

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Petition of AT&T Ohio for an Order	)	
Confirming Relinquishment of Eligible	)	Case No. 21-917-TP-UNC
Telecommunications Carrier	)	
Designation in Specified Areas.	)	

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**COMMENTS ON AT&T OHIO'S REQUEST TO STOP PROVIDING LIFELINE  
TELEPHONE SERVICE TO LOW-INCOME OHIOANS  
BY  
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LEGAL AID SOCIETY OF CLEVELAND  
OFFICE OF THE OHIO CONSUMERS' COUNSEL  
OHIO POVERTY LAW CENTER, AND  
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**I. INTRODUCTION**

Low-income consumers in Ohio depend on affordable and reliable telephone service to communicate with family and friends, obtain 911 emergency response, and access community resources. The federal Lifeline program helps low-income Ohioans<sup>1</sup> obtain and maintain basic telephone service through discounts on monthly bills, waiver of installation charges, waiver of deposits, and prescribed service quality standards.

AT&T Ohio now wants to end its provision of Lifeline telephone service in the remaining areas of Ohio where it is still an Eligible Telecommunications Carrier (“ETC”). However, elimination of Lifeline will harm low-income consumers who face such risks as poverty and food insecurity, especially in this era of the COVID pandemic.

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<sup>1</sup> Ohioans qualify for Lifeline if their household income is at or below 135 percent of the federal poverty guidelines, or if they participate in an eligible low-income assistance program. The qualifying programs are Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), Public Housing Assistance/Section 8, and Veterans Pension (including Survivors Pension). See [Lifeline Support for Affordable Communications | Federal Communications Commission \(fcc.gov\)](#).

And it is not clear from AT&T Ohio's Petition that alternative ETCs will be able to provide reliable Lifeline service in place of AT&T Ohio. The Consumer Groups<sup>2</sup> urge the Public Utilities Commission of Ohio ("PUCO") to deny AT&T Ohio's Petition and require it to continue providing Lifeline to eligible customers.

AT&T Ohio's request relates to the remaining areas in Ohio where it will no longer receive any federal high cost universal service support.<sup>3</sup> AT&T Ohio previously received federal Connect America Fund II ("CAF II") funding to help bring broadband to high cost, primarily rural, areas in Ohio.<sup>4</sup> As a condition of its participation in that program, AT&T Ohio had to provide Lifeline in the census blocks for which it was eligible to receive CAF II funding.<sup>5</sup> The Federal Communications Commission ("FCC") replaced the CAF II funding program with the Rural Digital Opportunity Fund ("RDOF").<sup>6</sup> AT&T Ohio did not participate in the RDOF program, and will no longer receive federal universal service support after December 31, 2021.<sup>7</sup>

On March 13, 2019, the PUCO granted AT&T Ohio's prior request to relinquish its ETC status for most of its service territory in Ohio, which means that AT&T Ohio no

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<sup>2</sup> The Consumer Groups include Advocates for Basic Legal Equality, Inc. ("ABLE"), Legal Aid Society of Cleveland ("LASC"), Office of the Ohio Consumers' Counsel ("OCC"), Ohio Poverty Law Center ("OPLC"), and Southeastern Ohio Legal Services ("SEOLS").

<sup>3</sup> Petition, ¶12. AT&T Ohio states that as of June 2021, AT&T Ohio's total Lifeline customer count in the remaining areas was 153. Petition, ¶5.

<sup>4</sup> Petition, ¶11.

<sup>5</sup> *Id.*

<sup>6</sup> Petition, ¶12.

<sup>7</sup> *Id.*

longer has to provide Lifeline service to eligible low-income consumers in those areas.<sup>8</sup> However, since the PUCO issued its Partial Relinquishment Order, Ohioans have suffered severe financial and health consequences from the ongoing coronavirus pandemic. AT&T Ohio's consumers – particularly those who rely on voice-only Lifeline service – should not be abandoned or forced to take Lifeline service from alternative ETCs that may offer less reliable wireless service at higher bundled rates.

