

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**INITIAL COMMENTS OF
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION
TO PROPOSED OHIO ADM.CODE 4901:1-6-21**

I. Introduction

The Public Utilities Commission of Ohio (“Commission”) seeks comments on a new proposed rule, Ohio Adm.Code 4901:1-6-21, regarding the withdrawal or abandonment of basic local exchange service (“BLES”) or voice service by a provider of telecommunications service. The Commission put forth a similar version of this rule in its November 30, 2016 Finding and Order in this proceeding to which the Ohio Cable Telecommunications Association (“OCTA”) objected primarily because provisions (F) and (G) exceeded the Commission’s statutory authority. The Commission did not finalize the 2016 version of the rule through the Joint Committee on Agency Rule Review’s process. Later, the Commission even proposed a version of this rule without provisions (F) and (G), but that version of the proposed rule was not finalized, either. Those two provisions, however, have returned in the current rule proposal and they still exceed the Commission’s authority by improperly regulating all “voice service” providers, as distinguished from basic local exchange service (“BLES”) providers. Provisions (F) and (G) are flawed because they (a) are not authorized by any language in the enabling legislation; (b) are not based on a finding that Commission regulation is actually necessary for protection, welfare and safety of the public; and (c) would impermissibly result in state regulation of an interstate,

information service such as voice over internet protocol (“VoIP”). Additionally, provision (G) is vague and ambiguous. This rule proposal overall does not comply with Ohio Revised Code Section (“R.C.”) 121.95(F) and will have an adverse impact on the business community and consumers. For these reasons, provisions (F) and (G) should be removed from the proposed version of Ohio Adm.Code 4901:1-6-21.

II. Background

On September 4, 2014, the Commission opened Case No. 14-1554-TP-ORD for the purpose of commencing a five-year review of the rules impacting the telephone industry in Ohio Adm.Code Chapter 4901:1-6. During the review process, Am. Sub. House Bill 64 (131st General Assembly) became law in 2015, which in relevant part allows for the withdrawal or abandonment of BLES by an incumbent local exchange carrier (“ILEC”).¹ The Commission determined that it would revise its rules in Chapter 4901:1-6 accordingly in this docket. On November 30, 2016, the Commission issued a Finding and Order that included a new Ohio Adm.Code 4901:1-6-21 entitled “Carrier’s withdrawal or abandonment of basic local exchange service (BLES) or voice service.” While the statutes adopted in 2015 expressly regulate only the withdrawal of “basic local exchange service” or withdrawals by a “telephone company,” the 2016 Finding and Order went substantially farther, including two provisions that addressed how the Commission would require “voice service”² providers to submit filings to the Commission and be subject to its regulation. Specifically, those provisions stated:

- (F) If the sole provider of voice service seeks to withdraw or abandon such voice service, it shall notify the Commission at least thirty days prior to the withdrawal or abandonment through the filing of a withdrawal of

¹ See, R.C. 4927.07 and 4927.10.

² R.C. 4927.01(A)(14) defines “voice service” to mean “all of the applicable functionalities described in 47 C.F.R. 54.101(a). ‘Voice service’ is not the same as basic local exchange service.”

voice service (WVS) consistent with the authority granted to the commission in division (A) of section 4927.03 of the Revised Code.

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

After affirming on rehearing its new Ohio Adm.Code 4901:1-6-21 and the other adopted rules in the chapter, the Commission filed the adopted rules with the Joint Committee on Agency Rule Review ("JCARR"). However, during the JCARR process, the Commission withdrew several rules, including Ohio Adm.Code 4901:1-6-21. The rule was not re-filed with JCARR and did not become effective.

On July 2, 2019, the Commission issued an Entry inviting comments on another draft of Ohio Adm.Code 4901:1-6-21 as well as several other rules. Provisions (F) and (G) of Ohio Adm.Code 4901:1-6-21 **were specifically proposed to be eliminated** from the rule. The Commission asked stakeholders to comment on the elimination of those provisions, and the OCTA and others filed comments in July 2019. The Commission did not issue a decision.

Now two years later, the Commission has reversed course again. On August 25, 2021, the Commission issued an Entry requesting comments on a new proposed Ohio Adm.Code 4901:1-6-21 and included the previously eliminated provisions (F) and (G). In the Entry, the Commission declared that proposed Ohio Adm.Code 4901-1-21 is "narrowly tailored for the protection, welfare, and safety of the public."

