Office of the
Ohio Consumers' Counsel

Residential Utility Consumer Advocate

HOUSE PUBLIC UTILITIES COMMITTEE

HB 276

Submitted by:
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TESTIMONY OF
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BEFORE THE
HOUSE PUBLIC UTILITIES COMMITTEE

Good afternoon, Chairman DeGeeter, Vice Chairwoman Williams, Ranking Minority Member Bacon and members of the committee. I would like to thank you for the opportunity to testify before you in opposition to HB 276. My name is David Bergmann and I am an Assistant Consumers' Counsel with the Ohio Consumers' Counsel ("OCC"), which is the state agency representing the interests of residential customers of investor-owned public utilities. I began my service with the OCC in 1982, and in my earlier years was Consumer Services Attorney and a Supervising Attorney. I was Legal Director of OCC for six years.

I am also testifying before you today in my capacity as Chair of the Telecom Committee of National Association of State Utility Consumer Advocates (NASUCA). In my testimony today, I will provide, in part, a national perspective on Ohio's proposed telephone deregulation legislation.

I have specialized in telecommunications matters since 1992. As part of that specialization, I have participated in the major telecommunications proceedings at the Public Utilities Commission of Ohio ("PUCO"), including the original alternative regulation cases for the incumbent telephone companies under H.B. 563 passed in 1989. Those cases led to consumer benefits negotiated with the companies, including the first-ever reductions in customers' basic service rates, agreed to by Ameritech Ohio, the predecessor to AT&T Ohio. Then there were the elective alternative regulation (alt. reg.) cases under "off-the-shelf" rules that were adopted by the PUCO in 2001 in response to the telephone companies' complaints about the earlier alt. reg. process. Most recently I have been involved with the basic service alternative regulation cases under H.B. 218 that became effective in 2005.

Also relevant to my testimony today and as referenced above, I have served as Chair of the Telecommunications Committee of the National Association of State Utility Consumer Advocates ("NASUCA") since November 2002. NASUCA is a voluntary national association of consumer advocates in more than 40 states and the District of Columbia, organized in 1979. NASUCA's members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions, as advocates primarily for residential consumers.

As Chair of NASUCA's Telecommunications Committee, I am responsible for coordinating the organization's efforts in the telecommunications field. Much of that work consists of filings with the Federal Communications Commission ("FCC") on national issues important for consumers, like universal service, consumer protection and broadband. But we also help to gather information on telecommunications trends in the states where NASUCA members have authority.

In that capacity, in 2008 and 2009 I initiated and compiled the results of a survey of NASUCA members regarding price deregulation and its impacts on customer rates in various states. The results of that survey are attached as Appendix A, and show that, where rates are deregulated, they tend to increase. As mentioned in prior testimony, this is not the result you would expect in a truly competitive environment. It is also not the result you would expect in an increasingly electronic and computerized network. And, it is certainly not the result we would want for Ohioans, especially in today's economy.

<u>The NASUCA Rate Survey</u>

We sent out the survey to all NASUCA members; responses were received from 26 jurisdictions.[1] The following discussion is based on responses from Alaska, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Hawaii, Illinois, Indiana, Iowa, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, New Jersey, New York, Nevada, Ohio, Pennsylvanian, Texas, Utah, Washington and Wyoming. The survey focused on the largest carriers in each state, typically AT&T, Verizon or Qwest .

The survey looked at three basic groupings of service. First, intraLATA toll, which are local toll calls made within a defined access area but not covered under a customer's basic local service plan, that are under state commission jurisdiction. This is one area where the presence of competition is fairly well established. IntraLATA toll has pretty much been price-deregulated. (For ease of reference, further references to "deregulation" should be understood to refer only to deregulation of prices; other forms of regulation (i.e., service quality) are not considered here.)

Second, the survey looked at non-basic services. These have often been found to be competitive or otherwise been price-deregulated, because of their optional nature. In many states, service bundles that include basic service are grouped with these optional services. Apart from bundles, the survey focused on the most popular vertical services (Caller ID, call waiting and call forwarding).

[1] Appendix A includes information from Wisconsin, which does not have a NASUCA member, based on a Wisconsin Public Service Commission report.

Finally, there is basic service, which may or may not be specifically defined in each state. It has tended to be the last to be price-deregulated, especially as a stand-alone service, not part of a bundle. This basic service, especially where provided on a stand-alone basis, is what is under debate in Ohio today. All other services already are price-deregulated, and even basic service is eligible for price deregulation if the PUCO approves a showing of competition in the incumbent telephone company's service territory. The telephone industry is asking to deregulate this last protected rate, without a showing of competition. The results of the survey we conducted show why this limited price regulation is necessary for protecting consumers from increased telephone rates.

The results of the survey showed that in 21 jurisdictions, intraLATA toll is deregulated.[2] There were some reporting inconsistencies on intraLATA toll increases, but seven jurisdictions indicated that there had been increases,[3] while eight others reported no increases; one reported increases and decreases; one reported some decreases.

Non-basic services are deregulated in 20 jurisdictions (one additional for new services only); only four jurisdictions report that these services are NOT deregulated. In most of the states reporting deregulation, there has been a finding that the services are subject to competition. All states reporting deregulation indicated that bundles that include basic service were among the deregulated services.