Ohio consumers who struggle financially and depend on reliable Lifeline service deserve better from their utilities – and they need protection from the PUCO. The PUCO should deny AT&T Ohio's Petition. At a minimum, the PUCO should delay granting AT&T Ohio's request until a thorough review has been made of the impacts on consumers of AT&T Ohio's abandonment of Lifeline service in other areas of the state. The PUCO must also ensure that consumers will be able to obtain affordable and reliable Lifeline service from alternative ETCs.

## **II. APPLICABLE LAW**

Federal law sets out the process for a telephone company to discontinue Lifeline service to its customers.<sup>9</sup> Under the law, a state commission “shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier.”<sup>10</sup> The law also requires the telephone company to give the state commission advance notice of the proposed

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<sup>8</sup> *In the Matter of the Petition of AT&T Ohio Seeking to Relinquish its Eligible Telecommunications Carrier Designation in a Portion of its Service Territory*, Case No. 17-1948-TP-UNC, Finding and Order (March 13, 2019) (“Partial Relinquishment Order”).

<sup>9</sup> See also 47 C.F.R. §54.205; Ohio Adm. Code 4901:1-6-09(D)(2).

<sup>10</sup> In order to provide Lifeline service to consumers, a local or competitive telephone company must be designated as an “eligible telecommunications carrier.” See 47 U.S.C. §214(e); 47 C.F.R. §54.201(a)(1).

discontinuance of Lifeline service. AT&T Ohio would have the process end there.<sup>11</sup> But the process of protecting Ohioans does not end there.

Federal law (47 U.S.C. §214(e)(4)) also requires state commissions – *before* allowing a telephone company to stop providing Lifeline – to ensure that the telephone company’s Lifeline customers would not lose their service. Before permitting a telephone company to discontinue Lifeline service to its customers, the state commission “*shall require* the remaining eligible telecommunications carrier or carriers to ensure that *all customers served by the relinquishing carrier will continue to be served*, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier.”<sup>12</sup> Under 47 U.S.C. §214(e)(4), Lifeline carriers that the PUCO requires to serve the relinquishing telephone company’s Lifeline customers will have up to a year to purchase or construct the required facilities.

### III. RECOMMENDATIONS

- A. The FCC has delayed the phase-out of Lifeline discounts for voice-only service due to potential adverse impacts on low-income consumers. The PUCO should deny AT&T Ohio’s request for relinquishment of ETC designation.**

Much has changed since the PUCO issued the Partial Relinquishment Order permitting AT&T Ohio to abandon Lifeline service in most of the state. Without question, Ohioans have been hit hard by the coronavirus pandemic, facing severe financial and health hardships. Consumers need all the help they can get when it comes to preserving affordable access to essential (and potentially life-saving) telephone service.

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<sup>11</sup> See Petition, note 18 (stating that portions of 47 U.S.C. §214(e)(4) regarding the provision of universal service do not apply because AT&T Ohio will still provide legacy voice service).

<sup>12</sup> 47 U.S.C. §214(e)(4) (emphasis added).

This is particularly true for consumers in rural areas who face higher levels of poverty and have limited affordable and reliable options to AT&T Ohio's traditional landline service. The PUCO should carefully consider these issues before allowing AT&T Ohio to abandon Lifeline service in the remaining areas where it is an ETC.

AT&T Ohio claims that consumers will not be impacted by its ETC relinquishment because low-income consumers can receive Lifeline service from other ETCs.<sup>13</sup> However, even if an alternative ETC offers Lifeline service, consumers still may not receive *reliable* Lifeline service at an *affordable* rate comparable with that provided by AT&T Ohio. For example, low-income consumers may not be able to receive voice-only Lifeline service from the alternative ETCs. Instead, they may have to pay more for a bundle of services in order to receive the Lifeline discount. Low-income Ohioans should not have to pay more for other services and features they don't want, don't need, and cannot afford.

