

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**CONSUMER PROTECTION REPLY COMMENTS REGARDING LOCAL
TELEPHONE COMPANY ABANDONMENT OF CONSUMERS' ESSENTIAL
9-1-1 EMERGENCY AND BASIC LOCAL TELEPHONE SERVICES**

**BY
LEGAL AID SOCIETY OF COLUMBUS
OFFICE OF THE OHIO CONSUMERS' COUNSEL
OHIO POVERTY LAW CENTER
PRO SENIORS, INC.
SOUTHEASTERN OHIO LEGAL SERVICES**

I. INTRODUCTION

Ohioans' access to basic telephone service and 9-1-1 emergency services is in the public interest and is protected by Ohio law and federal rules.¹ In this case, the Public Utilities Commission of Ohio ("PUCO") is seeking comment on rules that help promote consumers' access to basic and voice telephone service and 9-1-1 service. These services are necessities for nearly one *million* Ohio consumers.² The PUCO should protect Ohio consumers.

Legal Aid Society of Columbus, the Office of the Ohio Consumers' Counsel, Ohio Poverty Law Center, Pro Seniors, Inc., and Southeastern Ohio Legal Services

¹ R.C.4927.02(A)(1); R.C. 4927.01(A)(1)(b)(iv); 47 C.F.R. §54.101(a)(1).

² Innovate Ohio, Ohio Broadband Strategy, (last accessed September 1, 2021) (For more than 300,000 households in Ohio representing close to 1 million Ohioans, a lack of access to highspeed internet is a critical barrier. In some parts of Ohio, the connectivity required for children to do computer-based homework and for adults to look for a new job or access online education or training programs does not exist. Ohio's most recent mapping efforts demonstrates that many Ohioans, particularly in rural areas, face connectivity issues").

(collectively, “Consumer Groups”) recommend that notices regarding discontinuance of basic service³ or voice service,⁴ including access to 9-1-1 service be mailed/mailed separately from consumers’ telephone bills, with the notice prominently identified as a service discontinuance notice.⁵ Consumer Groups also recommend that when voice service consumers’ access to 9-1-1 is being discontinued, the PUCO should provide those consumers with notice and with the same assistance that basic service consumers receive under R.C. 4927.10 (B)(1)(a).⁶

The Ohio Cable Telecommunications Association (“OCTA”), the Ohio Telecom Association (“OTA”), and AT&T Ohio each filed comments on September 1, 2021. In these Reply Comments, Consumer Groups address the other parties’ comments.⁷

II. RECOMMENDATIONS

A. **The PUCO may apply the disconnection notice requirement to any voice service that is not a voice over Internet protocol (“VOIP”) service or that uses technology that was commercially available before September 13, 2010.**

Proposed Ohio Adm. Code 4901:1-6-21(F) would require 30 days’ notice to consumers if their voice service is to be discontinued. OCTA, OTA, and AT&T Ohio

³ As defined in R.C. 4927.01(A)(1).

⁴ As defined in R.C. 4927.01(A)(18): "Voice service" includes 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.

⁵ See Consumer Groups’ Comments (September 1, 2021 at 2-3).

⁶ AT&T Ohio Comments at 3-4 (September 1, 2021) (arguing that proposed O.A.C. 4901:1-6-21(F) be deleted).

⁷ If Consumer Groups do not address a particular argument raised in the other parties’ comments, that should not be construed as Consumer Groups’ acquiescence to the argument.

assert that this requirement is not allowed under R.C. 4927.03(A).⁸ Their interpretation of the statute is overly broad.

R.C. 4927.03(A) provides that the PUCO “has no authority over any interconnected voice over internet protocol-enabled service or any telecommunications service that is not commercially available on September 13, 2010, and that employs technology that became available for commercial use only after September 13, 2010....”⁹ While the statute is explicit regarding VOIP service, the PUCO has authority to regulate some voice services other than VOIP in Ohio.

The difference between VOIP and voice service under Ohio law is that Ohio law specifies that VOIP uses “internet protocol or a successor protocol” to transmit phone calls.¹⁰ There is no requirement that a VOIP provider offer any service other than the transmission of phone calls.

But Ohio law specifies that voice service “includes all of the applicable functionalities described in 47 C.F.R. §54.101(a).”¹¹ The following functionalities are listed in 47 C.F.R. §54.101(a)(1): voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public

⁸ See OCTA Comments at 4 (September 1, 2021); AT&T Ohio Comments at 3-4 (September 1, 2021); OTA Comments at 4-5 (September 1, 2021).

⁹ R.C. 4927.01(A)(13) defines “telecommunications service” as “the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.” R.C. 4927.01(A)(13) defines “telecommunications” as “the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.” Voice service meets this definition of a telecommunications service.

¹⁰ R.C. 4927.01(A)(17).

