

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

CASE NO. 14-1554-TP-ORD

FOURTH SUPPLEMENTAL FINDING AND ORDER

Entered in the Journal August 10, 2022

I. SUMMARY

{¶ 1} In this Fourth Supplemental Finding and Order, the Commission determines that Paragraphs (F) and (G) of adopted Ohio Adm.Code 4901:1-6-21 are now moot and no longer applicable due to the recent adoption and signing of Substitute House Bill 430 of the 134th Ohio General Assembly. Therefore, Ohio Adm.Code 4901:1-6-21 is now being adopted without Paragraphs (F) and (G) being included. As a result, Ohio Adm.Code 4901:1-6-25 and Ohio Adm.Code 4901:1-6-27 are adopted as amended rules with only minor technical changes being made.

II. DISCUSSION

{¶ 2} On September 5, 2014, the Commission opened Case No. 14-1554-TP-ORD, *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.

{¶ 3} On November 30, 2016, the Commission issued a Finding and Order in this matter. Five rounds of rehearing ensued with the most recent Entry on Rehearing being issued on October 4, 2017.

{¶ 4} Pursuant to its Entry of May 2, 2018, the Commission requested comments on additional revisions to Ohio Adm.Code 4901:1-6-36(B) and (C) regarding telecommunications relay service.

{¶ 5} In a Supplemental Finding and Order issued July 11, 2018, the Commission approved amendments to Ohio Adm.Code 4901:1-6-36.

{¶ 6} On July 2, 2019, the Commission, among other things, requested comments on proposed revisions to Ohio Adm.Code 4901:1-6-02, 4901:1-6-07, and 4901:1-6-21 (Rule 21).

{¶ 7} Pursuant to the Second Supplemental Finding and Order of October 21, 2020, the Purpose and Scope rule, Ohio Adm.Code 4901:1-6-02 Paragraph (H), was updated to reflect October 1, 2020, as the date whereby citations to the United States Code and the Code of Federal Regulations is incorporated by reference.

{¶ 8} Pursuant to the Entry of August 25, 2021, the Commission sought comments on a new proposed Rule 21 regarding the withdrawal or abandonment of basic local exchange service or voice service by a provider of telecommunications service. Initial and reply comments were due on September 1 and September 10, 2021, respectively. Initial comments were filed by AT&T Ohio; the Ohio Cable Telecommunications Association (OCTA); the Ohio Telecom Association (OTA); Advocates for Basic Legal Equality, Inc., Legal Aid Society of Columbus, Office of the Ohio Consumers' Counsel, Ohio Poverty Law Center, Pro Seniors, Inc., and Southeastern Ohio Legal Services (collectively, Consumer Groups). Reply comments were filed by these same entities.

{¶ 9} On January 12, 2022, the Commission issued its Third Supplemental Finding and Order adopting Rule 21 and ordering that it be filed with the Joint Committee on Agency Rule Review (JCARR).

{¶ 10} Applications for rehearing were filed on February 11, 2022, by both OCTA and OTA alleging, based on numerous grounds, that it was unjust and unreasonable for the Commission to adopt Rule 21.

{¶ 11} Memorandum contra the applications for rehearing were jointly filed by Consumer Groups on February 22, 2022.

{¶ 12} Pursuant to its March 9, 2022 Entry on Rehearing, the Commission granted the applications for rehearing filed by OCTA and OTA for further consideration of the matters specified in the applications for rehearing.

{¶ 13} In an Entry on Rehearing issued on May 18, 2022, the Commission granted, in part, and denied, in part, the application for rehearing filed by OCTA and denied the application for rehearing filed by OTA.