Only three of the 20 jurisdictions that have been deregulated have NOT seen increases in the rates for those services. Not all responders specified the amounts of the increases. For those who did, the increases seen have ranged from eight percent per year to one-hundred percent.

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[2] AK and DC have no LATAs.

[3] CA reported that the increases had been "too numerous to count."

Then there is basic service. There were 15 jurisdictions that reported a statutory definition of basic service.

In nine jurisdictions, there have been findings that basic service is competitive, although some of those findings are limited to particular areas.[4] In 13 jurisdictions, there have been no such findings. In two of the jurisdictions with a competitive finding, basic service rates are no longer regulated; the remainder of the jurisdictions (including those without competitive findings) have some limitations on the increases.[5]

Actual increases in the jurisdictions with competitive findings range from $2.00-$3.22 per month. Increases in jurisdictions without competitive findings have also occurred.[6] In only three jurisdictions have there been basic service rate decreases; in all of those, basic service rates are fully regulated.

In sum, rate increases have resulted in the majority of jurisdictions where price deregulation has occurred. Ohio is no different. In response to the previous efforts which deregulated the price of bundled services, telephone companies in Ohio have consistently raised rates for these services. We believe that Ohioans across the state will be faced with higher telephone bills if HB 276 passes in its current form.

Deregulation in Other States

In proponent testimony, particularly in that of Mr. Tim Owens of Cronin Communications, there are have been numerous generalizations about telecom

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[4] For example, in AK, the findings apply in Anchorage, Fairbanks and Juneau; in OH, the findings are on a company-by-company, exchange-by-exchange basis.

[5] For example, AK has an 8% per year price increase cap; CA is considering transitional price caps for after the current caps expire in January 2009; IL limits increases to $1 per year for access and $0.05 per year for usage; NY caps its basic rate at $23 per month.

[6] For example, FL has increases under an overall price cap; MN will see a $1 increase in 2009 under its AFOR plan; NJ will see three years of increases, from the current $8.95 a month up to $16.45 a month.

deregulation in other states. Mr. Owens listed 26 states that he said have been engaged in such efforts. He focused on 5 states, Alabama, California, Georgia, Indiana, Michigan, but included 21 others on his list. These generalizations are not very helpful; in this as in other matters, the devil is in the details and there are many details to consider.

As Appendix B shows, there is substantial variation among these states in which deregulation has occurred, on the three key issues of basic service rate deregulation, broadband deployment requirements, and service quality protections. In fact, only nine of the 26 states have deregulated their rates as much as Ohio's proposed legislation. Below is a brief summary of the information as provided in the attached chart.

Basic Service Rate Deregulation

In 17 of the states, price deregulation of basic service is allowed only upon a company-specific, sometimes exchange-specific showing of competition, much like under the PUCO's current basic service alt. reg. rules. This means that in only nine states have they deregulated with no required showing of competition as is being requested by the telephone industry in this legislation. Stated differently, what we currently do in Ohio is what the majority of the states that have passed deregulation legislation are doing. Indeed, as Mr. Owens failed to reveal, the deregulatory efforts in Alaska, Arizona and California have not been the result of legislative change but of state commission action. Thus in those states, as in Ohio, most of what the telephone industry seeks could be accomplished under existing law.

Service Quality Protections

While many states have reduced or limited their consumer protection related regulations, few have gone as far as what is proposed in Ohio's legislation, by establishing under statute a limited number of protections that apply only to basic service, and depriving the state commission of the ability to establish other standards. Most of the states maintain detailed service quality rules, like the PUCO's Minimum Telephone Service Standards.

Indiana is held out as a model for deregulation. However, in Indiana, telephone companies are subject to the full effect of the state equivalent of the Consumer Sales Practices Act (CSPA). In HB 276, the telephone companies would remain free from the CSPA, and the proposed statutory CSPA-lite provisions that would apply to them contain a "where practicable" loophole that other competitive companies do not have. This gives the telephone companies the discretion to determine when it is practicable for them to provide customers with information. Therefore, HB 276 actually allows telephone companies to have fewer regulations than their wireless or cable competitors, which all have to comply with the standard Consumer Sales Practices Act.

Data from OCC's call center shows the range of complaints about telephone service that consumers make. We are able to resolve many of these complaints because of the very existence of the PUCO's minimum service standards regulations; without the MTSS, the telephone companies would have little incentive to correct their inadequate service.

Deregulation vs. Economic Development/Broadband

While the telephone companies have suggested that deregulation will likely lead to economic development in Ohio, the legislation as proposed, contains no such commitment to economic development. In fact, eight other states – including Indiana – have required economic development in exchange for further deregulation. These states understood that without such concrete requirements, the telephone companies' promises of the benefits of deregulation being investments and jobs are likely to be hollow, unfulfilled promises.

With regard to the impact of regulation on investment, I would like to refer to a remark by Blair Levin, who is now head of the massive National Broadband Plan efforts at the FCC. In 2006, he was a Wall Street analyst, who was invited to testify before the US Senate Committee on the Judiciary on "Reconsidering Our Telecommunications Laws: Ensuring Competition and Innovation." One of his key points is crucial to the telephone companies' rationale for this legislation: "Regulation is not the sole or even primary driver of investment decisions for network infrastructure."

I would suggest that this is particularly true when considering the type of deregulation being contemplated under this bill: that is, removing regulations to protect consumers against unwarranted price increases, and regulations designed to ensure that telephone companies provide quality service to their customers.

