

NOVEMBER 1 AGENDA - DRAFT - 10/31/2023 12:36 PM
THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMMISSION'S
REVIEW OF OHIO ADM.CODE CHAPTER
4901:1-6.**

CASE NO. 23-817-TP-ORD

ENTRY

Entered in the Journal on November 1, 2023

I. SUMMARY

{¶ 1} The Commission directs all interested persons or entities wishing to file comments or reply comments with the Commission regarding the five-year review of the retail telecommunication service rules in Ohio Adm.Code Chapter 4901:1-6 do so no later than December 1, 2023, and December 18, 2023, respectively.

II. DISCUSSION

{¶ 2} R.C. 111.15(B) requires all state agencies to conduct a review, every five years, of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. At this time, the Commission is reviewing the retail telecommunication service rules in Ohio Adm.Code Chapter 4901:1-6.

{¶ 3} Among other things, R.C. 106.03(A) requires the Commission to determine whether the rules should be continued without amendment, be amended, or rescinded, taking into consideration the purpose, scope, and intent of the statute(s) under which the rules were adopted. As part of this analysis, the Commission must ascertain if the rule is still pertinent and not duplicative of existing state and federal law. Additionally, the Commission must assess if the rule is still reasonably effective for enforcement purposes. As part of this review, the Commission must consider whether the rule has an adverse impact on businesses, as determined under R.C. 107.52, or on any other person or entity.

{¶ 4} To the extent that a rule incorporates a text or other material by reference, it must provide the necessary level of detail consistent with R.C. 121.71 to 121.75.

{¶ 5} Additionally, in accordance with R.C. 121.82, in the course of developing draft rules, the Commission must evaluate the rules against the business impact analysis (BIA). If there will be an adverse impact on businesses, as defined in R.C. 107.52, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse impact. Furthermore, the Commission is required, pursuant to R.C. 121.82, to provide the Common Sense Initiative (CSI) office with the draft rules and the BIA.

{¶ 6} On June 8, 2022, Amended Substitute Senate Bill 9 of the 134th Ohio General Assembly became effective. R.C. 121.951(A)(1), which was codified as part of Amended Substitute Senate Bill 9, requires state agencies to reduce their total number of regulatory restrictions by 30 percent (10 percent per year for the next 3 years) by June 30, 2025.

{¶ 7} On September 20, 2023, the Commission held a workshop in this proceeding to enable interested stakeholders to propose revisions to the rules in Ohio Adm.Code Chapter 4901:1-6 for the Commission's consideration. The Ohio Telecom Association (OTA) proposed revisions to Ohio Adm.Code 4901:1-6-11, 4901:1-6-14(J), 4901:1-6-14(K), 4901:1-6-25(D), and 4901:1-6-33.

{¶ 8} Staff evaluated the rules contained in Ohio Adm.Code Chapter 4901:1-6. Specific to Ohio Adm.Code 4901:1-6-02, 4901:1-6-05, 4901:1-6-14, 4901:1-6-19, 4901:1-6-24, and 4901:1-6-31, Staff proposes non-substantive changes throughout the chapter intended to improve clarity with the addition of clarifying language, the amending of verb tenses, and the updating of cross-references.

{¶ 9} Attached to this Entry are Staff's proposed changes to Ohio Adm.Code Chapter 4901:1-6 (Attachment A) and the BIA (Attachment B), which are also posted on the Commission's Docketing Information System website at <http://dis.puc.state.oh.us>. To minimize the expense of this proceeding, the Commission will serve a paper copy of this

Entry only. All interested persons are directed to input case number 23-817-TP-ORD into the Case Lookup box to view this Entry, as well as Staff's proposed changes, or to contact the Commission's Docketing Division to request a paper copy.

{¶ 10} The Commission requests written comments from interested persons, including the OTA, to assist in the review required by R.C. 111.15 and 106.03. Comments should be filed, via electronic filing or in hard copy, by December 1, 2023. Reply comments should be filed by December 18, 2023.

III. ORDER

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That all interested persons or entities wishing to file comments or reply comments with the Commission regarding the proposed rules do so no later than December 1, 2023, and December 18, 2023, respectively. It is, further,

{¶ 13} ORDERED, That a copy of this Entry, with the rules and the BIA, be submitted to CSI, in accordance with R.C. 121.82. It is, further,

{¶ 14} ORDERED, That a notice or copy of this Entry be served upon the telephone industry service list; all regulated telephone companies in the state of Ohio, including all radio common carriers; the Ohio Consumers' Counsel; the Ohio Cable Telecommunications Association; the Ohio Telecom Association, and all interested persons of record.

JSA/mef

*****DRAFT - NOT FOR FILING*****

NO CHANGE

4901:1-6-01 Definitions.

As used within this chapter, these terms denote the following:

- (A) "Alternative operator services (AOS)" means any intrastate operator-assisted services, other than inmate operator services (IOS), in which the customer and the end user are totally separate entities. The AOS provider contracts with the customer to provide the AOS; however, the AOS provider does not directly contract with the billed party to provide the services even though it is the billed party who actually pays for the processing of the operator-assisted calls. AOS does not include coin-sent calls.
- (B) "Alternative provider" includes a telephone company, including a wireless service provider, a telecommunications carrier, and a provider of internet-protocol enabled services, including voice over internet protocol.
- (C) "Basic local exchange service" (BLES) means the same as division (A)(1) of section 4927.01 of the Revised Code.
- (D) "Bundle or package of services" means the same as division (A)(2) of section 4927.01 of the Revised Code.
- (E) "Carrier access" means the same as division (A)(3) of section 4927.01 of the Revised Code.
- (F) "Commission" means the public utilities commission of Ohio.
- (G) "Competitive eligible telecommunications carrier (CETC)" means a carrier, other than an incumbent local exchange carrier, designated by a state commission as an eligible telecommunications carrier.
- (H) "Competitive emergency services telecommunications carrier (CESTC)" means a telephone company that is a 9-1-1 system service provider that with respect to a service area, that was not an incumbent 9-1-1 system service provider on or after the date of enactment of the Telecommunications Act of 1996 (1996 act) or its successor or assignee of an incumbent local exchange.
- (I) "Competitive local exchange carrier (CLEC)" means, with respect to a service area, any facilities-based and nonfacilities-based local exchange carrier that was not an incumbent local exchange carrier on the date of enactment of the 1996 act or is not an entity that, on or after such date of enactment, became a successor or assignee of an incumbent local exchange carrier.

*****DRAFT - NOT FOR FILING*****

- (J) "Customer" means any person, firm, partnership, corporation, municipality, cooperative organization, government agency, etc., that agrees to purchase a telecommunications service and is responsible for paying charges and for complying with the rules and regulations of the telephone company. For purposes of this chapter, customer means a retail customer except where the term is specifically designated within a rule to mean a wholesale customer of the telephone company.
- (K) "Eligible telecommunications carrier (ETC)" means a carrier designated by a state commission as defined in subpart C of FCC 47 C.F.R. 54.201.
- (L) "Exchange area" means the same as division (A) of section 4927.12 of the Revised Code.
- (M) "Facilities-based CLEC" means, with a respect to a service area, any local exchange carrier that uses facilities it owns, operates, manages or controls to provide basic local exchange services to consumers on a common carrier basis; and that was not an incumbent local exchange carrier on the date of the enactment of the 1996 act. Such carrier may partially or totally own, operate, manage or control such facilities. Carriers not included in such classification are carriers providing service(s) solely by resale of the incumbent local exchange carrier's local exchange services.
- (N) "Federal poverty level" means the same as division (A)(4) of section 4927.01 of the Revised Code.
- (O) "Flat rate" service means unlimited number of local calls at a fixed charge.
- (P) "Incremental cost" means the additional cost (expense) incurred by an ILEC to offer BLES to an additional subscriber, excluding cost recovered through service establishment/installation charges, over existing and/or new facilities.
- (Q) "Incumbent local exchange carrier (ILEC)" means the same as division (A)(5) of section 4927.01 of the Revised Code.
- (R) "Inmate operator services (IOS)" means any intrastate telecommunications service initiated from an inmate telephone, i.e., a telephone instrument set aside by authorities of a secured correctional facility for use by inmates or juvenile offenders.
- (S) "Internet protocol-enabled services" means the same as division (A)(6) of section 4927.01 of the Revised Code.
- (T) "Large ILEC" means any ILEC serving fifty thousand or more access lines in Ohio.
- (U) "Line loss" means the same as division (A) of section 4927.123 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

- (V) "Local exchange carrier" means the same as division (A)(8) of section 4927.01 of the Revised Code.
- (W) "Local service area" means the same as division (A)(9) of section 4927.01 of the Revised Code.
- (X) "Nonresidential service" means a telecommunication service primarily used for business, professional, institutional or occupational use.
- (Y) "Postmark" means a mark, including a date, stamped or imprinted on a bill, piece of mail, or email which serves to record the actual date of its mailing.
- (Z) "Preferred carrier freeze" (PCF) means a service that prevents a change in a customer's preferred carrier selection, unless the customer gives consent for such change to the carrier from whom the freeze was requested.
- (AA) "Provider of last resort" means an ILEC or successor telephone company that is required to provide basic local exchange service on a reasonable and non-discriminatory basis to all persons or entities in its service area requesting that service as set forth in section 4927.11 of the Revised Code.
- (BB) "Public safety answering point" (PSAP) means a facility to which 9-1-1 system calls for a specific territory are initially routed for response and where personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider, or transferring the call to the appropriate provider.
- (CC) "Regulated service" means service under the jurisdiction of the commission.
- (DD) "Residential service" means a telecommunications service provided primarily for household use.
- (EE) "Small business" means the same as division (A)(10) of section 4927.01 of the Revised Code.
- (FF) "Tariff" means a schedule of rates, tolls, rentals, charges, classifications, and rules applicable to services and equipment provided by a telephone company that has been filed or posted in such places or in such manner as the commission orders.
- (GG) "Telecommunications" means the same as division (A)(11) of section 4927.01 of the Revised Code.
- (HH) "Telecommunications carrier" means the same as division (A)(12) of section 4927.01 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

- (II) "Telecommunications relay service (TRS)" means intrastate transmission services that provide the ability for an individual who has a hearing or speech impairment to engage in a communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual, who does not have a hearing or speech impairment, to communicate using voice communication services by wire or radio. TRS includes services that enable two-way communication between an individual who uses a telecommunications device for the deaf or other nonvoice terminal device and an individual who does not use such a device.
- (JJ) "Telecommunications service" means the same as division (A)(13) of section 4927.01 of the Revised Code.
- (KK) "Telephone company" means the same as division (A)(14) of section 4927.01 of the Revised Code.
- (LL) "Telephone exchange service" means the same as division (A)(15) of section 4927.01 of the Revised Code.
- (MM) "Telephone toll service" means the same as division (A)(16) of section 4927.01 of the Revised Code.
- (NN) "Traditional service area" means the area in which an ILEC provided basic local exchange service on the date of enactment of the Telecommunications Act of 1996, 110 Stat. 60, 47 U.S.C. 153, and includes any commission-approved changes to an ILEC's traditional service area after that date.
- (OO) "Voice over internet protocol service" (VoIP) means the same as division (A)(17) of section 4927.01 of the Revised Code.
- (PP) "Wireless service" means the same as division (A)(19) of section 4927.01 of the Revised Code.
- (QQ) "Wireless service provider" means the same as division (A)(20) of section 4927.01 of the Revised Code.

AMENDED

4901:1-6-02 Purpose and scope.

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations see rule 4901:1-6-02 of the Administrative Code.]