{¶ 14} On June 1, 2022, Substitute House Bill 430 (Sub. H.B. 430) was passed by both the Ohio Senate and the Ohio House of Representative. It was signed into law by the Ohio Governor on June 26, 2022. The legislation included the adoption of R.C. 4927.102, which provides that the Commission shall not, in connection with any proceeding pursuant to R.C. 4927.07 or 4927.10, impose on any provider of telecommunications service, wireless service, or Internet protocol-enabled services any notice requirement, withdrawal or abandonment restrictions, buildout requirements, or any other regulatory requirement or restriction that is not generally applicable to the service or the provider in other contexts. The legislation also provides that no later than ninety days after the effective date, the Commission shall amend its rules to the extent necessary to bring them into conformity with R.C. 4927.102.

{¶ 15} Due to the adoption of R.C. 4927.102, the Commission finds that Paragraphs (F) and (G) of Rule 21 are now moot and should not be included in the version of Rule 21 to be submitted to JCARR, the Legislative Service Commission, and the Secretary of State. The amended version of Rule 21 to be submitted to these entities is attached as Appendix A to this Finding and Order. Additionally, the Business Impact Analysis (BIA) attached to the May 18, 2022 Entry on Rehearing is amended as reflected in the attached Appendix B to this Finding and Order to now include the removal of Paragraphs (F) and (G) of Rule 21. The amended BIA should be submitted to the Common Sense Initiative Office. Finally, due to the revisions to Rule 21, the proposed edits to Ohio Adm.Code 4901:1-6-02 ordered in the May 18, 2022 Entry on Rehearing are no longer necessary.

{¶ 16} Consistent with the adoption of the amended version of Rule 21, the Commission finds that Ohio Adm.Code 4901:1-6-25 and 4901:1-6-27 should now be adopted as amended rules as reflected in Appendices C and D.

III. ORDER

{¶ 17} It is, therefore,

{¶ 18} ORDERED, That the Third Supplemental Finding and Order and the May 18, 2022 Entry on Rehearing be amended consistent with this Fourth Supplemental Finding and Order. It is, further,

{¶ 19} ORDERED, That Paragraphs (F) and (G) of adopted Ohio Adm.Code 4901:1-6-21 be deemed as moot and no longer applicable due to the recent passage of Sub. H.B. 430. It is, further,

{¶ 20} ORDERED, That Ohio Adm.Code 4901:1-6-21, as reflected in Appendix A to this Fourth Supplemental Finding and Order, be adopted and filed with the Joint Committee on Agency Rule Review, the Legislative Service Commission, and the Secretary of State, in accordance with R.C. 111.15. It is, further,

{¶ 21} ORDERED, That Ohio Adm.Code 4901:1-6-25 and Ohio Adm.Code 4901:1-6-27, as reflected in Appendices C and D to this Fourth Supplemental Finding and Order, be approved and filed with the Joint Committee on Agency Rule Review, the Legislative Service Commission, and the Secretary of State, in accordance with R.C. 111.15. It is, further,

{¶ 22} ORDERED, That the final rules be effective on the earliest date permitted. Unless otherwise ordered by the Commission, the five-year rule review date for the aforementioned rules shall be in compliance with R.C. 119.032. It is, further,

{¶ 23} ORDERED, That the BIA attached as Appendix B to this Fourth Supplemental Finding and Order be submitted to the Common Sense Initiative Office. It is, further,

{¶ 24} ORDERED, That a copy of this Fourth Supplemental Finding and Order be served upon the Telephone Industry list-serve, and upon all commenters and interested persons of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

JSA/dmh

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NEW

4901:1-6-21 Carrier's withdrawal or abandonment of basic local exchange service (BLES) or voice service.