III. Argument

Initially, it is important to note that the language in proposed Ohio Adm.Code 4901:1-6-21(F) and (G) is virtually **identical** to what the Commission adopted in 2016, withdrew from JCARR in 2018, and proposed to exclude from the rule in 2019.³ Second, it is important to note that Ohio Adm. Code 4901:1-6-21 – including provisions (F) and (G) – is intended to implement R.C. 4927.10 – the statute establishing a framework under which ILECs might withdraw or abandon BLES – and that there have been no changes in R.C. 4927.10 since it was enacted (or any other related law) that justify proposed provisions (F) and (G).

As previously explained by the OCTA in this proceeding, provisions (F) and (G) exceed the Commission’s authority, provision (G) is vague, and the provisions will be harmful to business and consumers in Ohio. In addition, the provisions will not comply with federal policy, and Ohio Adm. Code 4901:1-6-21 does not comport with R.C. 121.95. Provisions (F) and (G) should, therefore, not be adopted.

A. Proposed provisions (F) and (G) exceed the Commission’s statutory authority.

The Commission, as a state agency, can only exercise that authority which has been specifically delegated to it by the General Assembly.⁴ H.B. 64 gave the Commission authority to adopt rules to oversee the withdrawal or abandonment of BLES by an ILEC.⁵ Provisions (F) and (G), however, address something entirely different – those provisions will restructure the Commission’s regulatory authority over voice service providers that are not subject to its

³ The current proposal changes one word in subsection (F), as explained below.

⁴ *Tongren v. Pub. Util. Comm.* (1999), 85 Ohio St.3d 87, citing *Columbus S. Power Co. v. Pub. Util. Comm.* (1993), 67 Ohio St.3d 535, 620 N.E.2d 835; *Pike Natural Gas Co. v. Pub. Util. Comm.* (1981), 68 Ohio St.2d 181, 22 O.O.3d 410, 429 N.E.2d 444; *Consumers’ Counsel v. Pub. Util. Comm.* (1981), 67 Ohio St.2d 152, 21 O.O.3d 96, 423 N.E.2d 820; and *Dayton Communications Corp. v. Pub. Util. Comm.* (1980), 64 Ohio St.2d 302, 18 O.O.3d 478, 414 N.E.2d 1051.

⁵ Am. Sub. H.B. 64, Section 363.30(A)(1), pp. 2705-2706. The Commission also received the authority to adopt rules to implement amendments to R.C. 4927.01, 4927.02, 4927.07, and 4927.11 via H.B. 64.

regulation today. Importantly, provisions (F) and (G) **do not state** that they will be triggered only if an ILEC withdraws its BLES – landline telephone service⁶ – or after any other event or determination. As a result, if enacted, provisions (F) and (G) will, for the first time, subject many non-regulated voice service providers **immediately** to new regulations and risks. H.B. 64 did not authorize the Commission to extend its regulatory authority over voice service providers.

The Commission again appears to rely on R.C. 4927.03(A) as support for proposed provisions (F) and (G). It cites to that statute in the provisions and also stated in its August 25, 2021 Entry at ¶ 10 that proposed Ohio Adm.Code 4901:1-6-21 includes “critical provisions to safeguard the protection, welfare, and safety of the public” for purposes of ensuring that Ohioans have access to call emergency service providers and 9-1-1 authorities and is narrowly tailored to achieve that goal. There is no necessity for provisions (F) and (G) and, therefore, the Commission cannot adopt them.

1. R.C. 4927.03(A) does not authorize proposed provisions (F) and (G).

Proposed provisions (F) and (G) specifically reference R.C. 4927.03(A) as a basis for those regulations; however, this statute specifically states that the Commission has **no authority** over voice over internet protocol-enabled services (“VoIP”) or any other “new” telecommunications service unless the Commission specifically finds that “the exercise of the commission’s authority is necessary for the protection, welfare, and safety of the public.”⁷ Proposed provision (F) imposes regulations on providers of voice service that are not necessary for the protection, welfare, and safety of the intended target customers – the at-risk residential customers. Proposed provision (F)

⁶ The General Assembly has distinguished BLES from voice service. R.C. 4927.01(A)(1) defines “Basic local exchange service” as excluding “any voice service to which customers are transitioned following a withdrawal of basic local exchange service under section 4927.10 of the Revised Code”. Likewise, R.C. 4927.01(A)(18) defines ‘voice service’ as “not the same as basic local exchange service.”