*****DRAFT - NOT FOR FILING*****

- (A) The rules set forth in Chapter 4901:1-6 of the Administrative Code, apply to all incumbent local exchange carriers (ILECs), competitive local exchange carriers (CLECs), and other providers of telecommunication services, unless otherwise specified in this chapter or commission order.
- (B) A wireless service provider and a reseller of wireless service are exempt from all rules in Chapter 4901:1-6 of the Administrative Code, except rules 4901:1-6-24 (wireless service provisions), 4901:1-6-09, eligible telecommunications carrier (ETC), 4901:1-6-19, lifeline requirements for ETCs (where the wireless service provider or reseller of wireless service has attained ETC status), and 4901:1-6-36, telecommunications relay service.
- (C) A provider of interconnected voice over internet protocol-enabled service is exempt from all rules in Chapter 4901:1-6 of the Administrative Code, except for rule 4901:1-6-36 (TRS).
- (D) A provider of any telecommunications service that ~~is~~ was not commercially available as of September 13, 2010, and that employs technology that became available for commercial use only after September 13, 2010, is exempt from all rules set forth in Chapter 4901:1-6 of the Administrative Code, except for rule 4901:1-6-36 (TRS), in the event such provider is subsequently required under federal law to provide to its customers access to telecommunications relay service.
- (E) The commission may, upon a party's detailed application or motion containing the requested waiver period, waive any requirement of this chapter, for good cause shown, other than a requirement mandated by statute from which no waiver is permitted.
- (F) Waiver requests are not deemed to be granted unless approved by order of the commission. Waiver requests made in proceedings which have an automatic approval time frame will toll any automatic approval time frames set forth in rule 4901:1-6-05 of the Administrative Code.
- (G) Each citation within this chapter that is made either to a section of the United States Code or a regulation in the code of federal regulation is intended, to incorporate by reference the particular version of the cited matter that was effective on July 1, 2022.
- (H) Telephones companies shall follow all applicable federal statutes and regulations.

*****DRAFT - NOT FOR FILING*****

NO CHANGE

4901:1-6-03 Investigation and monitoring.

Consistent with applicable law, nothing contained within this chapter precludes the commission or its staff from:

- (A) Requiring a telephone company to furnish additional information necessary to carry out its authority under Title 49 of the Revised Code.
- (B) Monitoring a telephone company's compliance with the law or any of the commission's rules and orders.
- (C) Initiating an investigation into a telephone company's compliance with the law or any of the commission's rules and orders.

NO CHANGE

4901:1-6-04 Application and notice filings.

- (A) For all applications filed under this chapter, a telephone company shall complete the most up-to-date telecommunications filing form for telephone-related applications and notice filings. This form may change from time-to-time without further commission entry. Commission staff will maintain a current, updated copy to provide to applicants. The most recent version of the form will be posted on the commission's web-site.
- (B) Failure to utilize the current telecommunications filing form for any initial filing as well as failure to include the required attachments as outlined on the form may result in immediate dismissal of the application. The commission, the legal director, the deputy legal director, or an attorney examiner has the authority to issue the entry dismissing an application under this rule.
- (C) All amendments, motions, and other supplemental pleadings to an open case under these rules need not use the telecommunications filing form, but must clearly state the case number such filings are in reference to.

*****DRAFT - NOT FOR FILING*****

AMENDED

4901:1-6-05 Automatic approval and notice filing process.

- (A) Many filings pursuant to the rules adopted in this chapter are subject to an automatic approval process or a notice filing. With the exception of zero-day notices, an automatic time frame will begin on the day after a filing is made with the commission's docketing division. Furthermore, under an automatic approval process, if the commission does not take action before the expiration of the filing's applicable time frame, the filing shall be deemed approved and become effective on the following day, if a tariff is involved, in compliance with 4901:1-6-11(C), or later date if requested by the company. For example, a filing subject to a thirty-day process will, absent suspension or other commission action, become effective on the thirty-first day after the initial filing is made with the commission. Unless otherwise ordered, any motions not ruled upon by the commission during the filing's applicable time frame are deemed to be denied.
- (B) A filing subject to the zero-day notice procedure will be effective on the same day the filing is made with the commission. Notice filings are not considered to be commission-approved.

NO CHANGE

4901:1-6-06 Suspensions.

- (A) Unless otherwise provided in law, the commission, legal director, deputy legal director, or attorney examiner may impose a full or partial suspension of any automatic approval process, notice filing, or tariff approved pursuant to this chapter, if such filing is contrary to law or the rules of the commission.
- (B) Under this rule, if a tariff filing is contrary to law or the rules of the commission, the commission may require a telephone company to discontinue provision of the affected tariffed telecommunications service(s) or, under partial suspension, cease offering the affected tariffed telecommunications service(s) to new customers, or take other actions with regard to the affected service(s) as the commission may require.
- (C) Unless the law specifically precludes suspension of an automatic approval process, a pending application under full or partial suspension will be automatically approved sixty days from the date of suspension if all issues are resolved. If all issues are not resolved by the sixtieth day, the application will be either dismissed by entry or suspended a second time. Any such

*****DRAFT - NOT FOR FILING*****

second suspension shall be accompanied by notice to the applicant explaining the rationale for the additional suspension. Applications under a second suspension cannot be approved without a commission entry or order.

- (1) Under this paragraph, an application under full suspension is entirely precluded from taking effect.
 - (2) Under this paragraph, an application under partial suspension is permitted to take effect, in part or in its entirety, under the proposed terms and conditions, subject to further review by the commission. The applicant is put on notice that the commission, subsequent to further review, may modify the rates and/or terms and conditions of tariffed telecommunications service(s) affected by the application.
- (D) For-profit ILEC BLES pricing flexibility applications, filed pursuant to paragraph (C)(1)(c) of rule 4901:1-6-14 of the Administrative Code, are subject to one full suspension of the automatic approval process and must be approved or denied not later than ninety days after the date of suspension. Under this paragraph, an application under full suspension is entirely precluded from taking effect.
- (E) A full or partial suspension of tariffed telecommunications services may also be imposed, after an application has been approved under the automatic approval process or is subject to a zero-day notice filing, if an ex post facto determination is made that the tariff may not be in the public interest, or is in violation of law or commission rules.

NO CHANGE

4901:1-6-07 Customer notice requirements.

- (A) Except for notices for abandonment or withdrawal of telecommunications service pursuant to rules 4901:1-6-26 and 4901:1-6-25 of the Administrative Code, respectively, and upward alterations of basic local exchange service (BLES) rates pursuant to rule 4901:1-6-14 of the Administrative Code, a customer notice is to be provided consistent with the requirements of section 4927.17(A) of the Revised Code. Customer notice is not required for a decrease in rates.
- (B) For abandonment or withdrawal of telecommunications service and upward alterations of BLES rates, a telephone company will provide at least thirty days advance notice to its affected customers in accordance with rules 4901:1-6-26, 4901:1-6-25, and 4901:1-6-14 of the Administrative Code, respectively.

*****DRAFT - NOT FOR FILING*****

- (C) For every customer notice, a telephone company will provide to the commission a copy of the actual customer notice and an affidavit verifying that the customer notice was provided to affected customers. A copy of the applicable customer notice is to be provided to commission staff no later than the date it is provided to customers by emailing the text of the customer notice to a commission-provided electronic mailbox at: Telecomm-Rule07@puc.state.oh.us.
- (D) Every customer notice will identify the name of the company or brand name familiar to the customer (i.e. the company's "doing business as" name) and the company's customer service toll-free telephone number and web site (if one exists), along with a clear description of the impact on the customer. If the notice is informing a customer of a material change in the rates, terms, or conditions of service, the notice will also name the service offering being changed, a description of the change including any increase in rate(s), the effective date of the change, and the company's contact information.
- (E) Notice will be provided to affected customers in any reasonable manner, including bill insert, bill message, direct mail, or, if the customer consents, electronic means.
- (F) For change in operation applications filed pursuant to rule 4901:1-6-29 of the Administrative Code, the customer notice is to explain how the customer will be directly impacted by the application and what customer action, if any, is necessary as a result of such application.
- (G) At a minimum, the notice for a withdrawal or abandonment of service should provide the proposed effective date of the service withdrawal, instructions to the customers on how they may obtain replacement service(s), and the commission's toll-free and TTY-TDD telephone numbers.
- (H) In the event that the commission staff determines that a notice provided to customers is not consistent with the law or commission rules, the commission staff may require the company to re-notice customers.

NO CHANGE

4901:1-6-08 Telephone company certification.

- (A) Any telephone company desiring to offer telecommunication services in Ohio shall file an application for certification (ACE) with the commission using the most up-to-date telecommunications filing form available from the commission's web site. The form serves to identify the specific types of telecommunication services the applicant wishes to offer, and to verify the applicant's commitment to comply with all applicable commission rules and regulations.

*****DRAFT - NOT FOR FILING*****

- (B) Paragraph (A) of this rule does not apply to any incumbent local exchange carrier (ILEC) with respect to its geographic service area as that area existed on September 13, 2010. An ILEC or its holding company seeking to operate outside of its geographic service area as that area existed on September 13, 2010 shall file an application for certification.
- (C) Certificate timeline
- (1) Interested persons who can show good cause why such application should not be granted may file with the commission a written statement detailing the reasons, as well as a motion to intervene, within fifteen calendar days after the application is docketed. The applicant may respond to any motion to intervene no later than seven calendar days after the filing and service of the motion.
 - (2) Absent full or partial suspension, applications seeking certification as a telephone company will be approved in accordance with the thirty-day automatic approval process described in rule 4901:1-6-05 of the Administrative Code.
- (D) The commission's docketing division will assign a tariff filing (TRF) docket number, if applicable, and inform the applicant of that number within fourteen days of filing so that the applicant may finalize its tariff and price lists prior to the automatic approval date of the ACE. Failure to file all necessary tariff revisions requested by commission staff prior to the thirtieth day from initial filing of the ACE application will result in suspension or dismissal of the application. Final tariffs, where applicable, may be filed in the ACE case as well as in the applicant's TRF docket no later than ten days after the automatic approval date.
- (E) Minimum information required to be filed by all applicants seeking certification as a telephone company to operate in the state of Ohio is as follows:
- (1) A certificate of good standing and a certificate to operate as an out-of-state entity issued by the Ohio secretary of state and, if applicable, fictitious name authorization.
 - (2) The company's name and address, and if available, e-mail address and web site.
 - (3) The name of a contact person and that person's contact information.
 - (4) A general description and list of the types of telecommunications service(s) proposed to be offered and a description of the general geographic area served (maps are not required).
 - (5) Verification that the applicant will follow federal communications commission (FCC) accounting requirements, if applicable.

*****DRAFT - NOT FOR FILING*****

- (6) Documentation attesting to the applicant's satisfactory technical expertise relative to the proposed service offering(s).
 - (7) Documentation indicating the applicant's satisfactory corporate structure, managerial expertise, and ownership.
 - (8) Information pertaining to any similar operations provided by the applicant in other states.
 - (9) Evidence of notice to the Ohio department of taxation, public utilities tax division, of the applicant's intent to provide service.
 - (10) Any waivers sought by the applicant, submitted pursuant to rule 4901:1-6-02 of the Administrative Code.
 - (11) Documentation attesting to the applicant's financial viability, including, at a minimum, an actual and pro forma income statement and balance sheet.
 - (12) For competitive local exchange carriers (CLECs), a notarized affidavit signed by an authorized employee and accompanied by the bona fide request for interconnection letter sent to the ILEC that verifies that the applicant has entered into negotiations to establish an interconnection and/or transport and termination agreements with, at a minimum, the ILEC(s) serving the geographic area(s) where the applicant will be providing its services. If the agreements(s) have already been filed with the commission for approval, the specific case numbers should be stated. To the extent the agreements have not been filed, the applicant should state the estimated time frame for such filing. An applicant that intends to provide service to customers by solely reselling the retail services of an underlying facilities-based CLEC is exempt from this requirement. Upon receiving certification, a CLEC may start providing service after it files with the commission, for the commission's approval, an interconnection and/or transport and termination agreement with the ILEC and/or a resale agreement with another CLEC as required pursuant to this rule.
- (F) Additional requirements to be submitted by a telephone company seeking to offer basic local exchange service (BLES) or other services required to be tariffed under Chapter 4927. of the Revised Code and rule 4901:1-6-11 of the Administrative Code include:
- (1) Proposed tariffs, including a full description of proposed services and operations as well as all relevant terms and conditions for BLES and other retail services set forth in rule 4901:1-6-11 of the Administrative Code if offered to customers. Tariffs may incorporate by reference the exchanges of an ILEC if the applicant is proposing to mirror the ILEC's local service areas in its entirety. If an applicant is a facilities-based CLEC, it is to provide a carrier-to-carrier tariff, which at a minimum includes an access tariff. Other

*****DRAFT - NOT FOR FILING*****

wholesale services set forth in rule 4901:1-6-11 of the Administrative Code, if offered to wholesale customers, is to also be tarified in its carrier-to-carrier tariff.