- (A) The collaborative process established under section 749.10 of amended substitute House Bill 64 of the 131st General Assembly will review the number and characteristics of basic local exchange service customers, evaluate what alternative reasonable and comparatively priced voice services are available to residential BLES customers and the prospect of the availability of a reasonable and comparatively priced voice service where none exist. This will be done for the purpose of identifying any exchanges or residential BLES customers with the potential to not have access to a reasonable and comparatively priced voice service. For purposes of rule 4901:1-6-21 of the Administrative Code, "reasonable and comparatively priced voice service" is a voice service that satisfies the definition set forth in division (B)(3) of section 4927.10 of the Revised Code. A voice service is presumptively deemed competitively priced, subject to rebuttal, if the rate does not exceed the higher of either: (1) the incumbent local exchange carrier's (ILEC) BLES rate by more than twenty percent; or (2) the federal communications commission's (FCC) reasonable comparability benchmark for voice services, which is defined as two standard deviations above the urban average that is calculated by the FCC on an annual basis as defined in 47 C.F.R. 54.313(a)(2).
- (B) An ILEC cannot discontinue offering BLES within an exchange without filing a notice for the withdrawal of BLES (WBL) to withdraw such service from its tariff. Receipt of this notice by the commission, will trigger the one hundred and twenty-day statutory time frame allotted for the commission investigation set forth in division (B) of section 4927.10 of the Revised Code. As part of this notice and investigation process an ILEC has to provide the following:
- (1) A copy of the FCC order that allows the ILEC to withdraw the interstate-access component of its BLES under 47 U.S.C. 214 or other evidence that the FCC has automatically approved the ILEC's application to withdraw the interstate access component of its BLES.
 - (2) A copy of the notice of the withdrawal or abandonment of BLES sent to all affected customers no later than the day the notice for the withdrawal of BLES is filed with the commission to ensure that affected customers have at least one hundred and twenty days notice before the ILEC withdraws or abandons BLES. The notice has to include a provision stating that those affected customers unable to obtain reasonable and comparatively priced voice service have the right to file a petition with the commission and the earliest date upon which the affected customer's BLES will be discontinued. The notice needs to state the petition has to be filed no later than thirty days from the date on the notice and provide the affected customers with the commission's and the office of the Ohio consumers' counsel's (OCC) mailing address, toll-free telephone number, and website address for additional information regarding the notice of the withdrawal or abandonment of BLES and filing of a petition. For purposes of rule 4901:1-6-21 of the

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Administrative Code, "affected customers" means a residential customer receiving BLES that will be discontinued by the withdrawing or abandoning ILEC.

- (3) A copy of the notice published concurrent to the WBL filing. The notice has to be published one-time in the non-legal section of a newspaper of general circulation throughout the area subject to the application. The notice needs to provide the affected customers with the commission's and OCC's toll-free telephone number and website address for additional information regarding the application and filing of a petition.
 - (4) An attachment to the notice will have to either: (1) reference any finding of providers of reasonable and comparatively priced voice service, identified by the collaborative process established under section 749.10 of amended substitute House Bill 64 of the 131st General Assembly, offering that voice service in the exchanges the ILEC is withdrawing or abandoning BLES with this notice; or (2) identify a provider of a reasonable and comparatively priced voice service offering that service, as of the date of the notice filing, to affected customers, regardless of the technology or facilities used by the provider. All affected customers do not have to receive service from the same provider of reasonable and comparatively priced voice service.
 - (5) A clear and detailed description, including a map, of the geographic boundary of the ILEC's service area to which the requested withdrawal would apply.
- (C) If a residential customer to whom notice has been given, pursuant to paragraph (B)(2) of this rule, is unable to obtain reasonable and comparatively priced voice service upon the withdrawal or abandonment of BLES offered by an ILEC, the customer or their authorized representative may file a petition, in the assigned WBL case number, with the commission within thirty-days of receiving the notice. For purposes of this rule, a petition is a written statement in any format from an affected customer claiming that the customer will be unable to obtain reasonable and comparatively priced voice service upon the withdrawal or abandonment of BLES offered by an ILEC. Alternatively, if a residential customer is identified by the collaborative process established under section 749.10 of amended substitute House Bill 64 of the 131st General Assembly as a customer who will be unable to obtain reasonable and comparatively priced voice service upon the withdrawal or abandonment of BLES offered by an ILEC, that customer will be treated as though the customer filed a timely petition.
- (D) If no affected residential customers file a petition and no residential customers are identified by the collaborative process set forth in section 749.10 of amended substitute House Bill 64 of the 131st General Assembly, the ILEC's notice to withdraw or abandon will be deemed to have satisfied the requirements to withdraw or abandon BLES pursuant to section 4927.10 of the Revised Code.