In his testimony, Mr. Owens cited some studies from around the country to show the benefits of deregulation. For instance, he cited a Ball State University Digital Policy Institute study, "An Interim Report on the Economic Impact of Telecommunications Reform in Indiana." It is clear from the Executive Summary that this was designed solely to promote the "benefits" of the earlier Indiana legislation, without even mentioning any possible negative impacts.

The study does express the benefits of broadband expansion in Indiana, including new jobs. But, in keeping with the deregulatory bias of the study, it never even mentions that the Indiana legislation **required** telephone companies to make broadband deployment. Even so, much of the broadband expansion cited by the study is by wireless companies, municipalities and cable companies that were not "deregulated" by the legislation.

Another benefit that the Indiana study claims for the legislation arises from the video franchising piece of the bill. (The same holds true in Michigan,[7] and in California, as cited by Mr. Owens.) Statewide video franchising was accomplished here in Ohio two years ago, but those benefits are completely separate and distinct from the deregulation of telecommunications services covered by the proposed HB 276.

The claims of benefits that have been attributed to HB 276 are thus misleading. First, the claimed costs of regulation that would be eliminated by the bill are unquantified and uncertain; and second, the claimed benefits that will come are equally uncertain and will not be for the benefit of the telephone consumers who are likely to be harmed by the bill.

Access Charges and Revenue Neutrality

Finally, I would like to address the subject of access charges, which was brought up by Mr. Jones and Mr. Burt in their testimony on behalf of Sprint. "Access charges"

[7] Likewise, the benefits of reform legislation in Michigan that Mr. Owens cited were from video franchising reform, as shown by the Michigan State University/Ball State University study he mentioned. See http://www.bsu.edu/digitalpolicy/media/pdf/michiganwhitepaper.pdf.

are the costs that carriers pay to access the networks (and the customers) of other carriers, such as when a customer of Sprint calls a customer of AT&T Ohio or calls a customer of Windstream Western Reserve. "Interstate" access charges are set by the FCC; "intrastate" access charges, for calls within Ohio, are set by the PUCO. The bill as currently drafted allows the PUCO to reduce intrastate access charges, but requires the PUCO to make such changes on a "revenue neutral" basis, that is, replacing every dollar lost due to the access charge reduction with a dollar gained from ratepayers. The words "revenue neutrality" really mean a guarantee of revenues to the local telephone companies. No other industry would be allowed such a guaranteed revenue replacement in a supposedly competitive environment, and this provision of the bill is inconsistent with the competitive paradigm under which the telephone companies say they are operating. We strongly oppose any such provision.

Sprint's proposal would **require** the PUCO to reduce intrastate access charges to interstate levels. Sprint agrees to the revenue-neutral revenue replacement – understandable because the revenue replacement would not likely come from Sprint – and also agrees to the creation of a state fund for that replacement – again understandable because most of the payments into the fund would come from other Ohio customers. A state fund would require customers of companies that have already lowered their access charges to pay to support the revenues of companies that are now required to do so. Thus under Sprint's proposal, customers of AT&T Ohio – whose intrastate access charges are already at interstate levels – would pay to support the revenues of Windstream, which earned a five-year average return on equity of 26.78%, and other incumbent telephone companies.[8] Customers should be protected in the bill against the rate increases that would be the likely result of a requirement for revenue neutrality in access charge reductions.

Lastly, I have included two other appendices that may be of interest to the committee.

To show the growing concern for the proposed legislation, OCC has joined together with more than twenty other local and statewide groups to form Ohioans Protecting Telephone Consumers (OPTC). As more consumers, senior, and low-income groups have become aware of HB 276 and SB 162, more groups have continued to join Ohioans Protecting Telephone Consumers. Appendix C lists all of the groups that currently comprise Ohioans Protecting Telephone Consumers, opposing the legislation as proposed. Most notably, the Ohio Association of Senior Centers, various NAACP local branches, the Ohio Association of Community Action Agencies, Pro Seniors Inc., Coalition on Homelessness and Housing in Ohio, and the Ohio Farmers Union, are recent additions to Ohioans Protecting Telephone Consumers.

Appendix D is a fact sheet that details the cost and service quality issues of satellite broadband services. Satellite broadband services are offered at a higher cost and with delay/latency issues compared to wireline (DSL and cable modem) broadband services. Therefore, while satellite may be an option for rural Ohioans, it does not offer a competitive product to wireline broadband and in many cases, may not be affordable to some consumers.

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[8] Interestingly, it is not clear how Sprint's proposal would impact a competitive company like McLeod, which Sprint's testimony identifies as having very high access charges.

Conclusion

As shown from the experience in other states, telephone rate deregulation has lead to significant rate increases. OCC is opposing this bill in its current form because it allows telephone rates to increase with no economic development commitment in return. We urge the committee to consider a commitment to broadband, or other beneficial developments in exchange for the extended ability for telephone companies to raise rates.

In addition, other states have maintained consumer protections while also deregulating various aspects of their telecom industry. We urge this committee to do the same, and retain the most important consumer protections in the Minimum Telephone Service Standards, such as the current disconnection, reconnection, outage and credit, deposits and installation standards. We also urge the committee to close the Consumer Sales Practices loophole by removing the "where practicable" language. Without these critical consumer protections, OCC will be left with little leverage to protect consumers.