⁷ R.C. 4927.03(A). There are limited, enumerated exceptions where the Commission has authority, but none of those exceptions are involved here. *See, id.*

requires a “sole provider” of voice service to submit a withdrawal/abandonment filing for Commission review.⁸ Proposed provision (F) states:

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

R.C. 4927.03(A) is a deregulation statute; it does not provide the statutory authority for the Commission to impose filing requirements so that the Commission can review (and presumably rule on) a withdrawal/abandonment of voice service. Proposed provision (F), however, would impose such regulatory constraints on a sole provider of voice service, including a provider who would not otherwise qualify as a telephone company or a public utility under Ohio law. This is because proposed provision (F) applies to *any* provider of voice service if it is the sole voice service provider. Proposed provision (F) is not specific to providers currently subject to Commission regulation and it is not specific to a voice service technology that is currently subject to Commission regulation. Indeed, the Commission could manufacture jurisdiction over non-regulated services under this proposed rule simply by allowing other, regulated carriers to exit the market. As a result, under the language of proposed provision (F), a sole provider who uses a technology that excludes it from the definition of a telephone company or a public utility under Ohio law would nonetheless become subject to Commission regulation.

The Commission has previously reasoned that, without provision (F), at-risk residential subscribers who do not have access to voice services may be harmed.⁹ In other words, the Commission **assumed** that (1) there are some locations in Ohio where non-BLES, non-telephone

⁸ It is unclear how “sole provider” will be determined.

⁹ Finding and Order (Nov. 30, 2016), at ¶¶ 205 and 206.

company “voice services” are the only services available to consumers; and (2) if the hypothetical sole provider of voice service were to withdraw or abandon voice service, those customers would be unable to access 9-1-1 emergency services, and/or transmit information related to medical devices.¹⁰ However, these assumptions are not supported by any evidence. There is no evidence that there is any area in Ohio where a non-BLES, non-telephone company provider is the sole provider of voice service. In addition, the sole provider of voice service in a particular area may not be serving residential customers. Regardless, the Commission cannot extend its regulation over voice service providers that it does not regulate today based on assumptions. Adopting provision (F) would therefore be outside the Commission’s statutory authority.

Adopting proposed provision (G) likewise would exceed the Commission’s authority. Provision (G) would enable the Commission to subject any voice service provider to the entire BLES withdrawal/abandonment process¹¹ under two scenarios:

- (1) When a residential customer will not have access to 9-1-1 if its current provider of voice service withdraws/abandons its voice service; or
- (2) When a voice service provider is the sole provider of emergency services.¹²

The General Assembly did not apply the BLES withdrawal/abandonment process to voice service providers. R.C. 4927.03(A) does not permit the Commission to simply apply that process to voice service because R.C. 4927.10 states that the withdrawal/abandonment process is limited to ILECs only. Had the legislature intended to extend the withdrawal/abandonment rules to all

¹⁰ Finding and Order (November 30, 2016) at ¶ 206.

¹¹ The withdrawal/abandonment process includes public notice, residential customer petitions, Commission investigation, and possible provision of a reasonable and comparatively priced voice service. R.C. 4927.10.

¹² Provision (G) states: “If the Commission determines that: (1) a residential customer of voice service will not have access to 9-1-1 service if the customer's current provider withdraws or abandons its voice service; or (2) the current provider of voice service is the sole provider of emergency services to residential customers, pursuant to the authority granted to the commission in division (A) of section 4927.03 of the Revised Code, that provider may be subject to all the provisions of this rule, on a case-by-case basis.” Again, it is unclear how the Commission will determine “sole provider.”

voice services they could have done so. Had the legislature intended to permit the Commission to gain jurisdiction over an alternative voice service provider by allowing an ILEC to withdraw service under R.C. 4927.10, it could have done so. The proposed provisions (F) and (G) clearly intend, however, to apply the statutory BLES withdrawal/abandonment process to voice service via provision (G), acting where the legislature chose not to act and expanding the scope of R.C. 4927.10 beyond its language and intent. As a result, the Commission has exceeded its statutory authority in R.C. 4927.03(A). Both proposed provisions (F) and (G) should be deleted from Ohio Adm.Code 4901:1-6-21.