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- (E) If the commission's investigation determines that no reasonable and comparatively priced voice service is available to the customer, identified in paragraph (C) of this rule, at the customer's residence and the commission cannot identify a willing provider of a reasonable and comparatively priced voice service to serve the customer, the ILEC requesting the withdrawal or abandonment will have to provide a reasonable and comparatively priced voice service, via any technology or service arrangement, to the customer at the customer's residence for not less than twelve months from the date of the order issued by this commission. This order will also address all petitions filed or all customers identified through the collaborative process. For purposes of rule 4901:1-6-21 of the Administrative Code, "willing provider" is any provider, identified by the commission through its investigation process, voluntarily offering a reasonable and comparatively priced voice service at the customer's residence, to any residential customer affected by the withdrawal or abandonment of BLES.
- (1) If after the initial twelve-month period, the commission has not identified a willing provider of a reasonable and comparatively priced voice service to serve the customers, identified in paragraph (C) of this rule, the ILEC requesting the withdrawal or abandonment will have to continue to provide a reasonable and comparatively priced voice service, via any technology or service arrangement, to the customer at the customer's residence for an additional twelve-month period.
- (2) If after the second twelve-month period, the commission has not identified a willing provider of a reasonable and comparatively priced voice service to serve the customers, identified in paragraph (C) of this rule, the ILEC requesting the withdrawal or abandonment will have to continue to provide a reasonable and comparatively priced voice service, via any technology or service arrangement, to the customer at the customer's residence until otherwise authorized by the commission.

regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rules for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule:

- a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. Requires specific expenditures or the report of information as a condition of compliance.
- d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

On September 5, 2014, the Commission opened docket *In re Review of Chapter 4901:1-6 of the Ohio Adm.Code Case No. 14-1554-TP-ORD*, in which a five-year review of its retail telecommunications rules, including the withdrawal and abandonment of telecommunications services, is being considered. A workshop was held, a Business Impact Analysis was submitted, and comments were received relative to the review of Ohio Adm.Code 4901:1-6.

Subsequent to the holding of the workshop and the receipt of comments, the 131st Ohio General Assembly adopted Am. Sub. House Bill 64 (H.B. 64) that, among other things, directed the Commission to adopt rules to implement R.C. 4927.10 and 4927.101, as well as the amendments on August 26, 2015. Pursuant to the Entry of September 16, 2015,

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comments were sought regarding Commission Staff proposed rules implementing R.C. 4927.10 and 4927.101, as well as amendments to R.C. 4927.01, 4927.02, 4927.07, and 4927.11.

On November 30, 2016, the Commission issued a Finding and Order. As a result, some of the rules in Ohio Adm.Code Chapter 4901:1-6 were updated.

Pursuant to the Entry of July 2, 2019, the Commission requested comments on proposed revisions to Ohio Adm.Code 4901:1-6-02, 07, and 21. Pursuant to the Second Supplemental Finding and Order of October 21, 2020, the Purpose and Scope rule, Ohio Adm.Code 4901:1-6-02 Paragraph (H), was updated to reflect October 1, 2020, as the date whereby citations to the United States Code (U.S.C) and the Code of Feral Regulations (C.F.R.) is incorporated by reference.