Lastly, we urge the committee to restore the current Lifeline low-income benefit program. We are glad that the eligibility requirements are going to be restored, and would encourage the committee to also restore the Lifeline Advisory Boards, and protect Lifeline customers from future rate increases, as well.

Thank you for your time and attention. I would be happy to answer any questions.

APPENDIX A

RESULTS OF THE 2008-2009 NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES (NASUCA) RATE SURVEY

The Telecommunications Act of 1996 promised consumers higher quality service and lower prices. We've talked about service quality in other forums; today the focus is on prices.

We sent out a survey to all National Association of State Utility Consumer Advocates members; responses were received from 26 jurisdictions, and I've included information from Wisconsin (which does not have a NASUCA member) based on a state Public Service Commission report. The following discussion is based on responses from Alaska. California, Colorado, Connecticut, Washington, D.C., Delaware, Florida, Hawaii, Iowa, Illinois, Indiana, Maine, Maryland, Minnesota, Missouri, Montana, Nevada, New Jersey, New York, Ohio, Pennsylvania, Texas, Utah, Washington and Wyoming.

The survey focused on the largest carriers in each state, typically AT&T, Verizon or Qwest. Although some states provided information on multiple carriers, in the summary the AT&T, Verizon or Qwest response is treated as governing for the entire state.

We looked at three basic groupings of service. First, intraLATA toll are local toll calls made within a defined access area but not covered under a customer's basic local service plan. This is one area where the presence of competition is pretty well established, although there remain questions of intermodal alternatives. IntraLATA toll has pretty much been price-deregulated. **For ease of reference, further references to "deregulation" should be understood to refer only to deregulation of prices; other forms of regulation (i.e., service quality) are not considered here.**

Second, non-basic services have often been found to be competitive or otherwise been price-deregulated, because of their optional nature. In many states, service bundles that include basic service are grouped with these optional services. Apart from bundles, the survey focused on the most popular vertical services (caller ID, call waiting and call forwarding).

Third and last, there is basic service, which may or may not be specifically defined in each state. It has tended to be the last service to be price-deregulated, especially as a stand-alone service, not part of a bundle.

In 21 jurisdictions, intraLATA toll is deregulated.[1] Some states did not report on intraLATA toll increases, but seven jurisdictions indicated that there had been increases,[2] while eight others reported no increases; one reported increases and decreases; one reported some decreases.

Non-basic services are deregulated in 20 jurisdictions (one additional for new services

[1] AK and DC have no LATAs.

[2] CA reported that the increases had been "too numerous to count."

only); four jurisdictions report that these services are NOT deregulated. In most of the states reporting deregulation, there has been a finding that the services are subject to competition. All states reporting deregulation indicated that bundles that include basic service were among the deregulated services.

Only three of the deregulated jurisdictions have NOT seen increases in the rates for those services. Not all responders specified the amount of the increases. For those who did, the increases have ranged from what might be called "minimal" (8 percent per year) to "massive," with some services' rates doubling.

Then there is basic service. There were 15 jurisdictions that reported a statutory definition of basic service; others did not have such a definition.

In nine jurisdictions, there have been findings that basic service is competitive, although some of those findings are limited to particular areas.[3] In 13 jurisdictions, there have been no such findings. In two of the jurisdictions with a competitive finding, basic service rates are no longer regulated; the remaining jurisdictions (including those without competitive findings) have some limitations on the increases.[4]

Actual increases in the jurisdictions with competitive findings range from $2.00-$3.22 per month. Increases in jurisdictions without competitive findings also have occurred.[5] In three jurisdictions there have been basic service rate decreases; in all of those, basic service rates are fully regulated.

Obviously, these results are not universal, and are subject to some interpretation. But it does appear that the '96 Act's promise of lower prices due to competition has not been met. Exactly the opposite, in fact.

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[3] For example, in Alaska, the findings apply in Anchorage, Fairbanks and Juneau; in Ohio, the findings are on a company-by-company, exchange-by-exchange basis.

[4] For example, Alaska has an 8 percent per year price increase cap; California is considering transitional price caps for after the current caps expire in January 2009; Illinois limits increases to $1 per year for access and $0.05 per year for usage; New York caps its basic rate at $23 per month.

[5] For example, Florida has increases under an overall price cap; Minnesota will see a $1 increase in 2009 under its AFOR plan; New Jersey will see three years of increases, from the current $8.95 a month up to $16.45 a month.

Survey results as of 6/26/09 (* denotes informal response)

I. IntraLATA toll (toll calls made within a defined access area but not covered under a customer's basic local service plan) and non-basic services

"Deregulated" here refers to price deregulation, where the Incumbent Local Exchange Carrier (ILEC) has authority to set its own rates, a/k/a "market-based pricing"[6]
Services addressed in "non-basic service price increases" are CallerID, call waiting and call forwarding.
Blanks are where answer was not determinable from the state response.