- (2) A list of the ILECs in whose territory the applicant intends to serve. If the applicant is not mirroring an ILEC's entire local service area, the CLEC has to specifically define its local service area.
- (3) Nothing precludes the staff of the commission from requiring additional information consistent with this chapter.

(G) Scope of operating authority

- (1) The commission will grant statewide operating authority to a telephone company seeking to offer telecommunications services provided that the company meets the associated certification requirements.
 - (2) A CLEC has to update its certification if it seeks to expand its operation within its statewide authorization subsequent to certification. To do so, the CLEC will file in its TRF case a notarized affidavit signed by an authorized employee verifying that the CLEC has an interconnection and/or transport and termination traffic agreement with the ILEC serving the territory into which the CLEC intends to expand and identifying the specific case numbers in which the agreements were filed. The CLEC will also file any tariff update, if applicable.
- (H) The commission may suspend or reject the certification application of a telephone company if it finds, within thirty days after filing and based on the information provided in the application, that the applicant lacks financial, technical, or managerial ability sufficient to provide adequate service to the public consistent with law.

(I) Suspension or revocation of certificate

Nothing contained within these rules precludes the commission, after reasonable notice and an opportunity to be heard, from suspending, rescinding or conditionally rescinding the certification of a telephone company upon a demonstration that the company has engaged in a pattern of conduct in violation of Ohio law. This includes the failure to comply with the rules of the commission, including the failure to file the requisite annual reports and the failure to pay all corresponding assessments.

*****DRAFT - NOT FOR FILING*****

NO CHANGE

4901:1-6-09 Eligible telecommunications carriers.

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations see rule 4901:1-6-02 of the Administrative Code.]

(A) Competitive eligible telecommunication carrier (CETC)

Pursuant to 47 U.S.C. 214(e), upon request and consistent with the public interest, convenience, and necessity, the commission may, upon application, designate a CETC where that applicant meets the requirements of 47 U.S.C. 214, 47 C.F.R. 54.201(d) and 47 C.F.R. 54.202. The commission may subject such designation of CETC authority to additional conditions consistent with the public interest, convenience, and necessity.

(B) In order to be designated a CETC pursuant to 47 U.S.C. 214(e), an entity has to provide the following:

- (1) An application with the commission demonstrating its compliance with all federal and state CETC and lifeline requirements pursuant to 47 C.F.R. 54.201 to 209, rule 4901:6-19 of the Administrative Code, where applicable, and this rule.**
- (2) The most up-to-date telecommunications filing form and include all completed exhibits as required by the filing form. Commission staff will maintain a current, updated copy of the CETC filing form with the list of CETC required exhibits. The most recent version of the form will be posted on the commission's website. An application for CETC designation is filed as a TP-UNC case purpose code which is not subject to an automatic approval process. Rather, a CETC designation can be granted only by a commission order approving such request.**

(C) Eligible telecommunications carrier (ETC) reporting requirements

Compliance by all ETCs, i.e., incumbent local exchange carrier ETCs and CETCs with the following annual reporting requirements is necessary in order to be eligible for federal universal service funding in any given year:

- (1) No later than August thirty-first of each year, an ETC receiving high cost funding files an affidavit with the commission stating that all federal high-cost support provided to the carrier for service areas in Ohio will be used only for the provision, maintenance, and upgrading of facilities and services for which the support was intended pursuant to 47 U.S.C. 254(e).**

*****DRAFT - NOT FOR FILING*****

- (2) No later than January thirty-first of each year, or a date otherwise designated by the universal service administration company (USAC), an ETC receiving lifeline support files a completed copy of the federal communications commission (FCC) annual lifeline certification and verification affidavit, that is submitted to USAC, with the commission.
- (D) Revocation or relinquishment of ETC designation
 - (1) The commission may revoke, consistent with commission and FCC rules and regulations, an ETC designation if it finds that the company has failed to comply with any state or federal ETC requirements, including the failure to pay all corresponding assessments.
 - (2) An ETC may seek to relinquish its ETC designation for an area pursuant to 47 C.F.R. 54.205 through the filing of a nonautomatic application with the commission under the case purpose code TP-UNC. An ETC will not be relieved of its ETC designation until the commission issues an order granting the request.

NO CHANGE

4901:1-6-10 Competitive emergency services telecommunications carrier certification.

- (A) ~~No~~ person may be authorized as a competitive emergency services telecommunications carrier (CESTC) in the state of Ohio, unless it submits an application for certification (ACE) with the items set forth in paragraph (E) of rule 4901:1-6-08 of the Administrative Code and any additional items requested by commission staff. No competitive local exchange carrier or incumbent local exchange carrier operating outside of its traditional service area that is seeking to offer CESTC service, subsequent to its initial certification is authorized to offer such service unless it files a thirty-day ACE seeking CESTC authority, a proposed CESTC tariff, and any additional items requested by commission staff and receives authorization to provide that service.
- (B) Certificate timeline
 - (1) Parties seeking to contest the application may intervene as provided by rule 4901-1-11 on or before fifteen calendar days after the application is filed. The applicant may respond to any motion to intervene not later than seven calendar days after the filing and service of the motion.
 - (2) Absent full or partial suspension, applications seeking certification as a CESTC will be approved in accordance with the thirty-day automatic approval process described in rule 4901:1-6-05 of the Administrative Code.

*****DRAFT - NOT FOR FILING*****

- (C) A CESTC may operate as a 9-1-1 system service provider only after the county has amended its 9-1-1 plan to identify that carrier as the 9-1-1 carrier of choice for a public safety answering point (PSAP)(s) serving end users in that county for the designated telecommunications traffic.
- (D) A CESTC authorized to act as a 9-1-1 system service provider to a PSAP will carry all calls for that PSAP for those services designated to it by the PSAP. In addition to the ILEC, there may be no more than one CESTC designated by the PSAP as set forth in the approved county plan.
- (E) Once the county plan has been amended, a CESTC will update its tariff to reflect the PSAP(s) served by the CESTC and which type of telecommunications traffic will be provided to that PSAP. Contracts between a CESTC and all individual counties for the provision of emergency service to a PSAP(s) within that county are to be submitted to the statewide emergency services internet protocol network steering committee or its designee.
- (F) A CESTC will interconnect with each PSAP in a county and adjacent 9-1-1 systems across county lines to ensure transferability of all 9-1-1/E9-1-1 calls.
- (G) The commission may grant a CESTC, statewide operating authority provided the company meets the associated certification requirements. As a CESTC seeks to expand its operation within its statewide authorization, it should update its tariff by filing, in its TRF case, an up-to-date list of the counties in which the CESTC is actually provisioning service.

NO CHANGE

4901:1-6-11 Tariff services.

(A) Services required to be tariffed

- (1) The rates, terms, and conditions for 9-1-1 service provided in this state by a telephone company or a telecommunications carrier, and for each of the following provided by a telephone company, shall be approved and tariffed by the commission and be subject to all applicable laws, including rules or regulations adopted and orders issued by the commission or the federal communications commission:
 - (a) Basic local exchange service (BLES), including BLES installation and reconnection fees and lifeline service rates or discounts.
 - (b) Carrier access.
 - (c) N-1-1 service.

*****DRAFT - NOT FOR FILING*****

- (d) Pole attachments and conduit occupancy under section 4905.71 of the Revised Code.
- (e) Pay telephone access lines.
- (f) Toll presubscription.
- (g) Excess construction charges.
- (h) Inmate operator services.
- (i) Telecommunications relay service.

- (2) All other telecommunications services offered by a telephone company shall not be included in tariffs filed with the commission, but will still be subject to commission oversight and regulation as provided in Chapter 4927. of the Revised Code and Chapter 4901:1-6 of the Administrative Code.

(B) Tariffing requirements

All tariffs for services required to be tarified under paragraph (A) of this rule, shall include both the appropriate issued (the date the tariff was filed with the commission) and effective (the date the service(s) will be offered) dates. All tariffs shall include, at a minimum, the following elements:

- (1) A title page and a table of contents.
- (2) A description of all services offered along with all terms and conditions associated with the provision of each service.
- (3) For BLES, a description of the actual BLES local service area in which a customer may complete a call without incurring a toll charge. Any change to a local service area must be reflected in the tariff on file with the commission.
- (4) A complete list of rates, relative to the provision of each service.
- (5) For BLES, a statement informing customers that all telephone companies offering BLES are subject to the commission's service requirements for BLES found in rule 4901:1-6-12 of the Administrative Code.
- (6) For tariffs filed requiring prior commission approval, each final tariff sheet must exhibit the commission authority by designating the case number in which the tariff was approved, the automatic date of effectiveness or commission order date, the effective date of the tariff sheet, the name of the telephone company, and the name of an officer

*****DRAFT - NOT FOR FILING*****

of the telephone company. This information should be included in a header, a footer, or a combination thereof.

- (7) For tariffs filed pursuant to a zero-day notice filing, each final tariff sheet should include the effective date of the tariff sheet, the name of the telephone company, and the name of an officer of the telephone company. This information should be included in a header, a footer, or a combination thereof.

(C) Tariff filing (TRF) docket

- (1) The commission will maintain and designate for each telephone company offering tariffed telecommunications services a TRF docket for the filing of final tariffs and filings subject to a zero-day notice procedure.
- (2) The docketing division will assign a TRF docket number when a telephone company seeks to obtain initial certification.
- (3) For applications in which new or revised tariff pages are involved, such tariff page(s) shall be filed in final form in the TRF docket and include the appropriate application purpose code, where applicable. For filings subject to a zero-day notice procedure, such notice shall include a filing form, description of filing request, final tariff pages, and, if applicable, a customer notice. For nonautomatic applications and those applications subject to an automatic approval process (other than the zero-day notice process), final tariff pages must be filed within ten calendar days after the approval date. The effective date on the tariffs shall be a date no sooner than the date the final tariffs are filed with the commission.

NO CHANGE

4901:1-6-12 Service requirements for BLES.

- (A) A local exchange carrier (LEC) providing basic local exchange service (BLES) shall conduct its operations so as to ensure that the service is available, adequate, and reliable consistent with sections 4927.07, 4927.10 and 4927.11 of the Revised Code.
- (B) The fact that a LEC providing BLES fails to comply with any provision(s) within this chapter, or with other applicable federal or state telecommunications law, does not by itself constitute inadequate service as a matter of law. Rather, the question as to whether BLES is legally inadequate requires a formal determination by the commission, preceded by a hearing pursuant to section 4927.21 of the Revised Code unless the hearing is waived by the complainant and the respondent.