Pursuant to the Entry of August 25, 2021, the Commission sought comments on a new proposed 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 rule was adopted on January 12, 2022, pursuant to the Third Supplemental Finding and Order, as amended by the Entry on Rehearing of May 18, 2022. Pursuant to the August 10, 2022 Fourth Supplemental Finding and Order, the adopted revisions to Paragraphs(F) and (G) of proposed Ohio Adm.Code 4901:1-6-21were deemed moot and no longer applicable due to the recent adoption and signing of Substitute House Bill 430 of the 134th Ohio General Assembly. Additionally, Ohio Adm.Code 4901:1-6-25 and Ohio Adm.Code 4901:1-6-27 were adopted and amended. The amendments were limited to revising in Ohio Admin. Code 4901:1-25 the titles of the individuals for whom the requisite notice is to be provided and in Ohio Adm Code 4901:1-6-27 the revising of the rule caption.

2. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Ohio Adm.Code Chapter 4901:1-6 establishes the procedures and standards for telephones companies in the state of Ohio. The proposed rule amendments include:

- a) The addition of new Ohio Adm.Code 4901:1-6-21 regarding applicable process and obligations related to the withdrawal of BLES by an incumbent local exchange carrier (ILEC);

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

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4901.13, 4927.03, 4927.10, 4927.11

4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?
If yes, please briefly explain the source and substance of the federal requirement.

Pursuant to Ohio Adm.Code 4901:1-6-21(A) A voice service is presumptively deemed competitively priced subject to rebuttal, if the rates do not exceed the higher of either: (1) the ILEC BLES rate by more than twenty percent or, (2) the FCC's reasonable comparability benchmark for voice services which is defined as two standard deviations above the urban average that is calculated by the FCC on annual basis as defined in 47 C.F.R. 54.313(a)(2).

Pursuant to Ohio Adm.Code 4901:1-6-21(B)(1), as part of the process to withdraw BLES by an ILEC, a copy of the FCC's order under 47 U.S.C 214 that allows the carrier to withdraw the interstate-access component of its BLES must be provided.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

The areas of certification and operation of telephone providers relative to their intrastate offerings is under the jurisdiction of the PUCO, and not the FCC. Therefore, relative to proposed Ohio Adm.Code 4901:1-6-21, the regulation neither exceeds nor is inconsistent with any federal requirements.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The public purpose of Ohio Adm.Code 4901:1-6-21 is to implement the statutory authority regarding the withdrawal or abandonment of BLES as set forth in R.C. 4927.10.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

Among other things, the PUCO will be able to monitor the number of subscribers to whom notice is given pursuant to paragraph (B)(2) of proposed Ohio Adm.Code 4901:1-

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6-21 and the number of subscribers who file a petition pursuant to paragraph (C) of the proposed rule or who are identified by the collaborative process referenced in the rule.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931? **No**
If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.
If applicable, please include the date and medium by which the stakeholders were initially contacted.

On August 25, 2021, in Case No. 14-1554-TP-ORD, the PUCO issued an entry by electronic service and/or U.S. mail calling for comments relative to proposed Ohio Adm.Code 4901:1-6-21. The entry was served upon all prior commentors and interested persons of record in the docket, including certificated carriers, industry groups, and consumer entities.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Initial comments were filed on September 1, 2021, by AT&T Ohio, The Ohio Cable Telecommunications Association (OCTA), The Ohio Telecom Association (OTA), Advocates for Basic Legal Equality, Inc., Legal Aid Society of Columbus, office of the Ohio Consumers' Counsel, Ohio Poverty Law Center, Pro Seniors, Inc., and Southeastern Ohio Legal Services. Reply comments were filed on September 10, 2021, by these same entities

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

No scientific data was used to develop the rules.

- 12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

No alternative regulations were proposed as the adopted rule merely implements the statutory guidance given the Commission by the Ohio General Assembly.

- 13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

No. This chapter by its very nature is largely process driven since it implements procedures and standards that track R.C. Chapter 4927 as given to the Commission by the Ohio General Assembly.

- 14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The PUCO has reviewed other Ohio regulations and found no duplication. There is no other state agency responsible to oversee the withdrawal of basic local exchange telephone service.