State	**IntraLATA toll deregulated?**	**IntraLATA toll price increases?**	**Non-basic services deregulated**	**Competitive finding for non-basic services**	**Bundles including basic service included?**	**Non-basic service price increases**
Alaska	N	N	Y[7]		Y	8% per year
Calif.	Y	Y[8]	Y	Y[9]	Y	N
Colo	Y		Y[10]		Y[11]	
Conn	Y	N	Y	Y	Y	Y
D.C.	N/A		New services only		Y	
Del.	Y	Increases and decreases	Y	Y	Y	N
Fla.	Y	N	N	N	N	Price cap
Hawaii	Y	N	N	N	N	N

[6] In some states, there is a requirement that toll be priced above incremental costs, with no upper limit. Some interpret that as a "price constraint."

[7] In competitive areas

[8] "Too numerous to count"

[9] AT&T, Verizon. Frontier 2006.

[10] Except for per-call blocking, per-line blocking, call trace, busy line verification/interrupt, non-listed/non-pub, white pages listings, some operator services.

[11] Basic service component still regulated.

State	IntraLATA toll deregulated?	IntraLATA toll price increases?	Non-basic services deregulated	Competitive finding for non-basic services	Bundles including basic service included?	Non-basic service price increases
Iowa	Y		Y	Y	Y	
Ill.	Y	Y	Y[12]	Y	Y	Y (57%-175%)
Ind.	Y	Some decreases	Y[13]	Y	Y	Y
Md.	Y		Y[14]		N	
Maine	Y	N[15]	Y[16]	Y	Y	Y; about 100% over 10 years
Mich.*	Y		Y[17]			
Minn.	Y		N		N	Not since 2005.
Mo.	Y	Y	Y	Y[18]	Y	
Mont.	N		N[19]	N		
N.J.*	Y			Y[20]		Restrictions on increases
Nev.	Y	Y	Y	Y	Y	Y; 20%-50% (2007-2008)
N.Y.	N	N	Y	Y	Y	Y

[12] AT&T, 2205 & 2008.

[13] By statute 2006; earlier PUC orders.

[14] Not all non-basic services; under price cap.

[15] But lower rates available from competitors.

[16] Except for directory and operator services.

[17] 1991.

[18] By statute.

[19] Pending case would price deregulate for five years.

[20] By stipulation 5/08.

State	IntraLATA toll deregulated?	IntraLATA toll price increases?	Non-basic services deregulated	Competitive finding for non-basic services	Bundles including basic service included?	Non-basic service price increases
Ohio	Y	Y	Y	Y	Y	Y
Penn.	Y[21]	Y	Y	Y[22]	Y	Y; 6-17% in one year
Texas	Y	N		Y	Y	42%-185% (1999-2007)
Utah	Y	Y	Y	Y		
Wash.*			Y	Y		Rate increases
Wis.[23]	Y		Y	Y	Y	
Wyo.	Y	N	Y	Y	Y	

[21] For Verizon and most ILECs.

[22] Verizon PA and Verizon North.

[23] "Second Annual Report on the Impact of Partial Deregulation of AT&T's Basic Local Exchange Service on Competitive Conditions and on BLES Customers' (October 2007).

II. Basic services

"Deregulated" here refers to price deregulation, where the ILEC has authority to set its own rates, a/k/a "market-based pricing"

State	**Statutory definition of basic service?**	**Competitive findings for basic service?**	**Pricing regime for basic service**	**Basic service price increases**	
Alaska	N	Y[24]	8% per year price cap	$2.25 per month	
Calif.	N[25]	Y	Frozen until 1/2009; PUC considering transitional price caps	Inflation	
Colo.	Y[26]	N[27]	In hearing[28]	Request to increase from $14.88 to $16.99 and up to $18.25	
Conn.	Y	N	Price caps	N	
D.C.	N	N		Two-year rate freeze ends in 2010	
Del.	N	N	Statutory	**Some decreases**	
Fla.	Y	N	Price caps	Annual price cap increases	
Hawaii	Y	N	Fully regulated	N	
Iowa	Y	Y	Not regulated	$2.33	

[24] Anchorage, Fairbanks, Juneau

[25] By PUC decision,

[26] List of services deferred to PUC.

[27] Pricing for other than first lines has been deregulated.

[28]

State	Statutory definition of basic service?	Competitive findings for basic service?	Pricing regime for basic service	Basic service price increases	
Ill.	N	Y	Basic increase no more than $1/year; usage increase no more than $0.05/year	$2 increase for basic; $0.04 for usage	
Ind.	Y	Y[29]	All rate regulation ends 7/1/09	N	
Md.	Y	N	Price caps	$0.50 per month (2006)	
Maine	Y	N	Fully regulated	**Decreases**	
Mich.*	Y		Minimum plan protected		
Minn.	N	N	Limited in AFOR	$1 increase in 2009	
Mont.	N	N	Pending case would reduce rates by $16M, eliminate zone and EAS charges		
N.J.		N	Three years of increases, to $16.45/month, from $8.95/month		
Nev.	Y	As of 2012[30]	Capped.	In 2012.	
N.Y.	Y	Y	Capped at $23	$2, up to cap	
Ohio	Y	Y[31]	Max. increase $1.25/month each year	CBT: $2.50; none yet for AT&T, Embarq	
Penn.	Y	N	Price cap	Y	
Utah	Y	Y	No price limits		

[29] Except for stand-alone basic service.

[30] By statute.