*****DRAFT - NOT FOR FILING*****

(C) A LEC shall provide BLES pursuant to the following standards:

- (1) BLES shall be installed within five business days of the receipt by a telephone company of a completed application for new access line service, unless the customer requests or agrees to a later date.
- (2) The requirement to install BLES in paragraph (C)(1) of this rule is not applicable where any of the following exist:
 - (a) A customer or applicant has not met pertinent tariff requirements.
 - (b) The need for special equipment or service.
 - (c) Military action, war, insurrection, riot, or strike.
 - (d) The customer misses an installation appointment.
- (3) A LEC shall make reasonable efforts to repair a BLES outage within twenty-four hours, excluding Sundays and legal holidays, after the outage is reported to the telephone company.
- (4) A BLES service outage or service-affecting problem shall be repaired within seventy-two hours after it is reported to the telephone company.
- (5) If a BLES outage is reported to the telephone company and lasts more than seventy-two hours, the LEC shall credit every affected BLES customer, of which the LEC is aware, in the amount of one month's charges for BLES.
- (6) The customer credit in paragraph (C)(5) of this rule is not applicable if the condition or failure to repair occurs as a result of any of the following:
 - (a) A customer's negligent or willful act.
 - (b) Malfunction of customer-owned telephone equipment or inside wire.
 - (c) Military action, war, insurrection, riot, or strike.
 - (d) Customer missing a repair appointment.
- (7) No LEC shall establish a due date for payment earlier than fourteen consecutive days after the date the bill is postmarked for a bill for BLES provided to customers. The postmark date may appear on the bill rather than on the envelope, as long as the postmark date is never earlier than the date the bill actually enters the mail.

*****DRAFT - NOT FOR FILING*****

- (8) A LEC may disconnect BLES for nonpayment of any amount past due on a billed account not earlier than fourteen days after the due date of the customer's bill, provided that the customer is given notice of the disconnection seven days before the disconnection.
- (9) Such notice of disconnection may be included on the customer's next bill, provided the bill is postmarked at least seven days prior to the date of disconnection of service reflected on the bill, and provided that the disconnection language is clearly highlighted such that it stands apart from the customer's regular bill language. The notice shall identify the total dollar amount that must be paid to maintain BLES, the earliest date disconnection may occur, and the following statement:

"If you have a complaint in regard to this disconnection notice that cannot be resolved after you have called (name of the utility), or for general utility information, residential and business customers may contact the public utilities commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.puco.ohio.gov>. Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service)."

For residential disconnection notices, the text shall also include:

"The Ohio consumers' counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.pickocc.org>."

- (10) A LEC may require a deposit, not to exceed two hundred thirty percent of a reasonable estimate of one month's service charges, for the installation of BLES for any person that it determines, in its discretion, is not creditworthy.
- (11) A LEC shall, unless prevented from doing so by circumstances beyond the telephone company's control or unless the customer requests otherwise, reconnect a customer whose basic local exchange service was disconnected for nonpayment of past due charges not later than one business day after the day the earlier of the following occurs:
- (a) The receipt by the LEC of the full amount of past due charges.
 - (b) The receipt by the LEC of the first payment under a mutually agreed upon payment arrangement.

*****DRAFT - NOT FOR FILING*****

NO CHANGE

4901:1-6-13 Warm line service.

Every telephone company providing telephone exchange service shall maintain access to 9-1-1 service on a residential customer's line for a minimum of fourteen consecutive days immediately following any disconnection for nonpayment of a customer's telephone exchange service.

AMENDED

4901:1-6-14 BLES pricing parameters.

- (A) Rates for basic local exchange service (BLES) offered by a local exchange company (LEC) are subject to the tariff requirements and pricing constraints set forth in this rule.
- (B) BLES regulatory framework
 - (1) BLES can only be offered by LECs pursuant to approved tariffs on file with the commission. A LEC offering BLES shall maintain a complete, up-to-date tariff on file at the offices of the commission at all times.
 - (2) The tariff for BLES shall contain all rates, terms, and conditions for BLES and installation and reconnection fees for BLES.
 - (3) The BLES pricing flexibility for incumbent local exchange carriers (ILECs) set forth in this rule will be applied to the monthly recurring rates for the network access line component or equivalent of a single residential BLES line or a primary small business BLES line.
 - (4) BLES is considered BLES for purposes of this chapter regardless of what other a la carte services and features to which a customer may subscribe.
 - (5) A bundle or package of telecommunications services which includes telephone exchange service is not subject to the pricing constraints contained in paragraph (C) of this rule and section 4927.12 of the Revised Code and may be priced at market-based rates.
 - (6) An ILEC offering BLES outside of its traditional service area or a competitive local exchange carrier (CLEC) affiliate of an ILEC offering BLES within or outside of that ILEC's traditional service area shall follow all BLES rules in this chapter that are applicable to CLECs offering BLES.

*****DRAFT - NOT FOR FILING*****

(C) For-profit ILEC BLES pricing flexibility

- (1) Upon not less than thirty day's notice, pursuant to paragraph (F)(5) of this rule, a for-profit ILEC may increase its rates for BLES:
 - (a) If an ILEC, within twelve months prior to September 13, 2010, increased the ILECs' rates for BLES for the exchange area, both of the following apply:
 - (i) An ILEC during any subsequent twelve-month period, may alter the ILEC's monthly rates for BLES downward by any amount, but not below the carrier's incremental cost, or upward for an exchange area by not more than two dollars.
 - (ii) An ILEC may make multiple rate increases, in the exchange to which the application applies, within the twelve-month period that begins on the thirty-first day after the company files the application, and during any subsequent twelve-month period in compliance with paragraph (F)(5) of this rule, as long as the multiple increases do not exceed the two dollar annual price increase cap. An ILEC does not have to increase the carrier's monthly rates for BLES for residential and business customers concurrently.
 - (b) If the ILEC did not, within twelve months prior to September 13, 2010, increase the ILEC's rates for BLES for an exchange area, and if the commission has made a prior determination that the exchange area qualified for alternative regulation of BLES under Chapter 4901:1-4 of the Administrative Code, as that chapter existed on September 13, 2010, the ILEC during any subsequent twelve-month period, may alter the ILEC's monthly rates for BLES downward by any amount, but not below the carrier's incremental cost, or upward for the exchange area by not more two dollars.
 - (c) If the commission has not made a prior determination that an exchange area qualified for alternative regulation of BLES under Chapter 4901:1-4, of the Administrative Code, as that chapter existed on September 13, 2010, an ILEC may, at any time, alter the ILEC's rate for BLES for that exchange area downward by any amount, but not below the carrier's incremental cost. The carrier may not alter its rates for BLES upward for that exchange area unless the ILEC first applies to the commission and the commission determines that the application demonstrates that two or more alternative providers offer, in the exchange area, competing service to the BLES offered by the ILEC in the exchange area, regardless of the technology and facilities used by the alternative provider, the alternative provider's location, and the extent of the alternative provider's service area within the exchange area.

*****DRAFT - NOT FOR FILING*****

- (i) Upon the filing of an application under paragraph (C)(1)(c) of this rule pursuant to a BLS case purpose code, the commission will be deemed to have found that the application meets the requirements of that paragraph unless the commission, within thirty days after the filing of an application, does either of the following:
 - (a) issues an order finding that the requirements have not been met or
 - (b) suspends the automatic approval for good cause shown. The commission should then act to approve or deny the application not later than ninety-days after the date of suspension.
- (ii) If an ILEC applies to the commission under paragraph (C)(1)(c) of this rule and the application is approved or deemed approved under paragraph (C)(1)(c)(i) of this rule, the ILEC during the twelve-month period that begins on the thirty-first day after the application was deemed approved or the date the commission issues an order approving an application that was suspended, and during any subsequent twelve-month period, may alter the carrier's monthly rates for BLES upward for the exchange area to which the application applies by not more than two dollars.

(2) Banking

Any rate increase allowed by this rule that is not used during a twelve-month period by a for-profit ILEC may not be used in any subsequent year.

(D) Not-for profit ILEC pricing flexibility.

At any time, and upon no less than thirty days' notice pursuant to paragraph (F)(5) of this rule, a not-for-profit mutual ILEC, owned and operated exclusively by and solely for its customers, may increase its rates for BLES by any amount.

(E) ILEC BLES application, process, and notice

- (1) If the commission has not made a prior determination that the exchange area qualified for alternative regulation of BLES under Chapter 4901:1-4 of the Administrative Code, as that chapter existed on September 13, 2010, a for-profit ILEC must file an application seeking approval to obtain BLES pricing flexibility as set forth in paragraph (C)(1)(c)(i) of this rule, using the most up-to-date telecommunications filing form, under the case purpose code TP-BLS.
- (2) A for-profit ILEC shall establish or maintain a tariffed rate cap for BLES consistent with paragraphs (C)(1)(a)(ii), (C)(1)(b), and (C)(1)(c)(ii) of this rule. Such ILECs shall file an updated tariff, for each exchange area with BLES pricing flexibility, at the end of each exchange's twelve-month period, to reflect the new anniversary date and, as necessary,

*****DRAFT - NOT FOR FILING*****

the new tariffed rate cap for BLES. Such tariff is to be filed as a zero-day tariff amendment (ZTA).

- (3) A for-profit ILEC's BLES price change(s) below its annual tariffed cap for BLES is subject to a zero-day notice filing under the company's tariff filing (TRF) docket.
- (4) A not-for-profit ILEC's BLES rates may be established and changed in its tariff pursuant to a zero-day notice filing under the company's tariff filing (TRF) docket.
- (5) Increases in an ILEC's BLES rates pursuant to paragraphs (C) and (D) of this rule require customer notice, consistent with the requirements of rule 4901:1-6-07 of the Administrative Code, to all affected customers, including the office of the Ohio consumers' counsel (OCC) if residential BLES is involved, not less than thirty days prior to the rate increase. A copy of the applicable customer notice must be provided to commission staff no later than the date it is provided to customers by emailing the text of the customer notice to a commission-provided electronic mailbox at: Telecomm-Rule07@puco.ohio.gov.

(F) BLES pricing flexibility exemption for ILECs.

Not earlier than four years after the effective date of section 4927.123 of the Revised Code as enacted in substitute House Bill 402 of the 132nd General Assembly, an ILEC may apply for an exemption from the requirements of paragraph (C) of this rule for an exchange area subject to paragraph (F)(3) of this rule.

- (1) A for-profit ILEC may apply for an exemption from the requirements of paragraph (C) of this rule provided that:
 - (a) the ILEC shows it has experienced at least fifty percent line loss in the exchange area since January 1, 2002 and one of the following applies:
 - (i) the ILEC, within twelve months prior to September 13, 2010, increased the ILEC's rates for BLES for the exchange area;
 - (ii) the commission has made a prior determination that the exchange area qualified for alternative regulation of BLES under Chapter 4901:1-4 of the Administrative Code, as that chapter existed on September 13, 2010, or;
 - (iii) the ILEC filed an application for the exchange area that was approved or deemed approved pursuant to paragraph (C)(1)(c) of this rule.
- (2) Upon the filing of an application under paragraph (F)(1) of this rule pursuant to a BEX case purpose code, the commission will be deemed to have found that the application

*****DRAFT - NOT FOR FILING*****

meets the requirements of that paragraph unless the commission, within thirty days after the filing of an application issues an order finding that the requirements have not been met.