- 15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

A notice of withdrawal or abandonment will be sent to all affected customers providing for a 120-day notice period during which petitions can be filed by affected individuals or their representatives alleging that the customer will be unable to obtain reasonable and comparatively priced voice service upon the withdrawal or abandonment of BLES offered by the ILEC. Alternatively, if a residential customer is identified by the collaborative process established under amended Substitute H.B. 64 as a customer who will be unable to obtain reasonable and comparatively priced voice service upon the withdrawal or abandonment of BLES offered by the ILEC, that customer may be treated as though they timely filed a petition.

Adverse Impact to Business

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16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

**a. Identify the scope of the impacted business community; and
All ILECs.**

b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,);

ILECs must comply with the requirements of Rule 21, including the notification obligations and potential continued obligation to provide access to a reasonable and comparatively priced voice service.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

The notification and potential continued offering of access to a reasonable and comparatively priced voice service will have an unknown time and financial cost associated with them.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The obligations set forth in adopted Ohio Adm.Code 4901:1-6-21 are justified in order to ensure the continued provision of access to a reasonable and comparatively priced voice service following the statutory guidance given the Commission by the Ohio General Assembly.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

The language of rule does not provide an ILEC with the opportunity to see a waiver of a provision of Rule 21. To the extent that the Commission has adopted any requirements that go beyond R.C. 4927.10 those additional requirements would be subject to the general ability authorized by Paragraph (E) of Ohio Adm.Code 4901:1-6-02.

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19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The rules in Ohio Adm.Code 4901:1-6 do not impose specific fines or penalties for failure to comply. Fines or penalties for violation of this chapter may only be ordered by the PUCO after notice and hearing. The PUCO will fully comply with R.C. 119.14 and it is not the PUCO's intent to seek to recover administrative fines or civil penalties on any small business for a first-time paperwork violation.

20. What resources are available to assist small businesses with compliance of the regulation?

Commission Staff works with all affected entities, including small businesses, to assist such companies with compliance.

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AMENDED

4901:1-6-25 Withdrawal of telecommunications services.

- (A) Except as provided in paragraphs (B), (D), and (E) of this rule, a telephone company may cease offering any telecommunications service, by providing a notice of withdrawal of such service or services.
- (1) Notice, consistent with rule 4901:1-6-07 of the Administrative Code, shall be provided to all affected customers, and the chief of the telecommunications and technology division of the rates and analysis department and the chief of the reliability and service analysis division of the service monitoring and enforcement department at least thirty days prior to the effective date that the telephone company will cease providing a specific telecommunications service.
 - (2) At least thirty days prior to withdrawal of a specific telecommunications service, a telephone company shall provide written notice of its intent to cease providing service to its wholesale customers and to any telephone company wholesale provider of its services, if applicable.
- (B) Withdrawal of basic local exchange service (BLES)
- (1) A competitive local exchange carrier (CLEC) shall not discontinue offering BLES within an exchange(s) without filing a zero-day notice filing (ZTA) to withdraw such service or services from its tariff. CLECs must include with the notice filing the actual customer notice and an affidavit verifying that this customer notice has been provided to affected customers at least thirty days prior to the effective date that the CLEC will cease providing BLES.
 - (2) A CLEC ceasing to offer BLES shall return all deposits, including applicable interest, to its customers who do not convert to another service with the CLEC, no later than ninety days after filing its withdrawal notice filing unless a court of competent jurisdiction orders otherwise.
 - (3) At least thirty days prior to withdrawal of BLES, a CLEC shall provide written notice of its intent to cease providing service, to any telephone company from which the applicant obtains wholesale services, if applicable.
 - (4) An incumbent local exchange carrier shall not discontinue providing BLES without complying with the provisions of rule 4901:1-6-27 of the Administrative Code.
- (C) A local exchange carrier proposing to withdraw telecommunications service(s) within an exchange or other geographical area shall provide a list of its assigned area code prefix(es) or thousand block(s). Such information shall also include any proposed dates or timelines, due to its withdrawal of such telecommunications service(s), wherein the telephone company's area code prefix(es) or thousand block(s) would be reassigned to another carrier and/or returned to the North American numbering plan administrator or pooling administrator. This requirement does not apply where the telecommunications service(s) to be

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withdrawn does not require the assignment of telephone numbers, or the use of such telephone numbers will continue to be required for other services provided by the local exchange carrier.

