



# Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

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## Business Impact Analysis

Agency, Board, or Commission Name: Public Utilities Commission of Ohio (PUCO)

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

Local Exchange 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, 4901:1-7-24, |
| 4901:1-7-25, 4901:1-7-26, 4901:1-7-27                                         |

Date of Submission for CSI Review: September 21, 2022

Public Comment Period End Date: October 17, 2022

Rule Type/Number of Rules:

New/\_\_\_ rules

No Change/\_\_\_8\_\_\_ rules (FYR? \_\_\_)

Amended/\_\_\_18\_\_\_ rules (FYR? \_\_\_)

Rescinded/\_\_\_ rules (FYR? \_\_\_)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an

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**adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing 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 rule for CSI review.**

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

**The rule(s):**

- ☐ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- ☐ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- ☐ **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**

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

Ohio Adm.Code Chapter 4901:1-7 establishes the standards by which telephone companies interconnect their networks to provide telephone service to end user customers pursuant to R.C. Chapter 4927. The proposed changes to this chapter address the requirements of R.C. 121.951(A)(1). The proposed changes also include substantive changes in order to be consistent with determinations of the Federal Communications Commission (FCC) and non-substantive amendments. Further, the proposed changes include the addition of new language updating the incorporation by reference date of the applicable version of the Code of Federal Regulations and United States Code, and the updating of references to specific sections of the United States Code and Code of Federal Regulations. Additionally, the titles to specific PUCO departments and divisions have been updated.

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**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.**

|             |                                                                               |
|-------------|-------------------------------------------------------------------------------|
| 4901:1-7-01 | Authorized by 4901.13, 4927.03; Amplifies 4901.13, 4927.04                    |
| 4901:1-7-02 | Authorized by R.C. 4927.03, 4901.13; Amplifies R.C. 4901.13, 4927.04          |
| 4901:1-7-03 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4901.13, 4927.04          |
| 4901:1-7-04 | Authorized by 4901.13, 4927.03; Amplifies R.C. 4901.13, 4927.04               |
| 4901:1-7-05 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4927.03, 4927.04          |
| 4901:1-7-06 | Authorized by R.C. 4901.13, 4927.03, Amplifies R.C. 4901.13, 4927.04.         |
| 4901:1-7-07 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4901.13, 4927.04.         |
| 4901:1-7-08 | Authorized by R.C. 4927.03, 4901.13; Amplifies R.C. 4901.13, 4927.04          |
| 4901:1-7-09 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4901.13, 4927.04          |
| 4901:1-7-10 | Authorized by R.C. 4901.13; Amplifies R.C. 4901.13                            |
| 4901:1-7-11 | Authorized by R.C. 4927.03, 4901.13; Amplifies R.C. 4901.13, 4927.04          |
| 4901:1-7-12 | Authorized by R.C. 4901.13, 4927.03, 4927.08; Amplifies R.C. 4901.13, 4927.04 |
| 4901:1-7-13 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4901.13, 4927.04          |
| 4901:1-7-14 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4901.13, 4927.04          |
| 4901:1-7-15 | Authorized by R.C. 4901.13; Amplifies R.C. 4901.13.                           |
| 4901:1-7-16 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4901.13, 4927.04          |
| 4901:1-7-17 | Authorized by R.C. 4927.03, 4901.13; Amplifies R.C. 4927.04, 4901.13          |

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|             |                                                                         |
|-------------|-------------------------------------------------------------------------|
| 4901:1-7-18 | Authorized by R.C. 4901.13, 4927.03;<br>Amplifies R.C. 4905.13, 4927.04 |
| 4901:1-7-19 | Authorized by R.C. 4901.13, 4927.03;<br>Amplifies R.C. 4905.14, 4905.71 |
| 4901:1-7-20 | Authorized by R.C. 4901.13, 4927.03;<br>Amplifies R.C. 4901.13, 4927.04 |
| 4901:1-7-21 | Authorized by R.C. 4901.13, 4927.03;<br>Amplifies R.C. 4901.13, 4927.04 |
| 4901:1-7-22 | Authorized by R.C. 4927.03, 4901.13;<br>Amplifies R.C. 4901.13, 4927.04 |
| 4901:1-7-24 | Authorized by R.C. 4927.03, 4901.13,<br>Amplifies R.C. 4901.13, 4927.04 |
| 4901:1-7-25 | Authorized by R.C. 4901.13, 4927.03;<br>Amplifies R.C. 4901.13, 4927.04 |
| 4901:1-7-26 | Authorized by R.C. 4927.03, 4901.13;<br>Amplifies R.C. 4901.13, 4927.04 |
| 4901:1-7-27 | Authorized by R.C. 4901.13; Amplifies<br>R.C. 4901.13                   |

**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?**

Many of the rules in Ohio Adm.Code 4901:1-7 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).

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

There are no additional requirements adopted in this chapter which are not outlined in state or federal law.

**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 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 FCC would have to do so, which would be

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virtually impossible for the FCC to act on carrier relationships for all fifty states.

**7. 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 PUCO'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.

**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

**Development of the Regulation**

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

The Commission conducted a remote workshop on March 1, 2022, for the purpose of receiving feedback from interested stakeholders and the general public. The case number for the Commission's review of Ohio Adm.Code Chapter 4901:1-7 is Case No. 22-48-TP-ORD (22-48). The Entry providing notice of the workshop was served on the Ohio Telecom Association, the Ohio Consumers' Counsel, and the telephone industry list-serve. Consistent with the June 8, 2022 effective date of Amended Substitute Senate Bill 9 of the 134<sup>th</sup> Ohio General Assembly, the Commission issued an entry on September 21, 2022, calling for additional comments in 22-48. The Entry included proposed Commission Staff modifications addressing the requirements of R.C. 121.95. Initial written comments were due on October 7, 2022, and reply comments were due on October 17, 2022. The Commission noted that the Staff's proposal did not include the proposals previously issued for comment and that interested stakeholders did not need to readdress the previously submitted comments. The Entry was served on the Ohio Telecomm Association, the Ohio Cable Telecommunications Association, the Ohio Consumers' Counsel, and the telephone industry list-serve.

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

The Ohio Cable Telecommunications Association filed initial comments to the Commission Staff's proposed rules. The comments will be considered for the purpose of developing the final rules.

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**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 directly provided or considered in adopting any changes to 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?**

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

**13. 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.

**14. 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. Upon completion of the rule review process, any changes made to Ohio Adm.Code Chapter 4901:1-7 will be attached to the Commission's Finding and Order issued in 22-48 and served upon the Ohio Telecom Association, the Ohio Cable Telecommunications Association, the Ohio Consumers' Counsel, telephone industry list-serve and all interested persons of record.

**Adverse Impact to Business**

**15. 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;**

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

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

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

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affected business community. 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. 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.

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

The rules were simplified to improve readability and to eliminate duplication.

**17. 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**

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

Yes, Ohio Adm.Code 4901:1-7-04 and 4901:1-7-05 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

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a requirement that is technically infeasible; and is consistent with the public interest, convenience, and necessity.

**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?**

There are no fines and penalties imposed under this chapter; therefore, R.C. 119.14 is applicable to this chapter.

**20. 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 comprehensive information.