- 2. Assuming the Commission can regulate voice service providers that it does not regulate today, there is no evidence or findings of record for the Commission to conclude that it is “necessary for the protection, welfare, and safety of the public” for the Commission to assert its authority over those voice service providers, by adopting proposed provisions (F) and (G).**

In this proceeding, the Commission has previously justified its adoption of provisions (F) and (G) on the theory that the rules are necessary because the Commission must prospectively ensure access to 9-1-1 service after the ILEC abandons BLES and even after a subsequent voice service provider withdraws/abandons voice service.¹³ The Commission expresses a similar sentiment in the recently issued August 25, 2021 Entry.¹⁴ However, the Commission has not put forth any actual evidence or data that supports a contention or finding that these provisions are actually necessary to ensure access to 9-1-1 service for any customers. In fact, the Commission

¹³ Finding and Order (Nov. 30, 2016) at ¶¶ 205-206; Second Entry on Rehearing (Apr.5, 2017) at ¶ 91.

¹⁴ Entry (Aug. 25, 2021) at ¶ 10.

has not indicated that **any** customers will be losing access to 9-1-1 service. Moreover, the Commission has not cited to any changes in circumstances since H.B. 64 was passed, such as:

- An ILEC in Ohio has withdrawn its BLES within an Ohio telephone exchange.
- An ILEC in Ohio has proposed to the Federal Communications Commission (“FCC”) or the Commission to withdraw its BLES.
- Or any such withdrawals of BLES by an ILEC not being accompanied by that ILEC’s offering of another voice service – such as when an ILEC proposes to switch from providing circuit-switched BLES service to offering VoIP service because a traditional BLES switch is being discontinued and replaced by an IP switch.

This long-pending rule review contains no evidence indicating that any such withdrawal proposals are forthcoming, or will be forthcoming during the next five years. Thus, it is unclear and unknown when any such proposal will be filed with the FCC or with the Commission, or what the outcome of those filings will be. Consequently, the Commission has not and cannot actually make a finding to demonstrate the need for provisions (F) and (G), and these provisions should not be adopted.

Moreover, another Ohio statute provides an additional basis for finding that there is no need to extend authority over voice service providers for 9-1-1 purposes through provisions (F) and (G). R.C. 4927.15, which states that 9-1-1 service (and four other services) shall be tariffed, is a statutory requirement for ILECs. The Commission recently ruled that R.C. 4927.15 **unconditionally** sets forth requirements for ILECs. Specifically, the Commission stated that R.C. 4927.15 unconditionally requires ILECs to offer and include pay telephone access line rates, terms and conditions in their tariffs and that they could not be grandfathered. *In the Matter of the Application of AT&T Ohio to Modify Tariff P.U.C.O. No. 20 to Indicate Grandfathering of Customer-Owned Pay Telephone Service*, Case No. 21-617-TP-WVR, Entry at ¶ 11 (August 25, 2021). By logic, 9-1-1 service, which is also listed in the statute, must be an unconditional requirement under R.C. 4927.15 for ILECs and, therefore, there is no need to extend authority over

voice service providers for 9-1-1 purposes through provisions (F) and (G). No language in R.C. 4927.15 would authorize the Commission to extend regulatory authority for 9-1-1 service and apply to providers of voice service (including VoIP) who are not regulated today. Altogether, R.C. 4927.15 is an additional basis for concluding that there is no need for provisions (F) and (G).

3. R.C. 4927.10 is not a statutory basis for proposed provisions (F) and (G).

Ohio Adm.Code 4901:1-6-21 is entitled “Carrier’s withdrawal or abandonment of basic local exchange service (BLES) or voice service” and is clearly based on R.C. 4927.10, which created a new process for withdrawal or abandonment of BLES by ILECs. The process allows an ILEC to withdraw BLES if the FCC has allowed the ILEC to withdraw the interstate-access component of its BLES. If, as a result of that BLES withdrawal/abandonment, a residential customer will not be able to obtain “reasonable and comparatively priced voice service” and no willing provider of “reasonable and comparatively priced voice service” steps in, the Commission may require the ILEC to provide “reasonable and comparatively priced voice service.” BLES is not the same service as voice service.¹⁵

Numerous provisions in proposed Ohio Adm.Code 4901:1-6-21 are based on R.C. 4927.10. That statute, however, does not address a withdrawal/abandonment of voice service by a voice provider. As a result, R.C. 4927.10, which does not authorize the Commission to impose **any** of the obligations in proposed provisions (F) and (G) on a provider of voice service, cannot establish a statutory basis for those provisions.