The FCC cited this problem as support for its recent Order extending the phase out of the federal Lifeline voice service discount to December 1, 2022.<sup>14</sup> Specifically, the FCC found:

First, data from the ongoing COVID-19 pandemic has revealed a heightened reliance on voice service. Several providers have shown a dramatic increase in voice traffic during the pandemic. As a trusted and well-known method for connecting to 911, 988, and other community resources, voice service plays a critical role as a safety net for many low-income Americans. What is more, voice service is a popular communication channel for older Americans, and the elimination of Lifeline support for voice-only service plans may particularly hamper the ability of those unable or unwilling to adopt emerging technologies to connect to emergency services. This is particularly concerning during a

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<sup>13</sup> See e.g. Petition, ¶5.

<sup>14</sup> *In the Matter of Lifeline and Link Up Reform and Modernization*, FCC WC Docket No. 11-42, *et al.* (Nov. 5, 2021) ("FCC Lifeline Order").

pandemic that presents significant challenges, including the fact that “[l]ow-income assistance program intake sites in many areas remain closed or have restricted ability to serve walk-in customers.”<sup>15</sup>

\* \* \*

Moreover, while we did not find that the pandemic justified a pause of the phase-down in voice-only support from \$7.25 to \$5.25 last year, ***the potential elimination of voice-only support poses a heightened threat to the safety of low-income Americans during the pandemic.*** In reducing the amount of support in 2019 and 2020, our analysis turned largely on the affordability of a voice-only plan and whether a decrease in the subsidy amount would impede low-income consumers’ access to affordable communications services. As shown in the Marketplace Report, ***approximately 8% of Lifeline subscribers still subscribe to either a voice-only plan or a bundle plan that only meets the voice minimum service standard,*** and we estimate that the overwhelming majority of these subscribers will be unable to take advantage of an exception to the phase-out of voice-only support. ***What is more, retail rates for bundled broadband plans that would meet the Lifeline program’s current minimum service standards for broadband data capacity far exceed the cost of plans that would qualify as Lifeline voice-only plans. As such, an elimination of voice-only support may force subscribers seeking voice-only services to either move to a more expensive bundled broadband plan or forego voice service altogether.***<sup>16</sup> (Emphasis added).

AT&T Ohio’s Petition does not address these issues at all, nor do the filings made by the alternative ETCs identified in AT&T Ohio’s Petition. In its November 3, 2021 Entry, the PUCO directed each of the eleven alternative ETCs identified by AT&T Ohio to report whether they will provide the Lifeline discount to eligible customers and whether service will be provided by wireline, Voice Over Internet Protocol (“VOIP”), wireless facilities or through resale. Ten of the ETCs responded in accordance with the

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<sup>15</sup> FCC Lifeline Order, ¶14 (footnotes omitted).

<sup>16</sup> *Id.* at ¶16 (footnotes omitted).

PUCO's directive (Virgin Wireless did not).<sup>17</sup> The ETCs that responded stated that they will provide Lifeline service to AT&T Ohio's abandoned customers, but they do not indicate whether customers will be able to receive voice-only Lifeline service. Nor are voice-only services specifically marketed as an option for consumers.

Plainly, an unsuitable alternative for Lifeline customers would be to pay higher charges for less reliable phone service, as that would defeat the purpose of the Lifeline discount. Further, AT&T Ohio states in its petition that "[a]ll customers in the relinquishment area, will have access to services offered by AT&T *at standard AT&T prices, including all applicable surcharges, fees and taxes.*"<sup>18</sup> But the enactment of Amended Substitute House Bill 402 in Ohio will permit AT&T Ohio to charge whatever it wants for basic service without PUCO control.<sup>19</sup> The PUCO is currently considering rules to implement this legislation.<sup>20</sup> Thus, AT&T Ohio's commitment to continue providing legacy voice service<sup>21</sup> makes little difference if low-income consumers have to purchase bundles of services from other (less reliable) ETCs to obtain the Lifeline discount.

