

Telecommunications

Introduction and Overview

The Office of the Ohio Consumers' Counsel (OCC) advocated on behalf of Ohio consumers in a variety of state and federal telecommunications cases in 2011. Some of these cases were filed by telephone utilities as a response to the changes in law resulting from the passage of Amended Substitute Senate Bill 162 (SB 162) in 2010.

At the federal level, the OCC collaborated with the National Association of State Utility Consumer Advocates (NASUCA) on several telecommunications cases of national significance. NASUCA filed comments and recommendations during 2011 in response to the Federal Communications Commission's (FCC's) proposed reform of the Universal Service Fund, Intercarrier Compensation, and the Lifeline and Link Up programs for low-income consumers.

The OCC intervened at the state level seeking better notification to customers about impending changes in their rates and the services available to them and urged the Public Utilities Commission of Ohio (PUCO) not to change intercarrier access charges.

The OCC also worked to protect Cincinnati Bell Telephone consumers in four exchanges from the company's claim that those exchanges faced enough competition to justify rate increases. The OCC also recommended against a proposed Lifeline surcharge on non-Lifeline Cincinnati Bell Telephone customers.

FEDERAL CASES

FCC issues order reforming Universal Service Fund

Universal Service Fund/Intercarrier Compensation reform

As the Federal Communications Commission (FCC) looked to reform the Universal Service Fund in 2011, the National Association of State Utility Consumer Advocates (NASUCA), of which the Office of the Ohio Consumers' Counsel is a member, had several concerns about the scope of the plan to shift the use of the fund from telecommunications to broadband services.

The FCC issued a notice of proposed rulemaking in February seeking to replace the high-cost portion of the Universal Service Fund, which provides support for voice services in areas that are more expensive for carriers to serve. The FCC would eventually create a Connect America Fund, which would primarily provide support for developing broadband service in unserved areas.

In addition, the FCC proposed:

- ▶ Establishing a budget for the high-cost programs within the Universal Service Fund, with an annual cap of \$4.5 billion, equal to its 2011 level;
- ▶ Continuing to require telecommunications carriers that are eligible for Universal Service funding to provide services and adding broadband to the list of options they must provide;
- ▶ Creating a Mobility Fund, to support the cost of moving landline customers to broadband service in unserved areas; and

- ▶ A system established over six years that would gradually eliminate costs carriers charge each other to terminate telecommunications traffic.

NASUCA supported many aspects of the FCC's proposal but questioned the decision to tie reforms to the Universal Service Fund to changes to intercarrier compensation rules. NASUCA questioned the FCC's authority to: a) use the Universal Service Fund to support broadband deployment, given broadband's classification as an informational service; and b) set all rates for intercarrier compensation rates (charges carriers pay each other so their customers can complete intrastate or interstate communications) including those set by each individual state.

The FCC's proposal to reduce intercarrier compensation rates to zero would hurt basic service customers and other end users by asking them to pay for calls they did not make, NASUCA said. Instead, NASUCA advocated the FCC move gradually toward a cost-based system for interstate access charges (on calls that begin and end in different states) and encourage states to bring their intrastate access charges (on calls that begin and end in the same state) to interstate levels.

The FCC set up a seven-year phase-in of the Connect America Fund in October. It also established a \$300 million Mobility Fund and implemented a system that would reduce call termination charges between two carriers to zero over a seven-year period for large- and medium-sized carriers and a 10-year period for small rural carriers.

FCC Case Nos. WC Docket No. 10-9, GN Docket No. 09-5, WC Docket No. 07-135, WC Docket No. 05-33, CC Docket No. 01-9, CC Docket No. 96-45, WC Docket No. 03-109

Lifeline/Link Up Reform

As part of its work to advocate for low-income telephone consumers, NASUCA made several recommendations in 2011 to improve proposed reforms to the national Lifeline and Link Up programs.

Lifeline offers a discount on monthly landline or wireless telephone charges for qualifying low-income households; Link Up provides a discount on connection costs. Federal law prohibits U.S. households from receiving more than one Lifeline service at the same time.

The introduction of cell phones as a Lifeline option made oversight of the program a growing issue because of the need for carriers to ensure customers are qualified for Lifeline and do not already have Lifeline through their landline carrier. The FCC proposed changes in March to strengthen the Lifeline and Link Up programs. The proposed reforms would protect against suspected waste, fraud and abuse of the system, improve accountability and administrative oversight, provide better outreach efforts, and create pilot programs to increase broadband availability for customers. The FCC also said it wanted to make the reforms without increasing the costs of the programs.

NASUCA supported many of the FCC's proposals including the encouragement of automatic enrollment for eligible Lifeline customers and adoption of uniform procedures to verify eligibility. The advocates were, however, concerned about a proposal to limit the size or funding of the program. NASUCA proposed that eliminating waste and fraud in the system would free up enough funding to maintain the program so it would be available to all who need assistance.

NASUCA also recommended the FCC continue to allow Lifeline to be offered on a "one benefit per residence" basis but that the level of the benefit should be determined by the services required by the customer. For instance, the credit may differ if the customer had landline service only, as opposed to wireless service.