[31] By individual company, by exchange

State	Statutory definition of basic service?	Competitive findings for basic service?	Pricing regime for basic service	Basic service price increases	
Wash.*			AFOR allows $1 one-time increase		
Wis.[32]		Y[33]	No cap after 12/1/07	$3.22 increase 2005-2006	
Wyo.	Y	N	Capped at 2006 levels	Prior to 2006[34]	

[32] "Second Annual Report on the Impact of Partial Deregulation of AT&T's Basic Local Exchange Service on Competitive Conditions and on BLES Customers' (October 2007).

[33] Except for AT&T's 60 smallest exchanges.

[34] State USF means no customer pays more than 130% of statewide average rate.

APPENDIX B

SUMMARY OF DEREGULATORY ACTIVITIES IN STATES NAMED IN CRONIN COMMUNICATIONS TESTIMONY

STATE	BASIC SERVICE RATES	BROADBAND COMMITMENTS/ INCENTIVES	SERVICE QUALITY
Alabama	Incumbent Local Exchange Carriers (ILECs) may opt out of regulation after a commission proceeding showing four competitors; no regulation of basic service rates after 1/1/11. (Alabama Code 37-2A-5, signed 5/8/09).		The Commission has exclusive complaint jurisdiction. (Alabama Code 37-2A-8, signed 5/8/09)
Alaska	Where no carrier has 60% market share, local service rate increase may not exceed 6% in any 12-month period or 15% total in a three-year period. (NOT LEGISLATIVE; COMMISSION ACTION; 3 Alaska Adm. Code 53.240)		The Commission may prescribe standards for measurement. All services tariffed. All services just and reasonable. (Rule 42.05.381)
Arizona	Services commission finds competitive after a proceeding may be increased within limits in the company's tariff and notice to commission. (NOT LEGISLATIVE; COMMISSION ACTION; R14-2-1108, R14-2-1109)		Detailed rules on establishment of customer service, deposits, customer information, etc. (R14-2-503 to 508).
California	Companies generally may raise rates by filing an advice letter and giving customers at least 30 days written notice of the filing. Customers may file a protest within 20 days after the filing. (NOT LEGISLATIVE; COMMISSION ACTION; CPUC General Order 96-B)		Order has minimum service quality measures such as installation, trouble reports, answer time, outages. Reporting requirements based on level of competition. Quarterly reporting. (General Order 133-C)
Colorado	Price ceiling for reregulated basic service under commission approved alternative regulation after showing of effective competition and public interest determination. (CRS 40-15-207; 40-15-302)		The Commission has detailed rules on deposits, disconnection, restoration, billing, etc.
Connecticut	Commission may reclassify a service as competitive, emerging competitive or noncompetitive, based on competition for the service. (12 CA 16-247f). Cellular service subject to regulation (but with ability for forbearance under certain conditions (Section 16-250b)		Service quality standards for trouble reports, appointments met, installation, outages; semiannual reports filed publicly. (12 CA 16-247 g-2)
Florida	If commission determines that the level of competition warrants, the company may, on 30 days' notice, adjust its basic service rates once in any 12-month period in an amount not to exceed the change in inflation less 1%. A rate increase over the cap may be granted only after a hearing and a compelling showing of changed circumstances. (Statute 364.051(3))		Statutory regulation of billing practices. (Statute 364.604)
Georgia	Basic service rates capped at the rate in effect on the date the company becomes subject to alternative regulation for five years; increases based on inflation rate (OCGA 46-5-166)	Company must commit to provide basic service on reasonable request and to invest $500 million per year for five years to improve and strengthen telecommunications (OCGA 46-5-165)	Commission has rules on deposits, service disconnection, etc. (Rules 515-12-1-.28)

STATE	BASIC SERVICE RATES	BROADBAND COMMITMENTS/ INCENTIVES	SERVICE QUALITY
Hawaii	Carriers may have pricing flexibility for services that the commission finds are effectively competitive provided that rates for basic service and services not effectively competitive are cost-based and are just, reasonable and nondiscriminatory, and universal service is preserved and advanced; commission may exempt a provider or service, after notice and hearing, from most regulation if the exemption is in the public interest. (HRS §269-38; 269-16.9)		Commission has adopted rules regarding refunds for service interruptions, deposits, outages, etc.
Idaho	No regulation of basic service rates in an exchange if commission finds effective competition exists for basic service throughout the exchange. (Idaho Code 62-622(3))		Commission has adopted rules on repair standards, deposits, disconnections, reconnection, etc.
Indiana	No cap on basic service rate increase, but requires all basic service providers to offer flat rate, not measured, service. (IC 8-1-2.6-1.3)	Company must offer broadband to at least 50% of households in the exchange area not later than 18 months after first rate increase, at an average speed of at least 1.5 Mbps downstream and at least 384 kbps upstream. Failure means either a refund to customers, or a civil penalty, in an amount equal to company's incremental revenue from all basic service rate increases in the exchange under the statute, plus interest. (IC 8-1-2.6-1.3)	No commission jurisdiction over service quality except for annual reporting requirement. (IC 8-1-2.6-13)
Illinois (all statutes are slated for repeal on 7/1/2010)	Alternative regulation for noncompetitive services on petition: basic rate capped at rate in effect 180 days before filing of the plan for the first three years, basic residence rates no higher than those rates in effect. Plan may reduce rates. (220 ILCS 5/13-506.1(b)). In absence of petition under 13-506.1, ILECs, with more than 35,000 lines subject to rate of return regulation. NOTE: AT&T residential services recently classified as competitive per 13-502, although order on appeal.	Every ILEC shall offer or provide advanced telecommunications services to at least 80% of its customers by January 1, 2005. (220 ILCS 5/13-517)	Statutory minimum standards for basic service: automatic credits for failure to repair within 24 hours, failure to install within five days and failure to keep service appointments. (220 ILCS 5/13-712)

