

**Before
The Ohio Senate Public Utilities Committee**

**Testimony on Substitute House Bill 402
(Rate Increases for Basic Telephone Consumers)**

By

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Hello Chair Beagle, Vice-Chair McColley, Ranking Member Williams, and members of the Committee. The Consumer Groups thank you for the opportunity to testify in opposition to this legislation that could result in dramatic price increases for Ohioans' basic wireline telephone service. Also, the bill would change state policy to no longer require that basic service be made available to all Ohioans. (Lines 370-373) This bill is bad for Ohio consumers and should not be enacted.

Here are descriptions of the public interest groups (and Ohioans served) that have joined in this opposition testimony. Greater Edgemont Community Coalition is a neighborhood organization that works for economic development and community empowerment, including affordability and access to telecommunications services, in and around Dayton's Edgemont neighborhood, a low income, primarily African American neighborhood. HARCATUS Tri-County Community Action Organization, Inc. represents approximately 4,000 low income residents of Harrison,

Carroll and Tuscarawas Counties and provides a broad range of services, such as utility assistance, child and adult food programs, clothing programs, and other supportive programming. The Office of the Ohio Consumers' Counsel represents the interests of 4.5 million Ohio households regarding their electric, natural gas, telephone, and water utility services. The Ohio Poverty Law Center works to reduce poverty and increase justice by protecting and expanding the legal rights of all Ohioans living, working, and raising their families in poverty. Pro Seniors, Inc. is a non-profit legal service provider located in Cincinnati, Ohio that works to expand economic opportunities and improve the quality of life for senior residents of Ohio. Also, AARP has opposed this legislation.

A backdrop to the Bill is that the telephone companies already have obtained significant deregulation in Ohio law since 1989, most recently in 2015. The Bill's elimination of the law's remaining bare-bones price protection for consumers is not needed for telephone companies. And it would be bad for Ohioans who use and depend upon basic phone service.

“Basic service” is plain telephone service without a lot of extra features. It allows customers to call within their local community for a flat rate and have access to long distance service and 9-1-1 emergency service. Basic phone service can continue to work for consumers even during electrical outages. It's a low-cost way to maintain contacts with their family, friends, doctors, and emergency services.

Many Ohioans still want this type of service. Basic service customers are often the elderly – who are on fixed incomes – or the poor – who are able to afford the service through discounts provided them from the federal Lifeline program. Rural customers who have limited phone service options also can benefit from basic phone service.

The Substitute Bill allows for pricing increases above what the General Assembly previously determined to be appropriate limits on increases for consumers' basic telephone service. And, after four years, the Bill allows the potential for drastic (unlimited) increases. Thus, the Consumer Groups oppose the Substitute Bill. Also, please note that the Ohio Consumers' Counsel's Governing Board adopted a resolution opposing the legislation (Attachment A). If the Bill is to be enacted, we recommend changes consistent with our proposals today for consumer protection.

The Substitute Bill would allow telephone companies to seek "full pricing flexibility" (meaning no limits on price increases) for basic service four years after the effective date of the Bill. (Lines 568-606) Telephone companies could seek PUCO approval for unlimited rate increases if the General Assembly does not act by then on a PUCO report required by Section 4 of the Bill. The report is to include the number of customers using basic service, the aggregate loss of basic service lines in Ohio since the effective date of the Bill, and the change in basic service rates since the effective date of the Bill. (Lines 668-686) The report must be submitted to the General Assembly three years after the Bill's effective date.

If the General Assembly does not act on the report within one year after the report is submitted, telephone companies may apply to the PUCO for full basic service pricing flexibility (meaning no limits on price increases). (Lines 568-576) In order to be allowed unlimited price increases, a telephone company would have to show (1) that it has lost at least 50 percent of its basic service customers since January 1, 2002, and (2) that the PUCO has previously approved limited pricing flexibility for the telephone company. (Lines 577-593) This standard is inadequate for consumer protection. Unfortunately for consumers, this proposed standard lacks consumer protection because nearly every telephone company in the state could likely *already* make the required

showing regarding the loss of customers. And nearly every telephone company in the state has already received basic service pricing flexibility from the PUCO.

In this regard, before 2010, telephone companies in Ohio had to report the number of customers (i.e., “access lines”) to the PUCO every year. According to the reports, in 2002 there were 4.4 million residential access lines in Ohio. By 2009, the number had dropped to 2.4 million. Thus, Ohio’s telephone companies had reported losing almost half of their landline customers before the basic service pricing law was passed in 2010. It should be noted that losing basic service customers is not the same thing as the telephone companies entirely losing the customers (and their monthly payments). Many customers switched from their telephone company’s basic service to their telephone company’s affiliated VoIP service or their telephone company’s affiliated cell phone service.

According to the Ohio Telecom Association’s 2017 Report that was submitted in the House Public Utilities Committee in January 2018, Ohio’s telephone companies had 1.5 million customers in 2017. And, in comparing this customer number to the Bill’s reference to the 2002 customer number (4.4 million), it would seem that the telephone companies would have *already* met or are close to meeting the standard that is supposed to protect consumers in the Substitute Bill.

The General Assembly’s prior determination to limit price increases to no more than an annual increase of \$1.25 per month should be maintained. But, if the Bill is to be enacted with further price increases, the Bill should not allow increases of more than the \$2 per year (that appears on lines 468-483). There should be *no* allowance of unlimited price increases for basic service consumers now or four years in the future.

While unlimited price increases for Ohioans' basic telephone service should not be allowed in four years in any event, the standards in the Substitute Bill could be improved. Instead of using the number of basic service customers that the telephone company had as of January 1, 2002 (Lines 580-581), the benchmark should be the number of basic service customers the company has as of the effective date of the Bill.

