



## Common Sense Initiative

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

**Joseph Baker**, Director

### 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):  
Ohio Adm.Code Chapter 4901:1-6 Telephone Company Procedures and Standards

Rule Number(s): 4901:1-6-01 through 4901:1-6-37

Date of Submission for CSI Review: 12/2/22

Public Comment Period End Date: 12/12/22

Rule Type/Number of Rules:

New/ 0 rules

No Change/ 8 rules (FYR? ☐)

Amended/28 rules (FYR? ☐)

Rescinded/ 1 rules (FYR?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 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.

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### **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):**

- 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**

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

Ohio Adm.Code Chapter 4901:1-6 establishes the procedures and standards for telephone companies in the state of Ohio. The draft regulations remove regulatory restriction language in various rules in this Chapter consistent with R.C. 121.951(A)(1). In numerous rules, specific requirements were removed. In such scenarios, the PUCO determined that it was unnecessary to duplicate requirements that already exist in the Ohio Revised Code and/or the Code of Federal Regulations. For example, in the case of Ohio Adm.Code 4901:1-6-17, the rule is proposed to be rescinded inasmuch as it will be addressed in amended Ohio Adm.Code 4901:1-6-02(I) and 4901:1-6-16. The proposed changes also include substantive changes in order to be consistent with the determinations of the Federal Communications Commission (FCC) and non-substantive amendments. Additionally, titles to specific PUCO departments, divisions, and positions have been updated.

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.**

|             |   |
|-------------|---|
| 4901:1-6-01 | Authorized by 4901.13, 4905.84, 4927.01, 4927.02, 4927.03, 4927.10, 4927.11, 4927.12, 4927.123, 4927.19; Amplifies 4927.12, 4927.123, 4927.19 |
| 4901:1-6-02 | Authorized by R.C. 4927.03, 4901.13; Amplifies R.C. 4905.04, 4927.10  |

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|             |   |
|-------------|---|
| 4901:1-6-03 | Authorized by R.C. 4901.13, 4927.03;<br>Amplifies R.C. 4927.20, 4927.21                         |
| 4901:1-6-04 | Authorized by 4901.13, 4927.03; Amplifies<br>R.C. 4927.03, 4927.15                              |
| 4901:1-6-05 | Authorized by R.C. 4927.03, 4901.13;<br>Amplifies R.C. 4927.03, 4927.15                         |
| 4901:1-6-06 | Authorized by R.C. 4901.13, 4927.03,<br>4927.12; Amplifies R.C. 4927.12                         |
| 4901:1-6-07 | Authorized by R.C. 4901.13, 4927.03,<br>4927.10, 4927.17; Amplifies R.C. 4927.17                |
| 4901:1-6-08 | Authorized by R.C. 4927.03, 4901.13;<br>Amplifies R.C. 4927.05                                  |
| 4901:1-6-09 | Authorized by R.C. 4927.03, 4901.13;<br>Amplifies R.C. 4927.13                                  |
| 4901:16-10  | Authorized by R.C. 4901.13, 4927.15;<br>Amplifies R.C. 4927.15                                  |
| 4901:1-6-11 | Authorized by R.C. 4927.03, 4901.13;<br>Amplifies R.C. 4927.15                                  |
| 4901:1-6-12 | Authorized by R.C. 4901.13, 4927.03,<br>4927.08; Amplifies R.C. 4927.08                         |
| 4901:1-6-13 | Authorized by R.C. 4901.13, 4927.03;<br>Amplifies R.C. 4927.09                                  |
| 4901:1-6-14 | Authorized by R.C. 4901.13, 4927.03;<br>Amplifies R.C. 4927.12, 4927.121,<br>4927.123, 4927.124 |
| 4901:1-6-15 | Authorized by R.C. 4901.13, 4927.03;<br>Amplifies R.C. 4927.01                                  |
| 4901:1-6-16 | Authorized by R.C. 4901.13, 4927.03;<br>Amplifies R.C. 4927.06                                  |
| 4901:1-6-17 | Authorized by R.C. 4927.03, 4901.13;<br>Amplifies R.C. 4927.04, 4911.02                         |
| 4901:1-6-18 | Authorized by R.C. 4901.13, 4927.03;<br>Amplifies R.C. 4927.04                                  |
| 4901:1-6-19 | Authorized by R.C. 4901.13, 4927.03;<br>Amplifies R.C. 4927.04, 4927.13                         |
| 4901:1-6-20 | Authorized by R.C. 4901.13, 4927.03;<br>Amplifies R.C. 4927.14                                  |

