



Telecom Industry Obtains from Senate What it Could Not Get from PUCO

May 31, 2022

The Senate Energy and Public Utilities Committee passed a bill Tuesday over the objections of the Office of Ohio Consumers' Counsel (OCC), Ohio Poverty Law Center (OPLC), Pro Seniors, Advocates for Basic Legal Equality (ABLE) and Southeastern Ohio Legal Services (SOLS) that reverses last week's Public Utilities Commission of Ohio (PUCO) decision rejecting telecom industry rule changes to phone companies' obligations as providers of last resort (POLR).

PUCO's proposed rule package in O.A.C. 4901:1-6-21 has been circulating at the Joint Committee on Agency Rule Review (JCARR) since amendments to R.C. 4927 in the 131-HB64 (R. Smith) budget clarified incumbent phone companies' responsibility for basic local exchange service (BLES), especially in areas without adequate cell phone coverage or broadband service supporting voice over Internet protocol (VoIP).

Just last week, the commission unanimously rebuffed OCTA/Ohio's Broadband and Cable Association and Ohio Telecom Association's (OTA) objections to "Rule 21." Both associations oppose the extension of PUCO's regulatory authority over landline service to VoIP -- particularly to guaranteed 9-1-1 access after a phone company withdraws BLES.

"OCTA argues that it was unjust and unreasonable for the commission to extend the reach of its BLES withdrawal rule and regulate voice services, including VoIP services," commissioners noted, attributing similar concerns to OTA.

Rejecting those arguments, they found "R.C. 4927.03.(A) clearly authorizes the commission to exercise its authority over interconnected VoIP or any service that employs technology that became available for commercial use only after Sept. 13, 2010. ...

"This concern is not hypothetical in nature and must be prospectively addressed at the time of this rulemaking rather than waiting until after the occurrence of an injury or fatality. Responsible regulators are charged to protect the public by identifying potential scenarios that may threaten the protection of the public safety and welfare," commissioners concluded.

Speaking for OCC and standing in for OPLC, ABLE and ProSeniors Tuesday, former Sen. Jeff Jacobson countered the argument that last week's committee amendment to HB430 would still protect landline customers without Rule 21. AM3127 bars PUCO commissioners from imposing on incumbent phone companies "any" notice or buildout requirements, withdrawal or abandonment restrictions, or "any other regulatory requirement or restriction that is not generally applicable to the service or the provider."

"The PUCO properly interpreted existing law ... in imposing some of these consumer protection measures that the bill would prohibit," Jacobson said, suggesting the Legislature was looking to "undercut" commission oversight. He noted 360,000 Ohioans still rely on BLES.

"Consumers using this basic service can include, among others, seniors on fixed incomes who are saving money and rural consumers who do not have reliable access to a cell phone signal. There are many at-risk Ohioans who need such low-cost services due to poverty or the working poor, pandemic-related financial difficulties, inflation and soaring energy prices," Jacobson said. "Please do not deny them the regulatory protections of the PUCO."

OTA and OCTA pushed back on Jacobson and SOLS's testimony, telling the committee PUCO was trying to expand its BLES authority unilaterally.

"[Rule 21] requires a sole provider of emergency services to comply with the same withdrawal requirements applicable to BLESS and to continue to provide telephone service to a customer, potentially indefinitely," OTA President Charles Moses said.

"PUCO's extension of additional duties to sole carriers of voice service is not Ohio law," added OTA legal counsel Frank Darr.

OCTA Executive Director David Koren said the commission can impose no restriction on the telecom industry "beyond what the Ohio General Assembly has prescribed in R.C. 4927.07 and 4927.10."

"Certainly, ensuring Ohioans have access to basic voice service is important, and OCTA does not believe this amendment would negatively impact consumers' ability to maintain service," he said.

Moses and Koren submitted written testimony, while Darr spoke at the hearing. Senate Majority Whip Rob McColley (R-Napoleon), committee chair, asked him whether last week's amendment had done anything to diminish PUCO's regulatory authority over BLES under R.C. 4927. Darr said it had not.

This news story is reprinted with the permission of Hannah News.

www.hannah.com/Hannah/NewsStory.aspx?id=223696