STATE	BASIC SERVICE RATES	BROADBAND COMMITMENTS/ INCENTIVES	SERVICE QUALITY
Iowa	Pursuant to Iowa Utilities Board decision allowed by statute, as of July 1, 2008, there is no retail rate regulation in Iowa. Thus basic service rates are deregulated. (Iowa Code 476.1D)	Company electing to increase flat-rate residential rates shall offer digital subscriber line broadband in all of its exchanges within 18 months of the first rate increase. Failure may mean civil penalty or refund of all incremental revenue resulting from the rate increase. (Iowa Code 476.1D)	
Kansas	Carriers may elect price cap regulation that may be revoked if carrier violates minimum service quality standards and fails to correct the violation. As of 7/1/06, bundles price deregulated, but cannot be priced higher than total a la carte rate. All services, including basic service, price deregulated in exchanges with less than 75,000 lines. All services, including basic service, may be price deregulated if LEC can demonstrate there are two or more nonaffiliated carriers providing service to more than one customer. One of the nonaffiliated carriers must be facilities-based, and not more than one of the nonaffiliated carriers may be a wireless carrier. (Kansas Code 66-2005; 66-2005a)	Regulatory reform plans also shall include commitments to provide broadband services to any hospital, any school, any public library or other state and local government facilities at discounted prices and basic rate integrated services digital network (ISDN) service at uniform prices throughout the carrier's service area, and must reduce intrastate access charges to interstate levels. (Kansas Code 66-2005; 66-2005a)	Have standards on billing and disconnection (adopted in 1983, docket no. 120,408-U)
Michigan (statutes sunset 2009)	A provider may reduce or increase its basic service rate within specified parameters; only one rate increase for each regulated service during any 12-month period. (MCL 484.2304)		The Commission may publish rules to enforce quality standards for basic service. (MCL 2202)
Missouri	Basic service may increase up to Consumer Price Index. Company may petition to increase rate up to $2 per year for four years. Total pricing flexibility where effective competition shown. If at least 55% of territory is competitive, can increase to statewide average, up to $2 per year. (Code 392.245)		Has service quality regulations for repair and installation, as well as billing and disconnection.
Nebraska	Basic rate increases with 90-day notice to customers where, after notice and hearing, commission determines there is competition. Automatic review if a company files to increase basic rates by more than 10% in any consecutive 12-month period. (Statute 86-144; 86-146)		The commission shall regulate service quality and shall investigate and resolve subscriber complaints concerning service quality, subscriber deposits, and disconnection of service. (Statute 86-123)

STATE	BASIC SERVICE RATES	BROADBAND COMMITMENTS/ INCENTIVES	SERVICE QUALITY
Nevada	On competitive showing at commission (made by AT&T and CenturyLink), basic rates capped until 1/1/11; may increase by $1 until 1/1/12, then no cap. (NRS 704.68877) Other ILECs categorized as "small-scale providers of last resort" and remain rate-regulated. Have opportunity to seek classification as a competitive supplier (upon showing of competition). No such application yet.		
New Jersey	Companies petition for alternative regulation. (48:2-21.18) Board of Public Utilities determines which services are competitive and may not regulate them. (48.2-21.19) Verizon pricing flexibility for basic service: rate caps of $3.00, $2.50 and $2.00 in first three years. (Order, Docket No. TX07110873)	Under the current alternative form of regulation, there are broadband commitments identified as Opportunity New Jersey (ONJ).	The Board still regulates service quality for retail services and for wholesale services.
North Carolina	ILEC may seek pricing based on changes in generally accepted indices of prices; to approve, commission must find that plan protects the affordability of basic service, reasonably assures continuation of basic service that meets reasonable service standards, will not unreasonably prejudice any class of customers and is otherwise consistent with the public interest. (NC Code § 62-133.5(a)) HB1180 (6/30/09): allows annual basic rate increase by a percentage that does not exceed the prior year increase in the GDPPI unless authorized.		HB1180: new section 62-133.5(k) – to evaluate affordability and quality of local exchange service, company offering residential basic service reports annually to General Assembly on the state of competition, including access line gain or loss and impact on consumer choices; analysis of service quality based on customer satisfaction studies; analysis of level of local exchange rates
South Carolina	Basic rate capped at existing rate for two years; then may increase based on inflation. Must have competitive showing. (SC Code 58-9-576)		
Tennessee	ILECs may elect market regulation upon competitive showing. (TN Code 65-5-109(m)-(o))		ILECs remain subject to state consumer protection act and commission jurisdiction over complaints (TN Code 65-5-109(p)). Commission has adopted service quality standards
Texas	Markets unregulated if at least 100,000 population; markets of 30,000-100,000 population must have at least three competitors, at least one providing residential service. Commission develops test to deregulate markets under 30,000. (Utilities Code 65.051-65.204). Companies that have only some markets deregulated have some pricing restrictions and must reduce access charges.		Service Quality standards (Texas Administrative Code, Chapter 26 §26.54)
Utah	ILECs may be exempt from price regulation upon showing of effective competition; commission must consider impact on captive customers. (UT Code 54-8b-3)		Commission may adopt rules for service quality standards (including billing credits); no requirements greater than existed on 1/1/05.