Also, the report the PUCO must submit to the General Assembly (Lines 668-688) should not only include the number of basic service customers in Ohio on the date of the report, it should also include the number of basic service customers for each telephone company in Ohio on the effective date of the bill. This would provide the General Assembly with some perspective on the status of basic telephone service in Ohio.

The second portion of the test (Lines 494-502) is also problematic for consumers. As discussed in previous testimonies, telephone companies can receive basic service pricing flexibility in an exchange by showing that only two other telephone companies offer service *somewhere* in the exchange. The law lacks (but should have) a requirement that every customer in the exchange will have an adequate alternative to the telephone company's basic service, before the telephone company is allowed to increase prices. Some consumers, especially rural consumers, may have no alternatives to their telephone company's service. Thus, under the proposed test a basic service customer may be subjected to unlimited increases in their monthly bills without being able to switch to another carrier. The General Assembly's test should also include whether all consumers in an exchange have an affordable alternative, including cellular service. In any event, the legislation's allowance of unlimited price increases for basic service in four years is a very bad idea for Ohioans.

In previous legislation, the General Assembly sought to ensure that consumers who face *loss* of their basic service would have reasonable and comparably priced alternatives available to them. The Committee should require that consumers who face unlimited price increases for their basic service be provided reasonable and comparably priced alternatives before the price increases are allowed.

Another consumer concern is the proposed change to state policy. In this regard, the Bill would change state policy to no longer require that all Ohioans have access to adequate basic service. Existing state policy, requiring access to basic service, should be preserved for the protection of Ohioans.

And we continue to have concerns regarding other matters in the Bill: the diminishing of the PUCO's jurisdiction over mergers and acquisitions (Lines 338-353) and the limiting of the PUCO's right to inspect facilities used for telephone service (Lines 648-657). The right of the PUCO to inspect telephone company facilities is important for protecting consumers' service quality. Also, telephone companies should continue to be liable to consumers for the long-standing consumer protection of treble damages (Lines 367-368). Treble damages can avoid service problems and resulting litigation by being an incentive for telephone companies to provide adequate service.

Again, thank you for your interest in this important consumer issue.



Resolution

Office of the Ohio Consumers' Counsel Governing Board

In Support of Preserving Affordable Basic Local Telephone Service with Adequate Quality for Ohioans

- WHEREAS, Electricity, natural gas, telephone, and water services are essential for Ohioans; and
- WHEREAS, In 2013, when the telephone industry was seeking legislation that would have adversely impacted the availability of basic local telephone service for consumers, the Governing Board approved a Resolution for maintaining that service "with price and quality protections for consumers..." (Resolution, June 4, 2013); and
- WHEREAS, The telephone industry (AT&T, Ohio Telecom Association and others) is again supporting legislation to weaken protections for consumers of basic local telephone service, in Substitute House Bill 402 (the "Bill") that was introduced in the 132nd Ohio General Assembly; and
- WHEREAS, It is the policy of the state of Ohio to ensure the availability of adequate basic local exchange service or voice service to citizens throughout the state; and
- WHEREAS, Ohio law appropriately requires local telephone companies to provide basic local telephone service, on a reasonable and nondiscriminatory basis, to all persons in their service areas who request basic local telephone service; and
- WHEREAS, Basic local telephone service is an essential service to thousands of Ohioans, especially for elderly, low-income, and rural consumers who do not have affordable alternatives for the basic local telephone service offered by their telephone company; and
- WHEREAS, Basic local telephone service should provide residential consumers with unlimited local calling at an affordable flat rate with enforceable standards for service quality; and
- WHEREAS, All residential consumers should have access to 9-1-1 emergency communications, particularly in areas where cellular services are inadequate; and
- WHEREAS, Substitute House Bill 402 would allow local telephone companies to increase monthly charges to residential and small business consumers for basic local telephone service by two dollars every year, a significant increase over the annual rate increase (\$1.25) currently allowed by law; and
- WHEREAS, Substitute House Bill 402 could remove, in four years, any limit on increases in monthly charges to residential and small business consumers for basic local telephone service, based on a standard that telephone companies could already meet in most areas of Ohio if Ohio lawmakers take no action to limit monthly charges to customers after a status report by the PUCO is submitted to the General Assembly; and

WHEREAS, The allowance of significant rate increases (and other reductions in consumer protection) through Substitute House Bill 402 could harm consumers of basic local telephone service; and

WHEREAS, In the Ohio House of Representatives the Office of the Ohio Consumers' Counsel testified jointly with the Advocates for Basic Legal Equality, Coalition on Homelessness and Housing in Ohio, HARCATUS Tri-County Community Action, Ohio Poverty Law Center, and Pro Seniors in opposition to Substitute House Bill 402 – and AARP and Southeastern Ohio Legal Services separately testified to their concerns about the Bill – to recommend that legislators protect basic local telephone service consumers by preserving the existing limits on price increases and enforceable standards for service quality.

THEREFORE, BE IT RESOLVED, that the Governing Board of the Office of the Ohio Consumers' Counsel supports the availability of affordable, reasonably priced basic local telephone service with enforceable standards for adequate service quality for residential consumers throughout Ohio.

AND THEREFORE, BE IT FURTHER RESOLVED, that the Governing Board of the Office of the Ohio Consumers' Counsel opposes the enactment of Substitute House Bill 402 as being contrary to the public's interest in the availability of affordable, reasonably priced basic local telephone service for residential consumers throughout Ohio.

I verify that this Resolution has been approved by the Governing Board of the Office of the Ohio Consumers' Counsel, this 15th day of May 2018.



Michael Watkins, Chairman
Governing Board of the Office of the Ohio Consumers' Counsel