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|             |   |
|-------------|---|
| 4901:1-6-21 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4927.20, 4927.11            |
| 4901:1-6-22 | Authorized by R.C. 4927.03, 4901.13; Amplifies R.C. 4927.18                     |
| 4901:1-6-23 | Authorized by 4901.13, 4927.03; Amplifies R.C. 4927.15                          |
| 4901:1-6-24 | Authorized by R.C. 4901.13, 4905.84, 4927.03; Amplifies R.C. 4927.03, 4905.84   |
| 4901:1-6-25 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4927.07                     |
| 4901:1-6-26 | Authorized by R.C. 4927.03; Amplifies R.C. 4927.07                              |
| 4901:1-6-27 | Authorized by R.C. 4927.03; Amplifies R.C. 4927.11                              |
| 4901:1-6-28 | Authorized by R.C. 4927.03, 4901.13; Amplifies R.C. 4927.05                     |
| 4901:1-6-29 | Authorized by R.C. 4901.13, 4905.402, 4927.03; Amplifies R.C. 4905.402, 4927.05 |
| 4901:1-6-30 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4927.19                     |
| 4901:1-6-31 | Authorized by R.C. 4927.03; Amplifies R.C. 4927.04                              |
| 4901:1-6-32 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4927.01                     |
| 4901:1-6-33 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4927.03                     |
| 4901:1-6-34 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4905.16, 4927.03.           |
| 4901:1-6-35 | Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4905.06, 4927.04            |
| 4901:1-6-36 | Authorized by R.C. 4905.84, 4901.13; Amplifies R.C. 4905.84, 4927.15            |
| 4901:1-6-37 | Authorized by R.C. 4905.14; Amplifies R.C. 4905.10, 4905.71                     |

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- 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?**

Yes. Pursuant to proposed Ohio Adm.Code 4901:1-6-02(I), telephone companies shall follow applicable federal statutes and regulations.

- 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.**

Not applicable.

- 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 Chapter 4901:1-6 is to implement the statutory authority regarding retail telecommunication services as set forth in R.C. 4927.04 and 4927.05.

- 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 monitor the number of providers entering and exiting the market and the related service offerings, the number of customers subscribing to the service offerings, and the number of customer complaints.

- 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 October 19, 2022 Entry in Case No. 22-829-TP-ORD seeking comments on the proposed rule revisions pursuant to R.C. 121. 951(A)(1) was served upon the Ohio Telecom Association, the Ohio Cable Telecommunications Association, the Ohio Consumers' Counsel, the telephone industry listserve, and all other interested persons of record.

- 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 due November 2, 2022, and reply comments were due on November 10, 2022. The PUCO will consider the filed comments when issuing the final rules in Case No. 22-829-TP-ORD.

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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 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?**  
*Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

The primary purpose of the current rule review relates to the requisite rule reduction pursuant to R.C. 121.951(A)(1). Therefore, considerations of alternative regulations were not necessary. In a limited number of cases, the PUCO made some minor modifications to the existing rules for the purpose of clarification. In other cases, some or portions of the existing rule were deleted since they are no longer applicable.

**13. 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.

**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 adoption of Ohio Adm.Code Chapter 4901:1-6 will provide the PUCO with a framework to ensure consistent and predictable application for affected entities as well as to provide guidance to stakeholders when necessary. These rules have been in effect for the past few years without complaints regarding inconsistent application of the Chapter.

**Adverse Impact to Business**

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

**a. Identify the scope of the impacted business community, and**

The scope of the business community impacted by the adoption of Ohio Adm.Code Chapter 4901:1-6 includes regulated telephone companies and their customers.

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

The rules, which have been in effect for the past few years, were drafted in an effort to minimize any adverse impact on businesses. While PUCO approval is required for the filing of certain applications, most approvals are intended to occur on an automatic basis

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with minimal time allocated for the purpose of PUCO review and/or public input. Other applications are to be simply considered on a zero-day notice basis. No new impacts are expected from the adoption of the revised rules.

- 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 have been simplified to improve readability and to remove regulatory restriction language in Ohio Adm.Code Chapter 4901:1-6.

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

There is no additional recognized impact to the regulated business community or to their customers as these rules will, for the most part, remain the same as they have been since their prior adoption except for the purpose of reducing regulatory restrictions as reflected in the indicated amendments.

### **Regulatory Flexibility**

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

The rules provide an impacted entity with the opportunity to seek a waiver of the provision of these rules.

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

The rules in Ohio Adm.Code Chapter 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 does not seek recovery of 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?**

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