- (3) If an ILEC applies to the commission under paragraph (F)(1) of this rule and the application is approved or deemed approved under paragraph (F)(2) of this rule, the ILEC will be exempt from the requirements of paragraph (C) of this rule for the exchange area to which the application applies, except the ILEC may not alter the ILEC's BLES rate below the ILEC's incremental cost.
- (4) Increases in an ILEC's BLES rates, after the application is approved or deemed approved under paragraph (F)(2) of this rule require customer notice, consistent with the requirements of rule 4901:1-6-07 of the Administrative Code, to the commission and all affected customers, including the office of the Ohio consumers' counsel (OCC) if residential BLES is involved, not less than thirty days prior to the rate increase. A copy of the applicable customer notice is to be provided to commission staff no later than the date it is provided to customers by emailing the text of the customer notice to a commission-provided electronic mailbox at: Telecomm-Rule07@puco.ohio.gov.
- (5) Subsequent rate alterations to BLES rates, in exchanges approved or deemed approved under paragraph (F)(2) of this rule, shall be changed in its tariff pursuant to a zero-day notice filing under the company's tariff filing (TRF) docket.
- (6) The granting of an exemption does not impair the rights of any person to file a complaint pursuant to section 4927.21 of the Revised Code or restrict the rights of the commission to initiate such a complaint.
- (G) A decrease in BLES rates by a for-profit ILEC, under paragraph (C), (D) or (F) of this rule, shall be changed in the company's tariff pursuant to a zero-day notice filing under the company's tariff filing (TRF) docket and include an affidavit attesting that the decreased rate is not below the ILEC's incremental cost. A decrease in an ILEC's BLES rate is presumptively deemed above the carrier's incremental cost, subject to rebuttal, if the rate decrease is not more than twenty per cent of the ILEC's BLES rate at the time of the decrease.
- (H) CLEC BLES pricing flexibility, process, and notice:
 - (1) CLECs may establish the tariffed rate(s) for any BLES offerings based on the marketplace.
 - (2) A CLEC's BLES rate change(s) is subject to a zero-day notice filing under the company's tariff filing (TRF) docket.

*****DRAFT - NOT FOR FILING*****

- (3) A CLEC may increase its BLES rates on no less than thirty days' written notice to affected customers, including OCC if residential BLES is involved. Such increases require customer notice consistent with the requirements of rule 4901:1-6-07 of the Administrative Code. A copy of the applicable customer notice must be provided to commission staff no later than the date it is provided to customers by emailing the text of the customer notice to a commission-provided electronic mailbox at: Telecomm-Rule07@puco.ohio.gov.

(I) New services, change in terms and conditions and expansion of local service area

- (1) In order to introduce BLES or for an expansion of a local service area, a LEC must docket a zero-day notice filing (ZTA) with the commission to amend its tariff, in accordance with the process set forth in rule 4901:1-6-04 of the Administrative Code. The ZTA will take effect in accordance with paragraph (B) of rule 4901:1-6-05 of the Administrative Code.
- (2) Material changes in terms and conditions of an existing BLES by a LEC, including the introduction of a nonrecurring service charge, surcharge or fee to BLES by a CLEC, are to be filed through a thirty-day application for tariff amendment (ATA) filing. A standard of reasonableness will be applied to these charges including, but not limited to, a comparison with similar charges previously approved by the commission and similar charges assessed by other providers. Such application requires a customer notice to be filed in accordance with rule 4901:1-6-07 of the Administrative Code.

(J) BLES late payment charges

Late payment charges for BLES may be introduced or increased through a thirty-day ATA filing. A standard of reasonableness will be applied to late payment charges including, but not limited to, a comparison with similar charges previously approved by the commission and similar charges assessed by non-regulated providers. Such application requires a customer notice to be filed in accordance with rule 4901:1-6-07 of the Administrative Code.

(K) BLES installation and reconnection fees

Any ILEC nonrecurring service charges for installation and reconnection of a single residential or primary business BLES line are to be included in the BLES tariff and may be increased through a thirty-day application for tariff amendment (ATA) filing. A standard of reasonableness will be applied to nonrecurring service charges for installation and reconnection. Applications for increases to nonrecurring reconnection charges requires a customer notice to be filed in accordance with rule 4901:1-6-07 of the Administrative Code.

*****DRAFT - NOT FOR FILING*****

NO CHANGE

4901:1-6-15 Directory information.

A local exchange carrier providing basic local exchange service shall make available to its customers a telephone directory or directory information pursuant to the requirements set forth in section 4927.01(A)(1)(b)(vi) of the Revised Code.

NO CHANGE

4901:1-6-16 Unfair or deceptive acts and practices.

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations see rule 4901:1-6-02 of the Administrative Code.]

- (A) Any communication by a telephone company, including but not limited, to solicitations, offers, contract terms and conditions, or customer agreements, as well as any other communications whether written or oral, shall be truthful, clear, conspicuous, and accurate in:
 - (1) Disclosing applicable information, including but not limited to: material terms and conditions, material limitations, contract length, prices, fees, features, rates, termination fees or penalties, discretionary charges, government mandated charges, and estimated taxes for services offered.
 - (2) Identifying, in written or printed advertising or promotional literature, any material exclusions, reservations, limitations, modifications, or conditions, which should be located in close proximity to the operative words in the solicitation, offer, or marketing materials.
- (B) In the event a NID is not in place, the LEC shall inform a customer calling to report a service outage or service problem that the LEC is required to visit the customer premise at no charge to diagnose whether service difficulties exist with network wire or inside wire.
- (C) As applicable, and in any reasonable manner, a LEC shall provide customers a description of the NID. That description shall include: all customer options for repairing inside wire; the function and probable location of a NID; and an explanation as to how to use a NID to test for service problems.
- (D) Nothing in this rule precludes the commission from finding additional acts or practices, in addition to those identified in paragraph (A) of this rule, to constitute an unfair or deceptive

*****DRAFT - NOT FOR FILING*****

act or practice in connection with the offering or provision of telecommunications service in this state either through rulemaking under section 4927.03 of the Revised Code or through an adjudication under section 4927.21 of the Revised Code. The commission will provide notice of an adjudications pursuant to section 4927.07(B) of the Revised Code to all telephone companies. No telephone company is liable for damages or forfeitures for engaging in any act, practice, or omission for which it does not have prior notice either under paragraph (B) of this rule, or through another rulemaking under section 4927.03 of the Revised Code, or an adjudication under section 4927.21 of the Revised Code, that engaging in such act or practice is an unfair or deceptive act. This does not preclude the commission, however, from ordering an appropriate customer credit or remedy for a complainant in the context of an adjudication of an individual complaint, if the commission determines that the company has committed an unfair or deceptive act or practice against that complainant. In the absence of prior notice that an act or practice is unfair or deceptive under paragraph (A) of this rule, or through rulemaking under section 4927.03 of the Revised Code, or an adjudication under section 4927.21 of the Revised Code, the commission shall allow the company adequate time to implement any procedures or practices the commission determines appropriate to remedy the violation.

- (E) Telephone companies shall upon request of any applicant or customer, either inform the applicant or customer of, or make available at no charge, a copy of its credit and deposit policies.
- (F) Every customer's bill shall include the following statements that customers with bill questions or complaints should contact the telephone company first, as well as the following texts:

"If your complaint is not resolved after you have called (name of the utility), or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.puco.ohio.gov. Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio Relay Service)."

In addition to PUCO information, for residential bills only:

"The Ohio Consumers' Counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.pickocc.org."

*****DRAFT - NOT FOR FILING*****

NO CHANGE

4901:1-6-18 Slamming and preferred carrier freezes.

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations, see rule 4901:1-6-02 of the Administrative Code.]

- (A) Providers of telecommunications service, in the course of submitting or executing a change on behalf of a subscriber in the selection of a telephone company, shall obtain authorization from the subscriber and verification of that authorization in accordance with the rules and procedures prescribed by the federal communications commission (FCC) at 47 C.F.R. 64.1100 to 64.1190. For purposes of this rule, the term "subscriber" has the same meaning as it does within the context of the rules and procedures prescribed by the FCC.
- (B) Any provider of telecommunications service that is informed by a subscriber or the commission of an unauthorized provider change shall follow the commission's informal complaint procedures.
- (C) The commission, upon complaint by any person or its own initiative, has jurisdiction under sections 4905.73 and 4905.26 of the Revised Code concerning any violation of this rule and may order remedies as delineated under the rules and procedures prescribed by the FCC and in effect at the time of the violation, as well as enforce the duties and remedies provided for under sections 4905.72 and 4905.73 of the Revised Code.
- (D) All telecommunications providers that offer PCFs shall be required to refrain from attempting to retain a customer's account during the process of changing a customer's preferred carrier selection, or otherwise to provide such information to its marketing staff or any affiliate.

AMENDED

4901:1-6-19 Lifeline requirements.

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations, see rule 4901:1-6-02 of the Administrative Code.]

- (A) An incumbent local exchange carrier (ILEC) that is an eligible telecommunications carrier (ETC) under 47 C.F.R. 54.201 shall implement lifeline service consistent with section 4927.13 of the Revised Code and 47 C.F.R. 54.400, et seq., as applicable, throughout the ILEC ETC's traditional service area for its eligible residential customers.

*****DRAFT - NOT FOR FILING*****

- (B) An ILEC ETC's lifeline service shall provide for a waiver of the federal universal service fund end user charge and; a waiver of the telephone company's service deposit requirement.
- (C) Commission staff shall, with the assistance of the office of the consumers' counsel, work with the advisory board established by division (A)(3)(a) of section 4927.13 of the Revised Code to reach consensus on the organization of the board and all activities relating to the promotion of, marketing of, and outreach regarding lifeline service. However, where consensus is not possible, the commission's staff shall make the final determination. Decisions on the organization of the board and decisions of the advisory board including decisions on how the lifeline marketing, promotion, and outreach activities are implemented are subject to commission review. Every large ILEC shall work with the advisory board to reach consensus, where possible, regarding an appropriate lifeline budget for promoting lifeline and promoting outreach and regarding how the budget will be spent.
- (D) To the extent that an ILEC ETC is the only service provider in a particular exchange, the ILEC ETC where possible, may provide automatic enrollment at its election. ILEC ETCs electing to enroll subscribers via automatic enrollment shall take all necessary steps to ensure that there is no duplication of lifeline service for a specific subscriber.
- (E) The customer billing surcharge authorized by division (D) of section 4927.13 of the Revised Code may be established through one of the following means:
 - (1) An ILEC ETC that chooses to establish a customer billing surcharge to non-lifeline customers, to recover lifeline service discounts and expenses identified in this paragraph shall file a thirty-day application for tariff amendment (ATA). Such application may request recovery of lifeline service discounts that are not recovered through federal or state funding such as federal universal service fund end user charges, service connection charges, blocking of 900/976, recurring discount maximizing the contribution of federally available assistance, and recurring retail price differences between the frozen lifeline service rate and residential BLES rates, as well as lifeline service expenses that are not recovered through federal or state funding such as administrative expenses for the sole purpose of verifying the eligibility and enrolling of lifeline customers. An applicant must provide documentation to support its proposed surcharge and its compliance with this rule. Absent suspension or other commission action, the application shall be deemed approved and become effective on the thirty-first day or later date if requested by the company.
 - (2) An ILEC ETC requesting recovery of any expenses not specified in paragraph (F)(1) of this rule shall file an application with the commission, using the most up-to-date telecommunications filing form, under the TP-UNC case purpose code. An applicant must provide documentation to support its proposed customer billing surcharge and its

*****DRAFT - NOT FOR FILING*****

compliance with this rule including further support of its request for recovery of any expenses not specified in paragraph (F)(1) of this rule with a detailed supporting memorandum. Absent suspension or commission action, the application shall be deemed approved and become effective on the one hundred twenty-first day or later date if requested by the company.

- (F) If an ILEC ETC chooses to establish a customer billing surcharge to recover its lifeline expenses under paragraph (F)(1) or (F)(2) of this rule, the lifeline surcharge shall not appear in the section of the bill reserved for taxes and government-mandated charges as set forth in 47 C.F.R. 64.2400 to 64.2401.
- (G) An ILEC ETC that is authorized to establish a customer billing surcharge under either paragraph (F)(1) or (F)(2) of this rule shall annually file with the commission a report that identifies actual amounts recovered and the actual lifeline service discounts and any other lifeline service expenses incurred for the prior period. The company shall provide such data as necessary to enable the commission to validate such amounts to ensure that the company did not over recover its approved expenses from customers. The commission shall establish for each such company the time frame for filing this report when the commission approves any such billing surcharge. The annual filing may be contained in a request to adjust the billing surcharge in accordance with paragraph (F)(1) or (F)(2) of this rule, but shall be provided via a separate filing and docketed in a generic case number to be established by the commission, if no adjustment to the billing surcharge is sought. Any over-recovery or under-recovery shall be offset against or added to the next year's recovery.
- (H) Upon request of commission staff, additional information regarding customer subscription to and disconnection of lifeline service shall be provided to commission staff in accordance with rule 4901:1-6-30 of the Administrative Code.
- (I) Competitive eligible telecommunication carriers (CETCs) lifeline requirements.
 - (1) The lifeline requirements found in paragraphs (A), (B), and (D), ~~and (H)~~ of this rule apply to the lifeline service offered by any CETC, as applicable to that CETC's service offerings.
 - (2) A CETC shall provide to commission staff, upon request, information regarding the number of its lifeline customers and any additional information regarding customer subscription to and disconnection of lifeline service in the manner and time frame determined by commission staff.
 - (3) CETCs that offer lifeline services that include a defined local calling area shall establish a toll-free or local customer service number in order that customers can raise customer service concerns free of charge.

