

Attachment B - Business Impact Analysis
Case No. 12-922-TR-ORD
Chapter 4901:1-7
Local Exchange Carrier-to-Carrier
October 24, 2012
Page 1 of 6

CSI - Ohio

The Common Sense Initiative

Revised Business Impact Analysis

Agency Name: Public Utilities Commission of Ohio (PUCO)
Attention: Jeff Jones, Chief, Water and Sewer Section
(V) Phone: 614/466-0463 (F) 614/728-8373
jeff.jones@puc.state.oh.us

Regulation/Package Title: Local Exchange Carrier-to-Carrier Rules

Rule Number(s): 4901:1-7-01, 4901:1-7-02, 4901:1-7-03, 4901:1-7-04, 4901:1-7-05,
4901:1-7-06, 4901:1-7-07, 4901:1-7-08, 4901:1-7-09, 4901:1-7-10, 4901:1-7-11,
4901:1-7-12, 4901:1-7-13, 4901:1-7-14, 4901:1-7-15, 4901:1-7-16, 4901:1-7-17,
4901:1-7-18, 4901:1-7-19, 4901:1-7-20, 4901:1-7-21, 4901:1-7-22, 4901:1-7-23,
4901:1-7-24, 4901:1-7-25, 4901:1-7-26, 4901:1-7-27, 4901:1-7-28, and 4901:1-7-29

Date: October 24, 2012 (Revised August 29, 2012)

Rule Type:

☐ New

☒ Amended

☒ 5-Year Review

☒ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

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

Chapter 4901:1-7, Ohio Administrative Code (O.A.C.), establishes the standards by which telephone companies interconnect their networks to provision telephone service to end user customers pursuant to Chapter 4927 of the Revised Code. The proposed changes to this chapter include non-substantive amendments and rescissions of rules that result in a

reduction of unnecessary reporting requirements, the streamlining of various rules, and the removal of unnecessary or outdated requirements. Further, the proposed changes include the addition of new definitions and the elimination of language incorporating by reference a version of the Code of Federal Regulations as of a date certain.

Please list the Ohio statute authorizing the Agency to adopt this regulation.

Section 4927.03, Revised Code.

- 2. 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?**

Many of the rules in Chapter 4901:1-7, of the Ohio Administrative Code have been adopted to fulfill the PUCO's obligations as a state commission under the Telecommunications Act of 1996 (47 U.S.C. §§251 et.al).

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

In addition to the requirements in this chapter which implement federal law, there are additional provisions that specifically implement S.B. 162 adopted by the 128th Ohio General Assembly. There are no additional requirements adopted in this chapter which are not outlined in state or federal law.

- 4. 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 federal government has empowered the States to take an active role in relations between telephone companies given the States' technical knowledge of telephone company operations and the States' familiarity with local conditions. But for PUCO involvement in mediating these carrier relationships, the Federal Communications Commission (FCC) would have to do so which would be virtually impossible for the FCC to act on carrier relationships for all fifty states.

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

The PUCO will measure the success of this regulation by the Commission's ability to review and resolve issues in a timely and thorough manner that arise between telephone companies and that would impact the ability of consumers to make and receive telephone calls in Ohio.

Development of the Regulation

6. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

A draft of the proposed rules, as well as the Commission entry calling for comments were served on all regulated telephone companies and the Ohio Telecom Association (OTA). Hpercube Telecom, LLC, Ohio Cable Telecommunications Association, AT&T Entities, Cincinnati Bell Telephone Company LLC, Verizon, tw telecom of ohio llc, and OTA all contributed to the development of the draft regulation by submitting comments and/or reply comments regarding the proposed rules.

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

The specific stakeholders listed above suggested revisions to Rules 4901:1-7-01, 4901:1-7-02, 4901:1-7-03, 4901:1-19-05, 4901:1-7-06, 4901:1-7-07, 4901:1-7-08, 4901:1-7-12, 4901:1-7-13, 4901:1-7-14, 4901:1-7-22, 4901:1-7-23, 4901:1-7-27, 4901:1-7-28, and 4901:1-7-29, O.A.C. The PUCO staff has recommended that the Commission adopt several of the suggested revisions to Rules 4901:1-7-01, 4901:1-7-02, 4901:1-7-03, 4901:1-7-05, 4901:1-7-06, 4901:1-7-08, 4901:1-7-12, 4901:1-7-14, 4901:1-7-23, and 4901:1-7-29, O.A.C. The PUCO staff recommended that the Commission not adopt other stakeholders' suggested revisions to Rules 4901:1-7-06, 4901:1-7-07, 4901:1-7-12, 4901:1-7-13, 4901:1-7-14, 4901:1-7-22, 4901:1-7-27, and 4901:1-7-28, O.A.C. A comment summary and revised proposed rules based upon the formal written comments received can be found at <http://www.puco.ohio.gov/puco/index.cfm/rules/>. Proposed revisions based on the written comments are highlighted in yellow.