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<sup>17</sup> See Response of American Broadband and Telecommunications Company (Nov. 18, 2021); Boomerang Wireless, Inc. Response to AT&T ETC Relinquishment (Nov. 22, 2021); Response of Global Connection Inc. of America (Nov. 22, 2021); Comments of Telrite Corp. (Nov. 19, 2021); Response of Air Voice Wireless, LLC (Nov. 23, 2021); Response of Sage Telecom Communications (Nov. 23, 2021); Response of i-wireless, LLC (Nov. 23, 2021); Response of Q Link Wireless, LLC (Nov. 23, 2021); Response of Tempo Telecom (Nov. 29, 2021); and Response of TracFone Wireless, Inc. (Nov. 29, 2021). Virgin Mobile USA LP (Assurance Wireless) did not file a response.

<sup>18</sup> Petition, ¶14 (emphasis added).

<sup>19</sup> Substitute House Bill 402, 132<sup>nd</sup> General Assembly. R.C. 4927.123(B) allows incumbent local exchange carriers like AT&T Ohio to apply for an exemption from the rate restrictions in R.C. 4927.12.

<sup>20</sup> *In the Matter of the Commission's Implementation of Substitute House Bill 402 of the 132<sup>nd</sup> Ohio General Assembly*, Case No. 19-173-TP-ORD.

<sup>21</sup> Petition, ¶14.

Moreover, AT&T Ohio claims that its abandonment of Lifeline service will have no impact because it only provides Lifeline service to a small percentage of Ohio.<sup>22</sup> Even so, it is important to note that the PUCO granted AT&T Ohio authority to abandon Lifeline service for most of the state in the Partial Relinquishment Order in March 2019. A substantial decrease in AT&T Ohio’s Lifeline service customers would therefore be expected.<sup>23</sup> There has been no comprehensive review of the impact that the partial relinquishment had on consumer affordability and service quality. The Partial Relinquishment Order was also issued before the coronavirus pandemic began to ravage Ohioans, and there is no telling how many consumers were harmed by not having access to AT&T Ohio’s Lifeline service to get the help that was needed. As the FCC stated, the demand for voice service has increased since the pandemic, and “[a]s a trusted and well-known method for connecting to 911, 988, and other community resources, voice service plays a critical role as a safety net for many low-income Americans.”<sup>24</sup> Eliminating perhaps the only option for voice-only Lifeline service in the remaining areas where AT&T Ohio is an ETC would further limit low-income consumers’ access to the “safety net.”<sup>25</sup>

In short, AT&T Ohio’s Petition to abandon the rest of its Lifeline service customers comes at a time when far too many Ohioans are suffering the financial and health impacts of the coronavirus pandemic. The PUCO should therefore deny AT&T Ohio’s Petition to relinquish its ETC status for the rest of the state. At a minimum, the

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<sup>22</sup> Petition, ¶5.

<sup>23</sup> See Petition, note 5.

<sup>24</sup> FCC Lifeline Order, ¶14.

<sup>25</sup> *Id.*

PUCO should delay any order granting AT&T Ohio's request until after December 1, 2022 (the extended phase-out date for the voice-only Lifeline discount), and after the FCC has reexamined the intended Lifeline protections. In the interim, the PUCO should evaluate the extent to which Ohioans have been harmed by AT&T Ohio's abandonment of Lifeline service in the rest of its service territory.

**B. The alternative ETCs identified by AT&T Ohio to provide Lifeline service are wireless resellers that may be unable to reliably serve AT&T Ohio's Lifeline customers. And, in any event, the nature of wireless service is that single wireline service for use by multiple residents in a home may have to be replaced (expensively) by a need to purchase multiple wireless services where there are multiple residents.**

AT&T Ohio's Petition should also be rejected because customers may lose *reliable* Lifeline service. As noted above, AT&T Ohio identified eleven alternative ETCs to provide Lifeline service to abandoned customers. Ten of those ETCs filed reports with the PUCO stating that they are willing provide Lifeline service to customers in the affected areas, but they will do so as wireless resellers.<sup>26</sup> None of the reporting ETCs will provide Lifeline through wireline service or through facilities they own or have constructed. This will impact the ability for the alternative ETCs to serve customers who will no longer receive Lifeline from AT&T Ohio if the PUCO grants the Petition.