¹⁵ R.C. 4927.01(A)(18) and R.C. 4927.10(B)(3).

B. The Commission cannot regulate voice services that are information services, such as VoIP.

If provisions (F) and (G) are adopted, then they will subject voice service providers to regulation, including those voice service providers that are not subject to PUCO regulation today, such as VoIP service. Provisions (F) and (G) will require voice service providers to make filings, be subject to investigation, obtain Commission authorization to operate their voice service, and potentially be mandated to indefinitely provide the voice service as a provider of last resort. In addition to R.C. 4927.03's removal of Commission authority over VoIP (discussed above), FCC policy does not permit state regulation of VoIP service because it is an interstate, information service. *See Charter Advanced Services (MN), LLC v. Lange*, 903 F.3d 715, 2018 U.S. App. LEXIS 25478 (8th Cir. 2018), citing *Minn. PUC v. FCC*, 483 F.3d 570, 580 (8th Cir. 2017) (“[A]ny state regulation of an information service conflicts with the federal policy of nonregulation.... We conclude that the VoIP technology used by Charter Spectrum is an ‘information service’ under the Act.”) Provisions (F) and (G) must, therefore, be rejected as they would conflict with the federal policy of preempting state regulation.

C. Provision (G) is vague and ambiguous as to when the Commission will subject a voice service provider to all the provisions of Ohio Adm.Code 4901:1-6-21.

In addition to being beyond the Commission's statutory authority and contrary to federal policy, provision (G) is vague and ambiguous as to when the Commission will subject a voice service provider to the BLES withdrawal/abandonment process. Under provision (G), the Commission would apply that process to voice service providers on an arbitrary, case-by-case basis. The rule does not identify when or how the Commission will decide to apply the BLES withdrawal/abandonment rule. It does not identify how the Commission determinations will be made. Also, it does not identify if some or all of the BLES withdrawal/abandonment process will

apply. Proposed provision (G) is an unreasonably vague and ambiguous regulation¹⁶ and, as such, should be removed from Ohio Adm.Code 4901:1-6-21.

D. Proposed rule 4901:1-6-21 does not comply with R.C. 121.95(F).

R.C. 121.95(F) states:

Beginning on the effective date of this section and ending on June 30, 2023, a state agency may not adopt a new regulatory restriction unless it simultaneously removes two or more other existing regulatory restrictions. The state agency may not satisfy this section by merging two or more existing regulatory restrictions into a single surviving regulatory restriction.

The Commission is subject to this requirement per R.C. 121.95(A). As explained in R.C. 121.95(B), rules that require or prohibit an action are “regulatory restrictions.” Rules that include the words “shall,” “must,” “require,” “shall not,” “may not,” and “prohibit” are considered to contain regulatory restrictions. Legislative intent is primarily determined from the plain language of a statute.¹⁷ A plain reading of the statute indicates that in addition to the words listed above, which are already presumed to be regulatory restrictions if they appear in a rule, rules that require or prohibit an action are also “regulatory restrictions.”

Here, the proposed rule appears to attempt to circumvent R.C. 121.95(F) by changing the verbs throughout proposed Ohio Adm.Code 4901:1-6-21. As noted above, provisions (F) and (G) are identical to the same rule subparts adopted by the Commission in its November 30, 2016 Finding and Order, with the exception of one verb change in provision (F). Proposed rule 4901:1-6-21(F) was revised as follows:

If the sole provider of voice service seeks to withdraw or abandon such voice service, it ~~shall~~**has to** notify the Commission at least thirty days prior to the withdrawal or abandonment through the filing of a withdrawal of voice service

¹⁶See, generally, *In re Columbus S. Power Co.*, 134 Ohio St.3d 392 at ¶ 20 (2012) (“The void-for-vagueness doctrine is a component of the right to due process and is rooted in concerns that laws provide fair notice and prevent arbitrary enforcement”).

¹⁷ *Summerville v. Forest Park*, 128 Ohio St.3d 221, 2010-Ohio-6280, 943 N.E.2d 522, ¶18.

(WVS) consistent with the authority granted to the commission in division (A) of section 4927.03 of the Revised Code.

As proposed, provision (F) still requires an action.