(D) Withdrawal of tariffed services other than BLES

A telephone company may not cease offering any services required to be tariffed pursuant to paragraphs (A)(1)(b) to (A)(1)(i) of rule 4901:1-6-11 of the Administrative Code, without first filing an application to withdraw such service(s) from its tariff, using the most up-to-date telecommunications filing form, and without obtaining prior commission approval. Such an application shall be designated under a TP-UNC case purpose code and shall not be subject to an automatic approval process.

(E) Interconnection and resale agreements approved under the Telecommunications Act of 1996 are subject to the terms of the agreements, federal law, and Chapter 4901:1-7 of the Administrative Code.

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AMENDED

4901:1-6-27 Carrier Provider of last resort (CPOLR).

- (A) Except as otherwise provided in this rule, an incumbent local exchange carrier (ILEC) shall provide basic local exchange service (BLES) to all persons or entities in its service area requesting that service, and that service shall be provided on a reasonable and nondiscriminatory basis.
- (B) An ILEC is not obligated to construct facilities and provide BLES, or any other telecommunications service, to the occupants of multitenant real estate, including, but not limited to, apartments, condominiums, subdivisions, office buildings, or office parks, if the owner, operator, or developer of the multitenant real estate does any of the following to the benefit of any other provider of telecommunications service:
- (1) Permits only one provider of telecommunications service to install its facilities or equipment during the construction or development phase of the multitenant real estate;
 - (2) Accepts or agrees to accept incentives or rewards that are offered by a provider of telecommunications service to the owner, operator, developer, or occupants of the multitenant real estate and are contingent on the provision of telecommunications service by that provider to the occupants, to the exclusion of services provided by other providers of telecommunications service; or
 - (3) Collects from the occupants of the multitenant real estate any charges for the provision of telecommunications service to the occupants, including charges collected through rents, fees, or dues.
- (C) An ILEC not obligated to construct facilities and provide BLES pursuant to paragraph (B) of this rule shall notify the commission of that fact within one hundred twenty days of receiving knowledge thereof. Such notification shall be filed in a zero-day notice under a ZTA case caption including, where applicable, any necessary tariff revisions outlining the geographic boundaries of the ILEC's service area to which the notification would apply. In addition, the notice shall specify the circumstances under which the company qualifies to invoke paragraph (B) of this rule.
- (D) An ILEC that receives a request from any person or entity to provide BLES under the circumstances described in paragraph (B) of this rule shall, within fifteen days of receipt of such request, provide notice to the requesting person or entity specifying whether the ILEC will provide the requested service. If the ILEC provides notice that it will not serve the person or entity, the notice shall:
- (1) Explain the reason for not offering the requested BLES; and
 - (2) Describe the person's or entity's right to file a complaint with the commission under section 4927.21 of the Revised Code within thirty days after receipt of the notice.
- (E) In resolving any complaint under paragraph (D) of this rule, the commission's determination shall be limited to whether any circumstance described in paragraphs (B)(1) to (B)(3) of this rule exists. Upon a finding by

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the commission that such a circumstance exists, the complaint shall be dismissed. Upon a finding that such circumstances do not exist, the person's or entity's sole remedy shall be provision by the ILEC of the requested service within a reasonable time, as determined by the commission.

