to which the application applies, except the ILEC may not alter the ILEC's BLES rate below the ILEC's incremental cost.
- (4) Increases in an ILEC's BLES rates, after the application is approved or deemed approved under paragraph (F)(2) require customer notice, consistent with the requirements of rule 4901:1-6-07 of the Administrative Code, to the commission and all affected customers, including the office of 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 text of the customer notice to a commission-provided electronic mailbox at: Telecomm-Rule07@puco.ohio.gov.
- (5) Subsequent rate alterations to BLES rates, in exchanges approved or deemed approved under paragraph (F)(2) of this rule, shall be changed in its tariff pursuant to a zero-day notice filing under the company's tariff filing (TRF) docket.
- (6) The granting of an exemption does not impair the rights of any person to file a complaint pursuant to R.C. 4927.21 or restrict the rights of the Commission to initiate such a complaint.
- (G) A decrease in BLES rates by a for-profit ILEC, under paragraphs (C), (D) or (F) of this rule, shall be changed in the company's tariff pursuant to a zero-day notice filing under the company's tariff filing (TRF) docket and include an affidavit attesting that the decreased rate is not below the ILEC's incremental cost. A decrease in an ILEC's BLES rate is presumptively deemed above the carrier's incremental cost, subject to rebuttal, if the rate decrease is not more than twenty percent of the ILEC's BLES rate at the time of the decrease.
- (H) 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

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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@puco.ohio.gov.

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

- (1) 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.
- (2) 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 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 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.

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4901:1-6-19 Lifeline requirements.

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations, see rule 4901:1-6-02 of the Administrative Code.]

- (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

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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 of Ohio, the office of the Ohio 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 consistent with the federal communications commission (FCC) requirements set forth in 47 C.F.R. 54.410 and is 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);
 - (c) Supplemental security income (SSI) under Title XVI of the Social Security Act;
 - (d) Federal public housing assistance, or section 8; or
 - (e) Veteran's and survivor's pension benefits.

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 thirty-

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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) To the extent that an ILEC ETC is the only service provider in a particular exchange, the ILEC ETC where possible, 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.
- (K) General de-enrollment: An ILEC ETC shall provide written customer notification if it has a reasonable basis to believe that a Lifeline subscriber no longer meets the criteria to be considered a qualifying low-income consumer and the subscriber's customer's lifeline service benefits are to be terminated due to failure to submit acceptable documentation for continued eligibility for that assistance. The ILEC ETC and shall provide the customer subscriber an additional thirty days following the date of the impending termination letter to submit acceptable documentation of continued eligibility or dispute the carrier's findings regarding termination of the lifeline service.
- (L) De-enrollment for non-usage: 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

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period during which the customer may demonstrate usage.

- (M) De-enrollment for failure to re-certify. An ILEC ETC shall de-enroll a lifeline subscriber who does not respond to the carrier's attempts to obtain re-certification of the subscriber's continued eligibility as required by CFR 47 54.410(f); or who fails to provide the annual one-per-household recertification as required by CFR 47 54.410(f). Prior to de-enrolling a subscriber under this paragraph, the ILEC ETC shall notify the subscriber in writing that failure to respond to the re-certification request will trigger de-enrollment. A subscriber must be given sixty days to respond to recertification efforts
- (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.
- (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 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 (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

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compliance with this rule and must further support its request for recovery of any expenses not specified in paragraph (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.

- (P) If an ILEC ETC chooses to establish a customer billing surcharge to recover its lifeline expenses under paragraph (O)(1) or (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.
- (Q) An ILEC ETC that is authorized to establish a customer billing surcharge under either paragraph (O)(1) or (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 time 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 (O)(1) or (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.
- (R) Every ILEC ETC shall file with the commission in its annual report for fiscal assessment the number of its customers who receive, at the time of filing of the report, lifeline service.
- (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.
- (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) 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.~~
 - (32) A CETC shall provide to commission staff, upon request, information regarding the

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number of its lifeline customers and any additional information regarding customer subscription to and disconnection of lifeline service in the manner and time frame determined by commission staff.

- (43) CETCs that offers lifeline services that include 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.
- (54) CETCs that offer do not have a defined local calling area shall not deduct minutes for customer service-related calls.
- (65) CETCs shall, at a minimum, accept customer service and repair calls at their respective customer service number during normal business hours.

- (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.

AMENDED

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

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations, see rule 4901:1-6-02 of the Administrative Code.]

- (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

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the operating authority of a party to the transaction.

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

(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 subject to the exception set forth in paragraph (E)(2), 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

(1) A LEC providing BLES shall obtain the prior approval of the commission for a change in

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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 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.

- (2) Paragraph (E)(1) of this rule does not apply in any instance where there is a pending application with the federal communications commission (FCC) regarding either the acquisition of control of a domestic telephone company or a holding company controlling a domestic telephone company or a merger of a domestic telephone company. A domestic telephone company or a holding company controlling a domestic telephone company that files an application with the FCC seeking authority for a transfer of control or merger shall file, on the same day that the domestic telephone company or a holding company controlling a domestic telephone company files its application with the FCC, a telecommunications filing form pursuant to paragraph (A) of rule 4901:1-6-04 of the Administrative Code for a change in operations (CIO). Such notice shall include an internet link to the FCC application. A CIO application is subject to a zero-day notice filing process as described in rule 4901:1-6-05 of the Administrative Code.

AMENDED

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

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4927.21 of the Revised Code, in accordance with this chapter and the rules and procedures prescribed by the federal communications commission.

- (1) Such records should be retained by telephone companies for at least eighteen months, unless otherwise specified by the commission.
- (2) 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) Following a complaint made to the public utilities commission of Ohio by a consumer concerning basic local exchange service, a telephone company shall permit the commission or commission staff to investigate or inspect the company's plant and facilities implicated by the complaint to the extent the complaint is within the commission's jurisdiction over the company under sections 4927.01 to 4927.21 of the Revised Code.

(BC) 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.