STATE	BASIC SERVICE RATES	BROADBAND COMMITMENTS/ INCENTIVES	SERVICE QUALITY
			(UT Code 54-8b-3.3)
Virginia	After notice and hearing, commission may find any ILEC's service to be competitive and regulate those services equally with competitors' services. (VA Code § 56-235.5)	If a telephone company provides 90% or more of its residential and business lines access to broadband service within an exchange area, the commission shall apply the same regulatory treatment already adopted for those services in competitive areas. (VA Code § 56-235.5:1)	Commission has regulations concerning disconnection and repair standards. (20 VAC Chapters 413 and 427)
Wisconsin	Upon application to commission and a public interest finding, basic service may be price regulated: rates capped at current levels for three years, except large companies must reduce rates by 10%; thereafter, increases limited by GDPPI. (WI Code 196.195)	Must submit to commission a six-year plan for infrastructure development; large companies must commit to at least $700 million investment for first five years. (WI Code 196.196)	

APPENDIX C

OPTC

Ohioans Protecting Telephone Consumers

Office of the Ohio Consumers' Counsel
AARP Ohio
Advocates for Basic Legal Equality
Appalachian Peace and Justice Network
Citizens Coalition
Coalition on Homelessness and Housing in Ohio
Columbus NAACP
Communities United For Action
Concerned Citizens Against Homelessness
Empowerment Center of Greater Cleveland
NAACP Marion Ohio Unit
Neighborhood Housing Services of Toledo, Inc.
Ohio Association of Community Action Agencies
Ohio Farmers Union
Ohio Poverty Law Center
ONYX (Organized Neighbors Yielding eXcellence)
Ottawa County Transitional Housing
Pro Seniors Inc.
Toledo Branch NAACP
Urban Appalachian Council
Ohio Association of Senior Centers, Inc.

APPENDIX D

Satellite Broadband Service Fact Sheet

Satellite service provides an option for rural Ohioans who would like to obtain broadband service but are not serviced by DSL or cable modem broadband. However, satellite broadband is not an equivalent competitive option due to high costs (including monthly fees and set up/equipment fees) and delay/latency issues (as seen by slower download and upload speeds in the comparison charts below).

The need for statewide broadband coverage to spur business development is well-known. However, if a business needed to obtain higher speeds (5.0 Mbps or above), a rural business would pay $349.99 per month for satellite service, while an urban business could get similar service for just $35 per month. This illustrates why broadband expansion throughout Ohio is a crucial element to economic growth in the state.

A review of typical satellite broadband plans follows:

DISH Network	Monthly Cost	Download Speed	Upload Speed
Silver Plan	$49.95	768 kbps	128 kbps
Gold Plan	$69.95	1 Mbps	200 kbps
Platinum Plan	$79.95	1.5 Mbps	256 kbps
Equipment Rental Fee : $100 one-time charge (all plans)			

HughesNet	Monthly Cost	Download Speed	Upload Speed
Home Plan	$59.99	1 Mbps	128 kbps
Pro Plan	$69.99	1.2 Mbps	200 kbps
Pro Plus Plan	$79.99	1.6 Mbps	250 kbps
Elite Plan	$119.99	2 Mbps	300 kbps
ElitePlus Plan	$189.99	3 Mbps	300 kbps
ElitePremium Plan	**$349.99**	5 Mbps	300 kbps
Equipment Options (all plans)			
Purchase Equipment	$299.90 one time installation and equipment charge		
	$199.00 in total rebates currently being offered		
Lease Equipment	$99.00 activation fee ($99.00 rebate currently available) and		
	$9.99 per month equipment lease charge		

In comparison, a review of land-line based (AT&T) and cable-based (Road-runner) service reveals much lower pricing, at higher speeds:

AT&T	Monthly Cost	Download Speed	Upload Speed
DSL Basic Plan	$19.95	768 kbps	384 kbps
DSL Express Plan	$25.00	1.5 Mbps	384 kbps
DSL Pro Plan	$30.00	3 Mbps	512 kbps
DSL Elite Plan	$35.00	6 Mbps	768 kbps
No Activation fee for any of the above plans			

Time Warner	Monthly Cost	Download Speed	Upload Speed
Road Runner High-Speed On-Line Service	$34.95	1.5 Mbps	not specified
Equipment fees*	$50 for cable modem		
	$50 for wireless router		
*Rebate on equipment fees if customers bundles with other services			

Disadvantages of Satellite Services

This comparison shows that consumers who are limited to satellite services for their internet connection and other telecommunications services are at a disadvantage to other consumers who have less expensive and better quality alternatives. Consumers who are limited to satellite services must deal with the following disadvantages:

- Higher cost
- Less-than-ideal alternative for VPN (Virtual Private Networks)
    - Speeds reduced by as much as 50-75%
- Latency issues
    - Latency – the amount of time needed for a packet of data to travel across the network
    - Satellite service requires data to travel up to the satellite and back (about 45,000 miles)
    - Delay is problematic for real time applications, such as equities trading
    - Video streaming does not work well
    - While satellite can address internet access, it does not provide an alternative to telephone service in the way that wireline broadband does