¹¹ R.C. 4927.01(A)(18).

safety organizations, such as 9-1-1 and enhanced 9-1-1, to the extent the local government in an eligible carrier's service area has implemented 9-1-1 or enhanced 9-1-1 systems; and toll limitation services to qualifying low-income consumers. Thus, a voice service provider must offer specific services in Ohio.

Further, while VOIP appears to be specifically outside the PUCO's authority (except for the protection, welfare, and safety of the public), the same is not true for voice service. The PUCO has no authority regarding voice service "that was not commercially available on September 13, 2010, and that employs technology that became available for commercial use only after September 13, 2010...."¹² This means that the PUCO *has* authority over any voice service that *was commercially available* as of September 13, 2010 *or* employs technology that *was available for commercial use* as of September 13, 2010.¹³ The PUCO should apply proposed Ohio Adm. Code 4901:1-6-21(F) to such voice services.¹⁴

B. The PUCO should require the notice required under proposed O.A.C. 4901:1-6-21(F) also be provided to consumers, separate from the monthly bill.

Monthly bills, including electronic bills, may contain numerous inserts and other messages. Because of this jumble of communications, a notice that the consumers' voice

¹² R.C. 4927.03(A).

¹³ Use of the word "and" in the statute should be interpreted to mean that both conditions (the service was not commercially available of September 13, 2010 or that uses technology that was not commercially available as of September 13, 2010) must be present for the PUCO to have no authority over a voice service. If either condition is not present, the PUCO should have authority over the service.

¹⁴ It is not clear how many such services are in Ohio, but the most recent Federal Communications Commission data show that there are 22.5 million residential traditional switched access lines in the United States compared to 40 million residential VOIP subscriptions. *Communications Marketplace Report*, FCC GN Docket No. 18-231, Report (adopted December 12, 2018), ¶205. If Ohio data are typical, this means that more than a third of Ohio's residential consumers could have a landline-based voice service that was commercially available of September 13, 2010 or that uses technology that was commercially available as of September 13, 2010.

service will soon be withdrawn might be overlooked. The PUCO should require that voice providers also send the 30-day notice required under the rule to consumers as a separate communication from the monthly bill. The envelope or subject line of the email should prominently inform consumers that their voice will soon be withdrawn. And for further protection, consumers should be reminded *separate* from their monthly bill.

The Consumer Groups recommend the following changes (underlined) to proposed Ohio Adm. Code 4901:1-6-21(F):

If the sole provider of voice service seeks to withdraw or abandon such voice service, it has to notify the Commission, and consumers 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. The notices shall be sent to the consumer in a communication separate from the consumer's monthly bill and shall be prominently identified on the envelope or the subject line of the electronic communication as a notice that the consumer's voice service is being withdrawn.

The PUCO must require the communications with consumers about this important imminent change to their basic telephone service and 9-1-1 emergency services be done in a manner that clearly and effectively puts consumers on notice of this change. The PUCO should protect consumers by requiring notice to be provided in a separate communication from the bill.

- C. If a voice service provider withdraws or abandons service to a consumer and the consumer would have no access to 9-1-1 service, the PUCO should treat the consumer the same as a consumer of withdrawn basic service and attempt to find a willing provider of service to the consumer.**

Proposed Rule O.A.C. 4901:1-6-21(G) makes the withdrawal of voice service subject to the same process as the withdrawal of basic service if the PUCO determined that the voice service is the only access to 9-1-1 service for one or more residential

consumers. AT&T Ohio, OCTA, and OTA assert this rule should be deleted.¹⁵ They are wrong.

If a telephone company withdraws basic service, the PUCO must assist the company's basic service consumers in finding a new and willing provider for such service.¹⁶ Residential consumers of voice service that is being withdrawn should be treated the same as residential consumers of basic service that is being withdrawn, as the proposed rule supports. Their health and safety should not be jeopardized simply because their voice service provider would prefer to no longer serve them.

When residential consumers' only access to 9-1-1 service is via a voice service that is being discontinued, the PUCO should assist the consumers in finding a willing provider of service to their homes. This is what the PUCO Staff is proposing in this rule. The PUCO should adopt its Staff's Proposed Rule 4901:1-6-21(G).

III. CONCLUSION

The PUCO's rules should protect consumers when their telephone service is being withdrawn or discontinued. The recommendations of OCTA, OTA, and AT&T Ohio would diminish consumer protections. The PUCO should reject them. Instead, the PUCO should adopt the Consumer Groups' recommendations, which will help enhance the consumer protections in the proposed rules.

¹⁵ AT&T Ohio Comments at 6-7; OCTA Comments at 4-8; OTA Comments at 4-7.

¹⁶ R.C. 4927.10(B)(1)(a).

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments was served on the persons stated below via electronic transmission this 10th day of September 2021.

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The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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