Wireless service may be less reliable if there are inadequate signals to consumers. Resellers relying on another carrier's facilities may also have to end service to a particular area if the underlying facilities owner decides to remove or no longer use the facilities for service. This could harm consumers in remote areas and areas where there is a high cost to maintain facilities. In addition, wireline service to a single home can

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<sup>26</sup> See *supra* note 17.

affordably serve many residents. However, replacing wireline service will be more expensive as multiple wireless services will have to be purchased to serve multiple residents.

Federal law (47 U.S.C. §214(e)(4)) requires that before allowing a carrier to cease providing Lifeline, a state commission (like the PUCO) must require the remaining provider(s) to ensure that all Lifeline customers served by the relinquishing carrier will continue to be served.<sup>27</sup> The remaining Lifeline providers must also receive sufficient notice to allow the purchase or construction of adequate facilities to serve the customers.<sup>28</sup> The remaining Lifeline providers have up to one year to purchase or construct the facilities.<sup>29</sup>

AT&T Ohio claims that these provisions of 47 U.S.C. §214(e)(4) do not apply to its Petition, because “AT&T will not discontinue *any* service as a result of the Commission granting this Petition.”<sup>30</sup> But that is not correct. Section 214 applies to the “[p]rovision of universal service.”<sup>31</sup> Lifeline service is universal service. And AT&T Ohio expressly states that it will discontinue Lifeline voice service: “AT&T Ohio will ensure that its remaining voice Lifeline customers receive ample notice of the need to select another ETC to continue receiving the federal voice Lifeline discount . . .”<sup>32</sup>

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<sup>27</sup> 47 U.S.C. §214(e)(4).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Petition, note 18 (emphasis original).

<sup>31</sup> 47 U.S.C. §214.

<sup>32</sup> Petition, ¶17.

Thus, before allowing AT&T Ohio to stop providing Lifeline service to any of the customers affected by the Petition, the PUCO must ensure that the customers would not lose their Lifeline service.

Because each of the alternative ETCs is a wireless reseller, there is potential for AT&T Ohio's customers to lose Lifeline service, particularly if an ETC's wireless coverage is inadequate. Even where the alternative ETC has committed to provide Lifeline service within AT&T Ohio's service areas, there is no guarantee that their signals will fully cover the areas where consumers need Lifeline service. This could be especially true in rural or sparsely populated areas and hilly terrain where cellular coverage is notoriously poor. In addition, although 47 U.S.C. §214(e)(4) provides carriers up to a year to purchase or construct required facilities, there may be obstacles (such as terrain) that could make providing service to some customers virtually impossible or cost prohibitive.

Many wireless providers are also in the process of transitioning to 4G and 5G network technology. By contrast, many low-income consumers still rely on older, simpler, and less expensive technology that requires 3G wireless service.<sup>33</sup> As wireless carriers transition to new network technology,<sup>34</sup> low-income and other at-risk consumers could be left behind with no access to Lifeline service.

The PUCO should deny the Petition for any areas where Lifeline customers do not have a reliable alternative Lifeline provider available. Federal law requires that all customers in an area continue to have Lifeline service available. If this standard cannot

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<sup>33</sup> See e.g. <https://www.publicknowledge.org/documents/3g-sunset-one-pager/>.

<sup>34</sup> See <https://www.fcc.gov/consumers/guides/plan-ahead-phase-out-3g-cellular-networks-and-service?eType=EmailBlastContent&eId=f4cb656f-4eb6-4bd4-93e7-94e886c9d056#devices>.

be met in an area, the PUCO should deny the petition for that area. At a minimum, the PUCO should require AT&T Ohio to continue providing Lifeline service to customers until they find a suitable and reliable Lifeline service supplier.