Additionally, proposed Ohio Adm.Code 4901:1-6-21 is replete with other verb changes in an apparent attempt to remove the regulatory restrictions in prior versions: “shall” is replaced by “will”¹⁸; “must” is replaced by “has to”¹⁹; “shall” by “needs to”²⁰; and “must” by “will have to”.²¹ Though the Commission is removing the words identified in R.C. 121.95(A), the substantive effect of proposed Ohio Adm.Code 4901:1-6-21 is still to impose regulatory restrictions on various entities, including, unlawfully, on voice service providers. The Commission has not made any attempts to remove two existing regulatory restrictions, as dictated by R.C. 121.95(F), for each of the restrictions it proposes to adopt in Ohio Adm.Code 4901:1-6-21. As such, proposed provisions (F) and (G) should be removed from Ohio Adm.Code 4901:1-6-21 because they exceed the Commission’s authority and would aid the Commission in reducing the number of regulatory restrictions it is adopting.

E. Proposed provisions (F) and (G) will have an adverse impact on businesses and consumers.

Provisions (F) and (G) will **unreasonably and unlawfully extend** the Commission’s regulatory reach over voice service providers that are not subject to its regulation today. The provision of VoIP is not subject to Commission regulation today²² but would come under Commission regulation pursuant to provisions (F) and (G). The Commission has previously

¹⁸ Entry (Aug. 25, 2021), Attach. A, proposed rule 4901:1-6-21(A).

¹⁹ *Id.* at proposed rule 4901:1-6-21(B).

²⁰ *Id.*

²¹ *Id.*

²² R.C. 4905.02(A)(5)(d).

acknowledged that these proposed provisions will make voice providers subject to Commission regulation when it determined that the rules are not burdensome on voice service providers²³ and when it stated it is extending its reach to impose (F) and (G) on more than even the identified “willing provider” of voice service.²⁴

If provisions (F) and (G) are adopted, they will unreasonably require voice service providers to make filings, be subject to investigation, obtain Commission authorization to operate their voice service, and potentially be mandated to indefinitely provide the voice service as a provider of last resort. Voice service providers will no longer be unable to respond to the market and will incur regulatory costs not contemplated when the provider elected to operate in Ohio. This adverse impact is unwarranted and detrimental to a functioning competitive telecommunications marketplace. The General Assembly in Section 363.20 of H.B. 64 mandated the Commission to plan for the internet-protocol transition “that will stimulate investment in the internet-protocol network in Ohio and that will expand the availability of advanced telecommunications services to all Ohioans.” These rules do neither and, in fact, will have the opposite effect by potentially driving out or discouraging competitive market entrants, to the disadvantage not only of the businesses that seek to compete in the Ohio telecommunications marketplace but also the businesses and consumers that benefit from and rely upon the technological advances and superior service that have resulted from Ohio’s light regulatory touch concerning VoIP and other advanced voice services. Consequently, proposed provisions (F) and (G) will have an “adverse impact on business” in Ohio as defined in R.C. 107.52(A) and should not be adopted.

²³ Second Entry on Rehearing (Apr.5, 2017) at ¶91.

²⁴ *Id.* at ¶100.

IV. Conclusion

Based on the reasons above, the Commission should remove proposed provisions (F) and (G) to be fully compliant with the Commission's statutory authority, federal policy, and state law and policy. There is no support for the Commission's proposal to expose voice service providers to the multiple regulatory requirements of proposed provisions (F) and (G), especially since the Commission has previously, *sua sponte*, removed them from proposed Ohio Adm.Code 4901:1-6-21. In the Entry issued on August 25, 2021, the Commission made no finding that the adoption of these provisions is necessary for the protection, welfare, and safety, which are the limited bases upon which the Commission might be able exercise authority under R.C. 4927.03(A). Additionally, R.C. 4927.10 does not authorize a withdrawal/abandonment process for voice service, and imposing such a process would be inconsistent with 4927.15 and with federal policy. Proposed Ohio Adm.Code 4901:1-6-21 does not comport with R.C. 121.95 and will be detrimental to businesses and customers in Ohio. Thus, the OCTA urges the Commission to remove proposed provisions (F) and (G) from proposed Ohio Adm.Code 4901:1-6-21.

Respectfully submitted,

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Summary: Comments Initial Comments to Proposed Ohio Adm.Code 4901:1-6-21
electronically filed by Mrs. Gretchen L. Petrucci on behalf of Ohio Cable Telecommunications
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