

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S  
REVIEW OF CHAPTER 4901:1-6 OF THE  
OHIO ADMINISTRATIVE CODE,  
REGARDING TELEPHONE COMPANY  
PROCEDURES AND STANDARDS.

CASE NO. 14-1554-TP-ORD

## ENTRY

Entered in the Journal on October 7, 2020

### I. SUMMARY

{¶ 1} The Commission requests comment for a revision to Ohio Adm.Code 4901:1-6-02(H), in order to update the incorporation by reference standard to citations of the United States Code or Code of Federal Regulations and, in doing so, to ensure, among other things, that fair and reasonable rates are in place to enable incarcerated individuals and their families to stay connected. All responsive comments should be filed by October 15, 2020.

### II. DISCUSSION

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

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

- (a) Should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;
- (b) Need amendment or rescission to give more flexibility at the local level;
- (c) Need amendment or rescission to eliminate unnecessary paperwork;
- (d) Incorporate a text or other material by reference and, if so, whether the text or other material incorporated by reference is

deposited or displayed as required by R.C. 121.74, and whether the incorporation by reference meets the standards stated in R.C. 121.71, 121.75, and 121.76;

- (e) Duplicate, overlap with, or conflict with other rules;
- (f) Have an adverse impact on businesses, as determine under R.C. 107.52; and
- (g) Contain words or phrases having meanings that, in contemporary usage, are understood as being derogatory or offensive.

{¶ 4} In addition, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled “Establishing the Common Sense Initiative,” which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must: review its rules to determine the impact that a rule has on small businesses; attempt to balance the critical objectives of regulation and the cost of compliance by the regulated parties; and amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that have had negative, unintended consequences, or unnecessarily impede business growth.

{¶ 5} On September 4, 2014, the Commission opened Case No. 14-1554-TP-ORD (*Retail Rules Case*), *In re the Commission’s Review of Chapter 4901:1-6 of the Ohio Administrative Code, Regarding Telephone Company Procedures and Standards*, for the purpose of commencing the five-year review of the rules contained in Ohio Adm.Code Chapter 4901:1-6.

{¶ 6} Pursuant to its November 30, 2016 Finding and Order (Finding and Order) in the *Retail Rules Case*, the Commission adopted administrative rules regarding telephone company procedures and standards. Consistent with the Finding and Order, some rules were identified as no change rules, some were identified as amended rules, and one was identified as a new rule.

{¶ 7} Five rounds of rehearing ensued with the most recent Entry on Rehearing being issued on October 4, 2017. As a result, some of the rules in Ohio Adm.Code Chapter 4901:1-6 have been updated and some have not.

{¶ 8} One of the rules that has not been updated is the Purpose and Scope rule, Ohio Adm.Code 4901:1-6-02. Paragraph (H) of the Purpose and Scope rule includes a date whereby citations to the United States Code and the Code of Federal Regulations is incorporated by reference. The currently effective version of the Purpose and Scope rule lists the citation date as September 13, 2010.

{¶ 9} One of the provisions within Ohio Adm.Code Chapter 4901:1-6 that is impacted by the September 13, 2010 citation date is the Inmate Operator Service (IOS) rule, Ohio Adm.Code 4901:1-6-22. Namely, the Commission's intent behind adopting this rule was for providers of IOS in Ohio to mirror, on an intrastate basis, the rates outlined by the Federal Communications Commission (FCC) in 47 C.F.R. part 64 for interstate IOS calls. Since September 13, 2010, the FCC, among other things, has lowered the rates for IOS calls on an interstate basis. In order to clear up any confusion on the rates that IOS providers should charge for intrastate calls from facilities (e.g., prisons, jails, etc.) in Ohio, it is necessary to update the citation found in the Purpose and Scope rule, Ohio Adm.Code 4901:1-6-02.

{¶ 10} At this time, the Commission requests comment on an update to paragraph (H) of Ohio Adm.Code 4901:1-6-02. No other changes to currently effective Ohio Adm.Code 4901:1-6-02 are being proposed at this time. Specifically, the Commission seeks comment on modifying the language as follows:

(H) Each citation contained within this chapter that is made either to a section of the United States Code or a regulation in the code of federal regulation is intended, and shall serve, to incorporate by reference the particular version of the cited matter that was effective on ~~September 13, 2010~~ October 1, 2020.

{¶ 11} Accordingly, the Commission requests comments from interested persons to further assist in the review required by R.C. 111.15 and Executive Order 2011-01K. Comments should be filed, via electronic filing or in hard copy, by October 15, 2020.

{¶ 12} Comments should be limited to the one proposed modification contained in Paragraph 10. The Commission will not consider any comments falling beyond the scope of this Entry.

{¶ 13} The Commission recognizes that it is important for calls involving incarcerated individuals be set at fair and reasonable rates to enable continued connections to their families and others. As stated by the FCC, studies have shown that contact with family and other loved ones during incarceration can reduce recidivism and lessens disruptive and anxious behaviors in children with incarcerated parents. Therefore, in furtherance of the Commission policy on calls involving incarcerated individuals, all providers of IOS are directed to file tariffs consistent with the current federal law and rates contained in 47 C.F.R part 64 at this time.

### III. ORDER

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That comments regarding the proposed language revision in Paragraph 10 be filed by October 15, 2020. It is, further,

{¶ 16} ORDERED, That a copy of this Entry be served upon all commenters and interested persons of record in this matter.

**COMMISSIONERS:**

*Approving:*

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

JRJ/kck

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