8. 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?

There have been numerous PUCO proceedings since adoption of the rules in 2007 that have demonstrated the benefits of having rules and standards in place to govern carrier-to-carrier relationships. The PUCO staff analyzed how competition has developed among carriers, how the market has evolved, and benefits of competition to end user customers when developing recommendations for modifying this chapter.

9. 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?

As it is necessary to have standards that implement federal and state law governing carrier-to-carrier relationships, no alternative regulations have been considered.

10. Did the Agency specifically consider a performance-based regulation? Please explain.

No. The proposal is based upon the statutory requirements of state and federal law as well as federal regulations set forth in Chapter 4927, Revised Code, the Telecommunications Act of 1996, and the Code of Federal Regulations. Performance-based regulation is not provided for in the statute.

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

The PUCO is the only agency in the State of Ohio that has jurisdiction over carrier interconnection and compensation issues involving telephone companies. Thus, we are assured that there is no duplication with any existing regulation.

12. 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.

The PUCO staff conducts a review of each application filed pursuant to this chapter to ensure that all applications comply with federal law including federal regulations. One of the main purposes for adopting this chapter is to provide the framework for consistent and predictable interactions among telephone companies.

Adverse Impact to Business

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

a. Identify the scope of the impacted business community;

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

The business community impacted by this chapter of rules includes telephone companies, as defined in Section 4927.01(A)(13), Revised Code.

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

None. Telephone companies are in the business of transmitting telephonic messages. The interconnection of telephone company networks in order to transmit messages from point-to-point is required by federal law and federal regulation. Therefore, by definition, the PUCO Staff does not believe that this chapter represents an “adverse” impact on the affected business community. Nonetheless, this chapter does impact the business community by requiring employer time associated with the negotiation and implementation of interconnection arrangements including compensation for handing off traffic among telephone companies.

c. Quantify the expected adverse impact from the regulation.

None. The interconnection of telephone company networks in order to transmit messages from point-to-point is required by federal law and federal regulation. As such, the PUCO Staff does not believe that the impact from these rules is “adverse.” In fact, the rationale underlying the adoption of these rules is to provide clear and consistent requirements and procedures that streamline and add certainty to the interconnection process. The proposed rules will ensure timely and economically efficient connectivity of telephone company networks which will increase the value of those networks and enhance the telephone companies’ business.

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

The proposed rules will ensure timely and economically efficient connectivity of telephone company networks which will increase the value of those networks and enhance the telephone companies’ business. The PUCO Staff believes that the need for clear and consistent filing requirements and procedures for thorough review of interconnection agreements filed pursuant to federal law justifies the continued compliance requirements contained in the existing rules; but emphasizes that the proposed rules will not have an additional adverse impact on the identified business community.

Regulatory Flexibility

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

Yes, proposed Rules 4901:1-7-04 and 4901:1-7-05, O.A.C., include procedures for exemption and for suspension/modification applications filed by rural telephone companies and rural carriers from some of the interconnection requirements set forth in federal law and federal regulations. By definition, these rural telephone companies and rural carriers are small businesses. The rural telephone company exemption applies until such time as the PUCO determines that an interconnection request is not unduly economically burdensome, is technically feasible, and is consistent with the universal service provisions of 47 U.S.C. §254. Similarly, a small business qualifying as a rural carrier may apply for a suspension/modification of some of the interconnection obligations provided the PUCO determines that such suspension or modification is necessary (i) to avoid a significant adverse economic impact on users of telecommunications services generally; (ii) to avoid imposing a requirement that is unduly economically burdensome; or (iii) to avoid imposing a requirement that is technically infeasible; and is consistent with the public interest, convenience, and necessity.

17. 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?

There are no fines and penalties imposed under this chapter; therefore, Section 119.14, Revised Code, is inapplicable to this chapter.

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

The rules, application forms, and other applicable regulations are accessible on the telephone company industry page on the PUCO website. Further, our Staff regularly assists small telephone companies with their filings at the PUCO. Additionally, all applicants, large and small, are permitted to electronically file applications with the PUCO via the website. Also, all previous interconnection agreements, including terms, conditions, and rates, are available electronically through the PUCO's docketing website. This ensures that small business owners have access to full information.