*****DRAFT - NOT FOR FILING*****

- (4) CETCs that offer lifeline services that do not have a defined local calling area shall not deduct minutes for customer service-related calls.
- (5) CETCs shall, at a minimum, accept customer service and repair calls at their respective customer service number during normal business hours.
- (J) The payment of financial incentives by ILEC ETCs and CETCs to community organizations for client referrals is permitted provided the payments are non-tiered and the arrangements are nonexclusive.

NO CHANGE

4901:1-6-20 Discounts for persons with communications disabilities.

- (A) In accordance with section 4927.14 of the Revised Code, telephone companies that provide toll service will, upon written application and certification of their disabled status by a residential disabled customer or a disabled member of a customer's household, offer one of the following applicable discounts to persons with communication disabilities:
 - (1) No less than a straight seventy per cent discount off the basic message toll service (MTS) current price list day rates on a twenty-four hour a day basis.
 - (2) A forty per cent discount off the intrastate, interexchange, customer-dialed, station-to-station calls occurring between eight a.m. and four fifty-nine p.m. Monday to Friday; a sixty per cent discount off of the intrastate, interexchange, customer-dialed, station-to-station calls occurring between five p.m. and ten fifty-nine p.m. Sunday to Friday, and New Year's day, Independence day, Labor day, Thanksgiving, and Christmas; and a seventy per cent discount off the intrastate, interexchange, customer-dialed, station-to-station calls occurring between eleven p.m. and seven fifty-nine a.m. any day; and eight a.m. and four fifty-nine p.m. Sunday, and all day Saturday.
 - (3) For MTS which is offered similar to the mileage-banded rate structure established in the commission's April 9, 1985 opinion and order in case No. 84-944-TP-COI, with the traditional day, evening, and night/weekend discounts: the "evening" discount off the intrastate, interexchange, customer-dialed, station-to-station calls placed during the "day" period Monday to Friday; and the "night/weekend" discount off the intrastate, interexchange, customer-dialed, station-to-station calls placed during the "evening" period Sunday to Friday, New Year's day, Independence day, Labor day, Thanksgiving, and Christmas. Furthermore, the "night/weekend" discount plus an additional discount equivalent to no less than ten per cent of the company's current price list day rates for basic MTS will be made available for intrastate, interexchange, customer-dialed, station-

*****DRAFT - NOT FOR FILING*****

to-station calls placed during the "night/weekend" period any day, the "day" period Sunday, and all day Saturday.

- (B) Certification of disabled status can be evidenced by either a certificate from a physician, health care official, state agency, or diploma from an accredited educational institution for the disabled.
- (C) The aforementioned discounts are also applicable to all MTS and directory assistance calls placed through the telecommunications relay service. The discounts do not apply to sponsor charges associated with calls placed to pay-per-call services, such as 900, 976, or 900-like calls. Additionally, certified disabled individuals who utilize telebraille devices are eligible to receive free access to local and intrastate long distance directory assistance. Lines maintained by nonprofit organizations and governmental agencies are also eligible to receive a discount off of their MTS rates upon written application and verification that such lines are maintained for the benefit of the disabled.

NO CHANGE

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 per cent; 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 twenty-day statutory time frame allotted for

*****DRAFT - NOT FOR FILING*****

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 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.

*****DRAFT - NOT FOR FILING*****

- (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.
- (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.

*****DRAFT - NOT FOR FILING*****

- (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.

NO CHANGE

4901:1-6-22 Inmate operator service.

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations, see rule 4901:1-6-02 of the Administrative Code.]

- (A) All IOS providers will, on intrastate IOS calls upon request, immediately disclose to the billed party, the methods by which its rates or charges for the call will be collected and the methods by which complaints concerning such rates, charges or collections practices will be resolved..
- (B) The maximum rate of any usage sensitive charge that may be applied by an IOS provider to any intrastate IOS call is to be consistent with 47 C.F.R. part 64, subpart FF.
- (C) Notice of any change in IOS rates, whether upward or downward, will be filed by the IOS provider with the commission in the form of a new pricing list in the IOS provider's TRF docket.
- (D) All IOS providers are to furnish, on all intrastate IOS calls, at the beginning of the call before the billed party incurs any charges, immediate and full rate disclosures that quote the actual intrastate price lists rates for all components of the call. However, IOS providers may allow a billed party an opportunity to affirmatively decline receiving the required rate quote.
- (E) The maximum rate of any ancillary charges that may be applied by an IOS provider on any intrastate IOS call will be consistent with 47 C.F.R. part 64, subpart FF.
- (F) IOS providers are not to charge for uncompleted calls.
- (G) Each IOS provider will include in its contract with each of its customers language requiring that the customer permit the IOS provider to take whatever steps are necessary to ensure that the IOS provider is in compliance with all of the established requirements and restrictions pertaining to IOS.

*****DRAFT - NOT FOR FILING*****

(H) Upon request, each IOS provider is to provide, as directed by the commission or its staff, information concerning its operations.

(I) On all intrastate IOS calls, the IOS provider will allow the billed party to terminate at no charge before the call is connected.

NO CHANGE

4901:1-6-23 Pay telephone access lines.

(A) Upon request, an incumbent local exchange carrier (ILEC) must provide a pay telephone access line and local usage on the pay telephone access line to payphone service providers, within the ILEC's normal installation intervals if it offers such services to payphone service providers as provided by its tariff.

(1) The rates, terms, and conditions for pay telephone access lines are to be tariffed and filed through a thirty-day application for tariff amendment (ATA) filing in accordance with rule 4901:1-6-05 of the Administrative Code.

(2) All ILECs' currently tariffed pay telephone access line rates are deemed reasonable, unless the commission determines otherwise through another commission proceeding.

(3) Subsequent increases in rates and changes to the terms and conditions, for tariffed pay telephone access lines, are to be filed through a thirty-day ATA filing in accordance with rule 4901:1-6-05 of the Administrative Code. Such applications require supporting documentation including, but not limited to, documentation showing that the rate is in compliance with the federal communications commission's (FCC) new services test for pay telephone access lines, if applicable.

(B) Provisioning of pay telephone access lines including the rates, terms, and conditions of such lines is subject to the applicable laws, including rules or regulations adopted and orders issued by the commission or the FCC.

AMENDED

4901:1-6-24 Wireless service provisions.

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations, see rule 4901:1-6-02 of the Administrative Code.]

*****DRAFT - NOT FOR FILING*****

(A) The commission has authority over wireless service and [facilities-based](#) wireless service providers to the extent set forth in this rule and section 4927.03 of the Revised Code.

(B) Registration

A [facilities-based](#) wireless service provider can operate in the state of Ohio after it registers with the commission. Every [facilities-based](#) wireless service provider desiring to offer wireless service in Ohio is to file a zero-day registration notice in a radio common carrier (RCC) filing with the commission utilizing the telecommunications filing form discussed in rule 4901:1-6-04 of the Administrative Code and providing all of the following:

- (1) The company's name.
- (2) The company's address.
- (3) The name of a contact person and that person's contact information.
- (4) A service description, including the general geographic areas served (no maps are required).
- (5) Evidence of registration with the Ohio secretary of state.
- (6) Evidence of notice to the Ohio department of taxation, public utilities tax division, of its intent to provide service.

(C) Change in operations

Every [facilities-based](#) wireless service provider will keep its registration information up-to-date by notifying the commission of any changes in its operations (i.e., mergers, abandonment, transfers, name changes, and changes in ownership) by submitting a zero-day notice to the commission for identification purposes utilizing an up-to-date version of the commission's telecommunications filing form under its original RCC case designation code established during the wireless service provider's registration process.

(D) Assessment report

The requirements of sections 4905.10, 4905.14, and 4911.18 of the Revised Code apply to [facilities-based](#) wireless service providers. [facilities-based](#) ~~Wireless~~ ~~wireless~~ service providers are required to submit, at the time and in the manner prescribed by the commission, an annual report for fiscal assessment and to pay the prescribed annual assessment for the maintenance of the commission. A copy of the form is available on the commission's web site or from the commission's fiscal division.

*****DRAFT - NOT FOR FILING*****

(E) Jurisdiction authorized by federal law and regulations.

The commission has such power and jurisdiction with respect to [facilities-based](#) wireless service providers, consistent with divisions (B) of section 4927.03 and divisions (A) to (D) and (F) of section 4927.04 of the Revised Code, to perform the obligations authorized by or delegated to it under federal law, including federal regulations, which obligations include performing the acts of a state commission as defined in the Communications Act of 1934, 48 Stat. 1064, 47 U.S.C. 153, as amended, with respect to all of the following:

- (1) The rights and obligations under section 251 of the Telecommunications Act of 1996.
 - (2) Mediation and arbitration of disputes and approval of agreements under section 252 of the act.
 - (3) Administration of telephone numbers and number portability.
 - (4) Certification of telecommunications carriers eligible for universal service funding.
 - (5) Administration of federal regulations on customer proprietary network information.
- (F) Telecommunications relay service, eligible telecommunications carrier and lifeline requirements, 9-1-1, and universal service:

The commission has authority over wireless service, resellers of wireless service, or [facilities-based](#) wireless service providers as set forth in section 4905.84 of the Revised Code and rule 4901:1-6-36 of the Administrative Code, as well as, section 4931.99 of the Revised Code. The commission has authority over [facilities-based](#) wireless service providers with respect to addressing carrier access policy and creating and administering mechanisms for carrier access reform as set forth in division (C) of section 4927.15 of the Revised Code. To the extent that a [facilities-based](#) wireless service provider or reseller of wireless service seeks certification in Ohio as a telecommunications carrier eligible for universal service funding under 47 U.S.C. 214(e), the commission has authority to consider such application under rule 4901:1-6-09 of the Administrative Code and to impose requirements with respect to lifeline service under rule 4901:1-6-19 of the Administrative Code if the carrier seeks to withdraw funds from the universal service fund for the provision of lifeline service.

(G) Compliance and enforcement

The commission has such authority over [facilities-based](#) wireless service providers under section 4927.20 of the Revised Code as is necessary to enforce compliance with every order, direction, and requirement of the commission made under authority of this rule, consistent with division (B) of section 4927.03 of the Revised Code. The commission has authority to

*****DRAFT - NOT FOR FILING*****

adjudicate any dispute between telephone companies and [facilities-based](#) wireless service providers or between [facilities-based](#) wireless service providers that is within the commission's jurisdiction under section 4927.21 of the Revised Code.

(H) Wireless resellers

The commission has such authority over resellers of wireless service as set forth in division (B) of section 4927.03 of the Revised Code.

NO CHANGE

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

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations, see rule 4901:1-6-02 of the Administrative Code.]

- (A) Notice, consistent with rule 4901:1-6-07 of the Administrative Code, is to be provided to all affected customers, including both retail and wholesale customers, and the chief of the regulatory utility services 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.
- (B) Withdrawal of basic local exchange service (BLES)
- (1) A competitive local exchange carrier (CLEC) may discontinue offering BLES within an exchange(s) by filing a zero-day notice filing (ZTA) to withdraw such service or services from its tariff. 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 is to be included with the notice.
 - (2) A CLEC ceasing to offer BLES will 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 is to provide written notice of its intent to cease providing service, to any telephone company from which the applicant obtains wholesale services, if applicable.

