

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

REPLY COMMENTS OF OHIO TELECOM ASSOCIATION

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I. Introduction

On July 2, 2019, the Public Utilities Commission of Ohio ("Commission") issued an entry containing several revisions to its proposed rules to implement R.C. 4927.10. Several interested parties filed initial comments on July 17, 2019. Comments filed jointly by the Office of the Ohio Consumers' Counsel and several others recommend that the Commission, in fact if not in name, reverse its decision to remove proposed Rule 4901:1-6-21(G). Comments by the Legal Aid Society of Cleveland, the Office of the Ohio Consumers' Counsel, Pro Seniors, Inc., and Southeastern Ohio Legal Services at 3-4 (July 17, 2019) ("OCC Comments"). The Commission should reject OCC's recommendation.¹

II. Argument

In the revised proposed rules issued by the Commission on July 2, 2019, the Commission struck proposed Rules 4901:1-6-21(F) and (G). Entry ¶ 4 (July 2, 2019). Subdivision (G), as previously proposed, would have subjected a provider of voice service to requirements to continue to provide voice service, potentially indefinitely, if the residential customer would not have access to 9-1-1 service or the current provider of voice service was the sole provider of emergency service to residential customers. *Id.*, Attachment C, page 3.

¹ These Reply Comments address only OCC's second recommendation. Failure to address OCC's first recommendation is not intended to indicate any support for it.

OCC apparently seeks to have the Commission implement the requirements Rule 4901:1-6-21(G), although it does not explicitly ask the Commission to reverse its decision to strike the proposed rule. OCC Comments at 3-4. Without reference to any provision of state law to support its position or any factual circumstances that warrant imposing additional requirements on voice providers, OCC asserts that the Commission should assist a customer in finding a willing provider because a customer's health or safety might be jeopardized. *Id.* at 4. That assistance is vaguely described, but OCC recommends that the Commission "treat the customer the same as a customer of withdrawn basic service." In effect, then, OCC apparently is arguing that the Commission should reverse its decision to delete proposed Rule 4901:1-6-21(G) from the new rules to implement R.C. 4927.10. This new rule then would expand the requirements applicable to a voice provider to include potentially indefinite provision of a voice service other than basic local exchange service.

As a legal and practical matter, OCC's recommendation is not justified.

First, OCC does not provide any legal support for the recommendation, and in fact R.C. 4927.07 explicitly prevents the Commission from lawfully adopting OCC's request. Under R.C. 4927.07(A) and (B), a telephone company may withdraw or abandon entirely any telecommunications service except basic local exchange service if it gives at least thirty days' prior notice to the Commission and the affected customers.² Because OCC's recommendation

² R.C. 4927.07 provides in relevant part:

(A) Except as provided under the notice requirements of section 4927.10 of the Revised Code, a telephone company may withdraw any telecommunications service if it gives at least thirty days' prior notice to the public utilities commission and to its affected customers.

(B) Except as provided under the notice requirements of section 4927.10 of the Revised Code, a telephone company may abandon entirely telecommunications service in this state if it gives at least thirty days' prior notice to the commission, to its wholesale and retail customers, and to any telephone company wholesale provider of its services.

would bind a telephone company to continue provision of voice service, potentially indefinitely, its proposal is contrary to the express provisions of R.C. 4927.07(A) and (B).

Second, OCC does not offer any factual basis for the Commission to adopt its recommendation. Although OCC asks the Commission to assume that there is a customer that faces a safety crisis if a telephone company withdraws voice service, the Commission may presume that a service provider is in the business of selling services and is unlikely to pull that service, particularly when (as OCC posits) this unnamed provider is the only remaining telephone voice service provider. But the very existence of such a situation is very unlikely. In fact, alternatives to contact emergency services are widely available because service competition is extensive throughout Ohio.³ Thus, the predicate of OCC's claim that there are customers at risk because there is no service provider willing to provide voice service is counterfactual.

III. Conclusion

Because OCC is proposing an unlawful solution to an undocumented and unlikely problem, the Commission should not impose withdrawal restrictions like those contained in deleted Rule 4901:1-6-21(G) to voice services other than basic local exchange service.

Respectfully submitted,

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³ In 2017, Ohio Telecom Association reported that 70% of 911 calls were made from cell phones and 50% of those were made from indoors. The Association further reported that 96.5% of all exchanges in Ohio had multiple providers competing for the customer's business. Ohio Telecom Association, Telecom in Ohio: A report on the state of the industry at 3 and 6 (Oct. 2017) (http://www.ohiotelecom.com/aws/OTIA/asset_manager/get_file/169746?ver=13822).

CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the Commission's e-filing system will electronically serve notice of the filing of this document upon the interested parties. I hereby certify that a copy of the foregoing *Reply Comments of Ohio Telecom Association*, was served upon the following parties of record this 26th day of July 2019, *via* electronic transmission, hand-delivery, or first class U.S. mail, postage prepaid.

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