With the concern that Lifeline services could be denied to customers who need it, NASUCA proposed the FCC allow states to determine their own procedures to provide Lifeline to consumers lacking a primary residence or living in a non-traditional living situation. Specifically, NASUCA advocated the FCC protect the homeless regarding specific rules relating to the definition of a residence and also accommodate the needs of low-income consumers residing in group homes.

A decision on final implementation of the FCC's proposed reforms was pending at the end of 2011.

FCC Case Nos. WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109

STATE CASES

OCC seeks better customer notification about contractual changes

Residential telephone customers need to be better informed about changes to their contractual relationship with their local telephone companies, according to the Office of the Ohio Consumers' Counsel (OCC). The OCC and other consumer advocacy organizations working together as Ohioans Protecting Telephone Consumers (OPTC), asked the Public Utilities Commission of Ohio (PUCO) to reconsider its January decision ordering Ohio's telephone companies to issue only a one-time notice to customers about changes in their contractual status.

The OCC and its partners said the new notice requirements did not sufficiently inform customers of a contractual relationship with their telephone company, which they may not have understood or even have been aware existed. OPTC asked the PUCO to require the companies to provide more information to customers about their rights and responsibilities under the newly established relationships.

The one-time notices the PUCO ordered reflected changes mandated by Ohio's new telecommunications law. Prior to the law becoming effective, telephone companies were required to file tariffs with the PUCO for most of their residential services. A tariff is a document describing the rates, terms and conditions of service by which both the customer and company are bound. The new law removed this requirement for some services, creating a circumstance in which customer and company relationships for those services are now based on individual agreements between the parties.

The PUCO denied OPTC's application for rehearing in March.

Case No. 10-1010-TP-ORD

OCC recommends no action on proposals for changes in intercarrier access charges

As part of a case that resulted from Ohio's 2010 telecommunication's law, the Office of the Ohio Consumers' Counsel (OCC) in January urged the Public Utilities Commission of Ohio (PUCO), to take no action on proposals for intercarrier access reform. Intrastate access charges are paid to local telephone carriers by long distance and wireless carriers for calls that originate and terminate in different local calling areas within the same state. If the access charges that local carriers collect are reduced, the local carriers may look to consumers to make up the difference from the reduced charges.

In recommending the PUCO not approve its staff's plan to change Ohio's system of assessing intercarrier access charges, the OCC told the PUCO any action it took would be superseded by the Federal Communications Commission (FCC). The FCC took up the issue of intercarrier compensation early

in the year and subsequently issued a comprehensive order in October reforming intercarrier access. The FCC's order is applicable to access charges set at the state level as well as federal access charges.

The new state telecommunications law gave the PUCO the authority to reduce access rates but did not require this action. In response, the PUCO Staff had proposed reductions that would affect small- and medium-sized incumbent local exchange carriers. The plan also called for the creation of a statewide fund from which small and medium carriers could recoup the revenues lost through access charge reductions. All Ohio carriers offering local and/or long distance service would be required to pay into the fund and allowed to recover such contributions from their customers.

The OCC said the four largest telephone companies in Ohio have already reduced access charges and their customers have already paid to keep those companies financially whole. Requiring all Ohio telecommunications customers to pay a charge they would not receive a benefit from should not be allowed, the OCC said. Instead, the OCC recommended the PUCO require telephone companies that lower their access rates to recover lost revenues from only their own customers.

The PUCO appealed the FCC's decision and did not issue a ruling in the state proceeding in 2011.

Case No. 10-2387-TP-COI

OCC contests basic service rate increase for Cincinnati Bell Telephone customers

Over objections from the Office of the Ohio Consumers' Counsel (OCC), Cincinnati Bell Telephone (CBT) was allowed to raise rates in 2011 for basic local service in four exchanges – Bethel, Reily, Seven Mile and Shandon. The customers' basic monthly service rates were increased from \$18.95 to \$20.20,

the maximum increase allowed by Ohio law. Basic service rates also increased in several other exchanges for which the Public Utilities Commission of Ohio (PUCO) had previously granted CBT approval.

Under the new law, an application is considered approved if the PUCO does not issue a ruling within 30 days stating that statutory requirements have not been met. The PUCO did not rule against CBT in this case, allowing the increases to take effect automatically.

Case No. 10-3108-TP-BLS

OCC opposes Lifeline surcharge to Cincinnati Bell Telephone customers

The Office of the Ohio Consumers' Counsel (OCC) asked the Public Utilities Commission of Ohio (PUCO) to suspend, pending a further review, Cincinnati Bell Telephone's (CBT) request for a "Lifeline Recovery Surcharge" to be paid by non-Lifeline customers. The Lifeline program provides discounts off the cost of establishing service and monthly telephone rates for low-income consumers.

Upon passage of Ohio's new telecommunications law in 2010, telephone companies were permitted to collect the costs of the Lifeline program from non-Lifeline customers through a surcharge on bills.

However, the OCC said the proposed Lifeline surcharge included increases CBT was previously unable to collect from Lifeline customers before changes to the law went into effect.

Because the PUCO did not issue a ruling on the OCC's request within 30 days, the monthly Lifeline surcharge of 35 cents per line to non-Lifeline customers automatically went into effect on May 1.

Case No. 11-1339-TP-ATA