*****DRAFT - NOT FOR FILING*****

- (4) An incumbent local exchange carrier may discontinue providing BLES only if it complies with the provisions of rule 4901:1-6-21 or 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 is to provide a list of its assigned area code prefix(es) or thousand block(s). Such information will 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 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 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, by first filing an application to withdraw such service(s) from its tariff, using the most up-to-date telecommunications filing form, and obtaining prior commission approval. The TP-UNC case purpose code is the designated type of application which is not subject to an automatic approval process.
- (E) Interconnection and resale agreements approved under the Telecommunications Act of 1996 (1996 act), 110 Stat. 60, 47 U.S.C. 153 et seq are subject to the terms of the agreements, federal law, and Chapter 4901:1-7 of the Administrative Code.

NO CHANGE

4901:1-6-26 Abandonment.

- (A) A telephone company seeking to abandon entirely telecommunications service in this state, including its tariff and certificate of public convenience and necessity, may only abandon the service(s) it provides under a certificate by filing an abandonment application (ABN) to abandon service and to cancel its certificate of operation.
- (B) Abandonment applications are to be filed at least thirty days prior to the effective date that the telephone company will cease providing service. The application is to include the following: 1) copies of any notices provided pursuant to paragraphs (C) to (D) of this rule, 2) an affidavit verifying that the customer notice was provided to affected customers, and 3) the list pursuant to paragraph (J) of this rule.

*****DRAFT - NOT FOR FILING*****

- (C) At least thirty days prior to abandoning operations, a telephone company shall provide written notice of its intent to cease providing service to any telephone company from which the applicant obtains wholesale services.
- (D) If the telephone company does not have any retail customers at the time it seeks to abandon service and cancel its certificate, customer notice to retail customers is not required with its application.
- (E) A telephone company abandoning operations is to return all deposits, including applicable interest, to its customers no later than ninety days after filing its abandonment application unless a court of competent jurisdiction orders otherwise.
- (F) If the commission does not act upon the application within thirty days of the filing date, a telephone company's application will be approved in accordance with the thirty-day automatic approval process described in rule 4901:1-6-05 of the Administrative Code and its certificate of public convenience and necessity will be canceled.
- (G) This rule does not apply to basic local exchange service provided by an incumbent local exchange carrier.
- (H) An abandoning telephone company may discontinue services provided to any customer or telephone company after the abandonment application has been approved by the commission.
- (I) No telephone company may discontinue services provided to a local exchange carrier (LEC) that has filed an application to abandon service prior to the commission ruling on such application to abandon service.
- (J) Where applicable, the LEC abandoning operations is to provide a list of its assigned area code prefix(es) or thousands block(s) including any proposed dates or timelines, due to its abandonment proceedings, wherein the LEC's area code prefix(es) or thousands block(s) would be reassigned to another carrier and/or returned to the North American numbering plan administrator or pooling administrator.

NO CHANGE

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

- (A) Except as otherwise provided in this rule, or rule 4901:1-6-21 of the Administrative Code, 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 on a reasonable and nondiscriminatory basis.

*****DRAFT - NOT FOR FILING*****

- (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 is to 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 provide, notice to the requesting person or entity in accordance with division (B)(4) of section 4927.11 Revised Code.
- (E) In resolving any complaint under paragraph (D) of this rule, the commission's determination will be limited to whether any circumstance described in paragraphs (B)(1) to (B)(3) of this rule exists. Upon a finding by the commission that such a circumstance exists, the complaint will be dismissed. Upon a finding that such circumstances do not exist, the person's or entity's sole remedy will 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 will 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

*****DRAFT - NOT FOR FILING*****

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 in accordance with division (D) of section 4927.11 Revised Code.
- (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 impacted by the requested waiver. For purposes of this rule, affected persons shall include, at a minimum, any existing

*****DRAFT - NOT FOR FILING*****

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) A public hearing in the service area(s) identified in the application pursuant to paragraph (G)(1)(a) of this rule will be ordered in accordance with division (C) of section 4927.11 Revised Code.
- (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 will 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 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.

NO CHANGE

4901:1-6-28 Bankruptcy.

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations, see rule 4901:1-6-02 of the Administrative Code.]

A telephone company seeking bankruptcy protection from any jurisdiction under Chapter 7 or 11 of the United States bankruptcy code shall notify the commission by serving notice of the bankruptcy filing on the chief of the regulatory utilities services division of the rates and analysis department. The notification shall include a copy of any and all notices or pleadings filed in the bankruptcy court, specifically setting forth the date and type of bankruptcy, the name and address of the bankruptcy court, the name and address of the bankruptcy attorney,

*****DRAFT - NOT FOR FILING*****

and the name and address of a person at the company who can provide additional information regarding Ohio customers.

NO CHANGE

4901:1-6-29 Telephone company procedures for notifying the commission of changes in operations.

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations, see rule 4901:1-6-02 of the Administrative Code.]

- (A) Every telephone company shall update its certification authority if there is any change in its operations as identified in this rule.
- (B) Procedures for notifying the commission of updates to certification authority and certain changes in operations by a local exchange carrier (LEC) providing basic local exchange service (BLES).
 - (1) A LEC providing BLES shall file a telecommunications filing form pursuant to paragraph (A) of rule 4901:1-6-04 of the Administrative Code and the required attachments as set forth on that form for an application notifying the commission of the following changes in its operations in the appropriate application listed in this paragraph:
 - (a) ATC - An application to transfer a certificate to a preselected transferee.
 - (b) ATR - An application to conduct a transaction involving one or more LECs providing BLES for the purchase, sale, or lease of property, plant, or business which may affect the operating authority of a party to the transaction.
 - (c) ACN - An application to change the name of a LEC providing BLES.
 - (2) All applications filed pursuant to paragraph (B)(1) of this rule are subject to a thirty-day automatic approval process as described in rule 4901:1-6-05 of the Administrative Code.
- (C) Procedures for notifying the commission of updates to certification authority and certain changes in operations by telephone companies.
 - (1) All telephone companies, except LECs providing BLES subject to the exception set forth in paragraph (E)(2) of this rule, shall file a telecommunications filing form pursuant to paragraph (A) of rule 4901:1-6-04 of the Administrative Code and the required

*****DRAFT - NOT FOR FILING*****

attachments as set forth on that form when notifying the commission of the following changes in operations (CIO):

- (a) For any change in ownership which is transparent to customers.
 - (b) For an application to transfer a certificate and/or conduct a sale or lease of property, plant, customer base, or business which may affect the operating authority of a party(ies) to the transaction.
 - (c) For an application by two or more telephone companies to merge.
 - (d) For an application to change the name of a telephone company.
- (2) A CIO application is subject to a zero-day notice filing process as described in rule 4901:1-6-05 of the Administrative Code.

(D) Customer notification

A telephone company shall provide to its affected customers, in accordance with rule 4901:1-6-07 of the Administrative Code, at least fifteen days' advance notice (e.g., direct mail, bill insert, or bill notation) of any change in the company's operations identified by this rule that is not transparent to its customers and may impact service, and file a copy of such notice with the commission concurrent with the filing of an application under this rule. In the alternative, a telephone company subject to the notification procedures set forth in 47 C.F.R. 63.71, may submit evidence of a customer notice already provided for the purpose of informing subscribers of a change in operations consistent with the requirements of the federal communications commission.

(E) Procedures for merger and change in control applications of a LEC providing BLES

- (1) A LEC providing BLES shall obtain the prior approval of the commission for a change in control (ACO) or approval of a merger with another telephone company (AMT) under section 4905.402 of the Revised Code. An applicant shall file with the commission a telecommunications filing form pursuant to rule 4901:1-6-04 of the Administrative Code and the required attachments as set forth on that form. An AMT and/or ACO application must demonstrate that the change in control or merger will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge. If the commission considers a hearing necessary, it may fix a time and place for hearing. If, after review of the application, and after any necessary hearing, the commission is satisfied that approval of the application will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge, the commission shall approve the application and make such order as it considers proper. If

*****DRAFT - NOT FOR FILING*****

the commission fails to issue an order within thirty days of the filing of the application, or within twenty days of the conclusion of a hearing, if one is held, the application shall be deemed approved.

- (2) Paragraph (E)(1) of this rule does not apply in any instance where there is a pending application with the federal communications commission (FCC) regarding either the acquisition of control of a domestic telephone company or a holding company controlling a domestic telephone company or a merger of a domestic telephone company. A domestic telephone company or a holding company controlling a domestic telephone company that files an application with the FCC seeking authority for a transfer of control or merger shall file, on the same day that the domestic telephone company or a holding company controlling a domestic telephone company files its application with the FCC, a telecommunications filing form pursuant to paragraph (A) of rule 4901:1-6-04 of the Administrative Code for a change in operations (CIO). Such notice shall include an internet link to the FCC application. A CIO application is subject to a zero-day notice filing process as described in rule 4901:1-6-05 of the Administrative Code.

NO CHANGE

4901:1-6-30 Company records and complaint procedures.

- (A) In accordance with this chapter and the rules and procedures prescribed by the federal communications commission.
- (1) A telephone company shall retain for eighteen months, unless otherwise specified by the commission, sufficient books, records, contracts, documents and papers for auditing or inspection by commission staff.
- (2) Upon commission staff request, the telephone company should provide such records of sufficient detail, to permit review of the telephone company's compliance with the rules of this chapter. Upon request, the telephone company will provide data or information in a format agreed upon by the commission staff.
- (B) A telephone company should provide commission staff with a company contact, including a toll free number and an e-mail address, for complaint resolution and respond to commission and consumer inquiries and complaints in a reasonable and timely manner.

*****DRAFT - NOT FOR FILING*****

AMENDED

4901:1-6-31 Emergency and outage operations.

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations, see rule 4901:1-6-02 of the Administrative Code.]

- (A) Each facilities-based local exchange carrier (LEC) should design, operate, and maintain its facilities to continue to provide customers with the ability to originate and receive calls at all times. The commission will utilize existing FCC rules applicable to emergency and outage operations. Companies will submit outage reports utilizing, at the company's discretion, either existing FCC reports or a format determined by the commission.
- (B) Each facilities-based LEC should submit, within two hours of discovery, to the commission's outage coordinator [via email at outagereport@puco.ohio.gov](mailto:via_email_at_outagereport@puco.ohio.gov) and when appropriate, the news media in the affected area, a notification that it has experienced an outage, whenever that outage occurs on any facility that it owns, operates, leases or otherwise utilizes and is both:
 - (1) Expected to last for a period in excess of thirty minutes.
 - (2) Potentially affects at least nine hundred thousand user minutes in the incumbent local calling area.
- (C) Each facilities-based LEC is to report, by telephone or electronic means, a disruption of 9-1-1 services, which impairs 9-1-1 service within a given county 9-1-1 system, immediately to each county 9-1-1 public safety answering point, to the statewide emergency services internet protocol network steering committee or its designee, and to the news media in the affected area, when appropriate.
- (D) Each facilities-based LEC experiencing a loss of communications or selective routing to a public safety answering point, as a result of an outage described under paragraphs (B) and (C) of this rule, will also notify, as soon as possible, by telephone or electronic means, any official who has been designated by the management of the affected 9-1-1 facility as the LEC's contact person for communication outages at that facility; and the LEC should convey to that person all available information that may be useful to the management of the affected facility in mitigating the effects of the outage on efforts to communicate with that facility.
- (E) Each facilities-based LEC experiencing an outage described under paragraphs (B) and (C) of this rule, will electronically submit to the commission's outage coordinator [at](#)

*****DRAFT - NOT FOR FILING*****

outagereport@puco.ohio.gov the same information as that provided to the FCC or the following information:

- (1) A notification that it has experienced an outage, which includes the name of the reporting entity, the date and time of the onset of the outage, a brief description of the problem, the particular service affected, the geographic area affected by the outage, the number of customers affected, an estimate of when the service, including 9-1-1, will be restored, and a contact name and telephone number by which the commission's outage coordinator may contact the reporting entity.
 - (2) Not later than seventy-two hours after discovering the outage, an initial communications outage report, which includes all pertinent information then available on the outage and should be submitted in good faith.
 - (3) Not later than thirty days after discovering the outage, the provider will submit electronically a final communications outage report, which includes all pertinent information on the outage, including any information that was not contained in, or that has changed from that provided in, the initial report.
- (F) Each facilities-based LEC will develop, implement, and maintain an emergency plan and make it available for review by commission staff. The plan should include, but not be limited to, all of the following:
- (1) Procedures for maintaining and annually updating a list of those customers who have subscribed to the federal telecommunications service priority program, as identified in 47 C.F.R. 64, appendix A.
 - (2) Procedures for priority treatment in restoring out-of-service trouble of an emergency nature for customers with a documented medical or life-threatening condition.
 - (3) In addition to the telecommunications service priority program, each LEC is to develop policies and procedures regarding those customers who require priority treatment for out-of-service clearance. Such procedures should include a table of restoration priority, including, but not limited to, subscribers such as police and fire stations, hospitals, key medical personnel, and other utilities.
 - (4) Procedures for restoring service to priority critical facilities customers.
 - (5) Identification and annual updates of all of the facilities-based LEC's critical facilities and reasonable measures to protect its personnel and facilities.

*****DRAFT - NOT FOR FILING*****

- (6) Assessments and evaluations of telecommunications facilities available to provide back-up service capabilities.
- (7) Procedures for after-action assessments and reporting following activation of any part of the emergency plan. An after-action report will be written and will include lessons learned, deficiencies in the response to the emergency, and deficiencies in the emergency plan.
- (8) A current list of the names and telephone numbers of the facilities-based LECs' emergency service personnel to contact and coordinate with in the event of any real or anticipated local or national threats to its ability to provide telecommunications service.
- (9) A current list of the names and telephone numbers of the facilities-based LEC's emergency service personnel that is made available to the commission's emergency coordinator, upon request.
- (10) A continuity of operations plan to assure continuance of minimum essential functions during a large scale event in which staffing is reduced. Such plans should provide for:
 - (a) Plan activation triggers such as the world health organization's pandemic phase alert levels, widespread transmission within the United States, or a case at one or more locations within Ohio.
 - (b) Identification of a pandemic coordinator and team with defined roles and responsibilities for preparedness and response planning.
 - (c) Identification of minimal essential functions, minimal staffing required to maintain such essential functions, and personnel resource pools required to ensure continuance of those functions in progressive stages associated with a declining workforce.
 - (d) Identification of essential employees and critical inputs (e.g., raw materials, equipment, suppliers, subcontractor services/products, and logistics) required to maintain business operations by location and function.
 - (e) Policies and procedures to address personal protection initiatives.
 - (f) Policies and procedures to maintain lines of communication with the public utilities commission of Ohio during a declared emergency.
- (G) Each facilities-based LEC is to amend its emergency plan in accordance with the findings identified in the after-action assessment report required under paragraph (F)(7) of this rule.

*****DRAFT - NOT FOR FILING*****

NO CHANGE

4901:1-6-32 Boundary changes, and administration of borderline boundaries.

This rule applies to all incumbent local exchange carriers (ILECs).

- (A) Commission-maintained telephone exchange boundary maps will be the official source/documentation of ILEC service areas and boundaries.
- (B) Whenever an ILEC proposes to change the boundary of an exchange area, the ILEC will file an application seeking to change the boundary. Whenever the exchange area involves the exchange area of two or more ILECs, the application will be filed jointly by the companies involved.
- (C) Such application to change boundaries (ACB) is subject to a fourteen-day automatic approval procedure. An ILEC application submitted for approval includes:
 - (1) A description of the change being made to the boundary. The company will work with staff to ensure that the commission's maps reflect accurately the boundary changes, using the telephone boundary maps as found on the commission's website as a basis for the boundary change.
 - (2) The reasons for making the change, and one of the following:
 - (a) A statement explaining the effect of the change, if any, on existing BLES subscribers.
 - (b) A statement attesting that the change does not adversely affect the service being furnished to any existing BLES subscriber.
 - (c) A statement attesting that each existing BLES subscriber whose service is adversely affected has consented to the change

NO CHANGE

4901:1-6-33 Excess construction charges applicable to certain line extensions for the furnishing of local exchange telephone service.

- (A) An incumbent local exchange carrier (ILEC) shall provide basic local exchange service (BLES) in its traditional service area to all persons or entities in its service area requesting that service except as otherwise provided in section 4927.11 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

- (B) Where no facilities are available and where an ILEC must construct permanent facilities on public rights-of-way in order to furnish service to an applicant or applicants for service in its traditional service area, the ILEC may require the applicant to pay excess construction charges in accordance with commission-approved tariffs. A credit against the cost of excess construction charges may be given where an applicant performs the labor of digging holes, or trimming or removing trees in the right-of-way in accordance with the ILEC's specifications. Where more than one applicant is to be furnished service along the same route, the applicants as a group may be required to share proportionately the excess construction charges.
- (C) An ILEC may not charge an applicant for any excess construction charges for BLES unless provisions for such charges are set forth in the company's tariff and approved by the commission.

NO CHANGE

4901:1-6-34 Filing of contracts, agreements, or arrangements entered into between telephone companies.

When necessary for the commission to carry out sections 4927.01 to 4927.21 of the Revised Code, and only as required by the commission, a telephone company shall file with the commission a copy of any contract, agreement, or arrangement, in writing, with any other public utility relating in any way to the construction, maintenance, or use of its plant or property, or to any service, rate, or charge.

NO CHANGE

4901:1-6-35 Filing of reports by telephone companies subject to the federal communications commission.

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations, see rule 4901:1-6-02 of the Administrative Code.]

Upon request, each telephone company operating within the state of Ohio should submit to the director of the utilities department of the commission or the director's designee a copy of any reports filed with the federal communications commission pursuant to 47 C.F.R. 43.

*****DRAFT - NOT FOR FILING*****

NO CHANGE

4901:1-6-36 Telecommunication relay services assessment procedures.

- (A) This rule is limited to the commission's administration and enforcement of the assessment for the intrastate telecommunications relay service (TRS) in accordance with section 4905.84 of the Revised Code.
- (B) For the purpose of funding the TRS, the commission will collect an assessment to pay for the costs incurred by the TRS provider for providing the service in Ohio, from each service provider that is required under federal law to provide its customers access to TRS.
- (C) Each service provider to which paragraph (B) of this rule applies will be assessed by the commission by taking the TRS appropriation and performing a reconciliation to account for over collected or under collected monies from the previous year to obtain the total amount to be assessed which is then divided by the total number of lines reported on the TRS reports for that year resulting in a rate per line. The rate per line is then multiplied by the number of lines per service provider, as reported on the annual TRS reports, which results in a billed amount per company. In accordance with division (C) of section 4905.84 of the Revised Code, the billed amount will necessarily vary by year as the appropriation amount, number of service providers, and number of lines in service change per year.
- (D) To determine the assessment amount owed by each provider the commission staff should use the number of voice-grade, end user access lines, or their equivalent, as reflected in each provider's most recent federal communications commission form 477, where applicable. All providers are to submit to the commission staff, on a semi-annual basis, a completed form, as prescribed by the commission staff, which contains the number of the provider's retail customer access lines or their equivalent.
- (E) Sixty days prior to the date each service provider is required to make its assessment payment in accordance with paragraph (C) of this rule, the commission staff will notify each service provider of its proportionate share of the costs to compensate the TRS provider.
- (F) Any telephone company, other than a wireless service provider, that proposes a customer billing surcharge or a change in the surcharge should file a zero-day notice filing (ZTA) with the commission, in accordance with rule 4901:1-6-04 of the Administrative Code. The ZTA will take effect on the same day the filing is made in accordance with paragraph (B) of rule 4901:1-6-05 of the Administrative Code. Each regulated provider imposing a surcharge on its customers will provide notice to its customers a minimum of fifteen days prior to the effective date of the surcharge in accordance with rule 4901:1-6-07 of the Administrative Code.

*****DRAFT - NOT FOR FILING*****

- (G) The commission may direct the attorney general to bring an action for immediate injunction or other appropriate relief to enforce commission orders and to secure immediate compliance with this rule.

NO CHANGE

4901:1-6-37 Assessments and annual reports.

- (A) Every telephone company or competitive eligible telecommunications carrier (CETC) and wireless service provider are to file the annual report for fiscal assessment, consistent with section 4905.10 of the Revised Code, and as required by the commission and in the format prescribed by commission entry.
- (B) In addition to the information necessary for the commission to calculate the assessment provided for in section 4905.10 of the Revised Code, telephone companies subject to section 4905.71 of the Revised Code are to provide in their annual report for fiscal assessment information required by the commission to calculate pole attachment and conduit occupancy rates in a manner consistent with requirements of Chapter 4901:1-3 of the Administrative Code, and any other information the commission determines necessary to fulfill its responsibility under section 4905.71 of the Revised Code. This information shall be provided in the format prescribed in the commission's annual reporting form for telephone companies.
- (C) All wireless resellers of lifeline service not presently assessed a fee for the commission's support will be assessed an annual fee to be determined by the commission.



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 Jeffrey Jones, Legal Director Phone: 614-466-0463 Fax 614-728-8373 Jeffrey.Jones@puco.ohio.gov

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 4901:1-6-16 and 4901:1-6-18 through 4901:1-6-37

Date of Submission for CSI Review: 11/01/23

Public Comment Period End Date: 12/18/23

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? __)

Amended/___ 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 adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing

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

CSIPublicComments@governor.ohio.gov

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):

- 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.

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 telephone companies in the state of Ohio. Most of the rules remain unchanged. Rule amendments include: the addition in 4901:1-6-05(A) of clarifying language reflecting “if a tariff is involved in compliance with 4901:1-11(C)” and the addition of clarifying language in Ohio Adm.Code 4901:1-6-24(A)-(G) to reflect that the referenced wireless service providers are “facilities-based.” Additionally, clarifying language is added to 4901:1-6-31(B) and (E) to include the email address for the Commission’s outage coordinator. Further, rule citations are corrected in Ohio Adm.Code 4901:1-6-14(D) and 4901:1-6-19(I). Finally, a verb tense is corrected in 4901:1-6-02(D).

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

4901:1-6-20	Authorized by R.C. 4901.13, 4927.03; Amplifies R.C. 4927.14
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

- 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.

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?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No

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.

The August 21, 2023 Entry in Case No. 23-817-TP-ORD seeking comments at a September 20, 2023 rule revisions workshop was served upon the Ohio Telecom Association, the Ohio Cable Telecommunications Association, the Ohio Consumers' Counsel, the telephone industry service list, and all other interested persons of record. The November 15, 2023 Entry seeking comments regarding the proposed revisions was served on the same 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 are due on December 1, 2023, and reply comments are due on December 18, 2023. The PUCO will consider the filed comments when issuing the final rules in Case No. 23-817-TP-ORD

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.*

For the majority of rules, the Commission made no revisions to the existing rules with the minor exceptions addressed in the response to Questions 2 where the PUCO made some minor modifications to the existing rules for the purpose of clarification. Therefore, considerations of alternative regulations were not necessary.

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 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 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 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 Commission recently performed a regulatory restriction review in Case No. 22-829-TP-ORD. The rules have now been reviewed again in this proceeding to potentially remove additional 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 proposed revisions addressed in the response to Question 2.

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 provisions of these rules.

- 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 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.