**C. Ensuring that all of AT&T Ohio's Lifeline customers will still be served by a Lifeline provider is necessary to further state telecommunications policy.**

Two state policies are an integral part of the PUCO's obligation to ensure that all of AT&T Ohio's Lifeline customers will still have Lifeline service available at their homes if AT&T Ohio abandons the service. One is the policy to ensure the availability of adequate and reliable basic local exchange service and voice service to citizens throughout the state.<sup>35</sup> The other is the policy to "[p]rotect the affordability of telephone service for low-income subscribers through the continuation of federal lifeline assistance programs."<sup>36</sup>

The PUCO has recognized that all Lifeline providers should offer eligible subscribers "comparable access to emergency and community services as well as reliable, high-quality and affordable voice service...."<sup>37</sup> This applies whether the offering is prepaid or postpaid, and regardless of the technology used to provide the service.<sup>38</sup> In this proceeding, the PUCO must continue to further state policies that promote access to reliable, high-quality, and affordable Lifeline service. AT&T Ohio's Petition should be denied.

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<sup>35</sup> R.C. 4927.02(A)(1). Lifeline includes access to "voice telephony service," which is nearly identical to "basic local exchange service." *Compare* 47 U.S.C. §54.400(m) and R.C. 4927.01(A)(1).

<sup>36</sup> R.C. 4927.02(A)(10).

<sup>37</sup> *In the Matter of the Commission Investigation into the Provision of Nontraditional Lifeline Service by Competitive Eligible Telecommunications Carriers*, Case No. 10-2377-TP-COI, Entry (Nov. 3, 2010), ¶3.

<sup>38</sup> *Id.*

#### IV. CONCLUSION

As the coronavirus pandemic continues to threaten the health and finances of Ohioans, AT&T Ohio wants to abandon Lifeline service in the remaining areas of the state where it is designated as an ETC. The PUCO should deny AT&T Ohio's request.

Federal law (47 U.S.C. §214(e)(4)) obligates the PUCO to protect Ohio consumers who are affected by AT&T Ohio's petition. The PUCO's obligation to ensure that consumers will continue to have Lifeline service available must be fulfilled *prior to* allowing AT&T Ohio to stop providing Lifeline service. Ohio law – and state policy – also obligate the PUCO. The PUCO must: "Protect the affordability of telephone service for low-income subscribers through the continuation of federal lifeline assistance programs."<sup>39</sup> However, the alternative ETCs identified in AT&T Ohio's Petition may not be able to provide reliable Lifeline service.

Accordingly, consistent with the Consumer Groups' above recommendations, the PUCO should deny AT&T Ohio's Petition. At a minimum, the PUCO should delay granting the Petition until after December 1, 2022, after the FCC has further considered the federal voice service Lifeline discount phase-out. The PUCO should also fully review whether low-income consumers will be able to obtain reliable Lifeline service from the wireless resellers identified in AT&T Ohio's Petition. Finally, the PUCO should review and consider the impact on consumers of its prior decision to allow AT&T Ohio to abandon Lifeline service in other areas of the state. As the coronavirus pandemic persists, the stakes for at-risk Ohioans are simply too high to allow AT&T Ohio to prematurely abandon its Lifeline service in the rest of the state.

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<sup>39</sup> R.C. 4927.02(A)(10).

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of these Comments was served on the persons stated below via electronic transmission or US Mail this 10<sup>th</sup> day of December 2021.

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Summary: Comments Comments on AT&T Ohio's Request to Stop Providing Lifeline Telephone Service to Low-Income Ohioans by Advocates for Basic Legal Equality, Inc., Legal Aid Society of Cleveland, Office of The Ohio Consumers' Counsel, Ohio Poverty Law Center, and Southeastern Ohio Legal Services electronically filed by Mrs. Tracy J. Greene on behalf of O'Brien, Angela D