- (F) When the circumstances described in paragraph (B) of this rule cease to exist, and a person or entity subsequently requests that the ILEC provide BLES, the ILEC shall be required to provide BLES to such real estate, unless the ILEC files with the commission a request for waiver pursuant to paragraph (G) of this rule and such request is granted. In the event that the commission determines that the ILEC should not be required to provide BLES, the commission will initiate a commission proceeding for determining a successor telephone company.
- (G) An ILEC may apply to the commission for a waiver from compliance with paragraph (A) of this rule in circumstances other than those listed in paragraph (B) of this rule, through an application for waiver (WVR) filing.
- (1) The application for waiver of the ILEC's obligation under paragraph (A) of this rule shall include, at the minimum, all of the following:
- (a) A clear and detailed description of the geographic boundary of the ILEC's service area to which the requested waiver would apply;
 - (b) The requested effective date of the waiver;
 - (c) A clear identification of class of customer impacted by the waiver, if any customer-class limitation of waiver is requested, and the number of persons or entities who would be impacted by the requested waiver;
 - (d) A clear explanation of the rationale behind the requested waiver, including an unusual technical limitation or an economic analysis demonstrating a financial hardship to provide BLES in the requested geographic area and an identification of any available alternative providers of telecommunications service;
 - (e) A proposed newspaper customer notice, consistent with paragraph (G)(2) of this rule;
 - (f) A clear explanation as to whether the requested waiver would apply only to prospective customers or to the entire customer-base in the requested geographic area;
 - (g) A clear explanation of how customers would otherwise have access to BLES or alternative service offerings that are just and reasonable; and
 - (h) A clear explanation of how the requested waiver would be just, reasonable, and not contrary to the public interest.
- (2) The ILEC applying for the waiver shall provide, with its application, a draft copy of its proposed customer notice to be published one time in a newspaper of general circulation throughout the service area identified in the application. In addition, the ILEC shall also provide any other notice required by the commission in the waiver proceeding to any affected persons who are or would be potentially

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impacted by the requested waiver. For purposes of this rule, affected persons shall include, at a minimum, any existing customers of the requesting ILEC within the geographic boundary of the ILEC's service area to which the requested waiver would apply. Upon the filing of a waiver application filed under this paragraph, the commission, attorney examiner, or legal director shall issue an entry which addresses customer notice content and service, establishes a reasonable opportunity for comment, schedules a hearing as set forth in paragraph (G)(3) of this rule, and addresses any other procedural matters.

- (3) The commission shall order a public hearing in the service area(s) identified in the application pursuant to paragraph (G)(1)(a) of this rule.
- (4) No later than one hundred twenty days after the filing of a complete application pursuant to paragraph (G) of this rule, the commission either shall issue an order granting the waiver if, upon investigation, it finds the waiver to be just, reasonable, and not contrary to the public interest, and that the applicant demonstrates a financial hardship or an unusual technical limitation, or shall issue an order denying the waiver based on a failure to meet those standards and specifying the reasons for the denial.
- (H) A waiver application filed under paragraph (G) of this rule that does not contain all of the information required by paragraph (G)(1) of this rule will be considered deficient and will not trigger the one hundred twenty-day review period in paragraph (G)(4) of this rule until the date that a complete application has been filed by the applicant. The commission, the legal director, or an attorney examiner has the authority to issue an entry either dismissing the application or establishing the date that the application is complete and begin the one hundred twenty-day review period.

**This foregoing document was electronically filed with the Public Utilities
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in

Case No(s). 14-1554-TP-ORD

Summary: Finding & Order determining that Paragraphs (F) and (G) of adopted Ohio Adm.Code 4901:1-6-21 are now moot and no longer applicable due to the recent adoption and signing of Substitute House Bill 430 of the 134th Ohio General Assembly. Therefore, Ohio Adm.Code 4901:1-6-21 is now being adopted without Paragraphs (F) and (G) being included. As a result, Ohio Adm.Code 4901:1-6-25 and Ohio Adm.Code 4901:1-6-27 are adopted as amended rules with only minor technical changes being made electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio