

**Before
The Ohio House Public Utilities Committee**

Testimony on Substitute House Bill 402 (-5 Version)

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Hello Chair Cupp, Vice-Chair Carfagna, Ranking Member Ashford, and members of the Committee. The Consumer Groups thank you for the opportunity to testify in opposition to this legislation that can raise the price of Ohioans' basic wireline telephone service. Also, the bill would change state policy to not require that basic service be made available to all Ohioans.

(Line 370-373)

Advocates for Basic Legal Equality, Inc. (ABLE) is a non-profit regional law firm that provides high quality legal assistance in civil matters to help eligible low-income individuals and groups in western Ohio achieve self reliance, and equal justice and economic opportunity. The Coalition on Homelessness and Housing in Ohio (COHHIO) is a nonprofit housing advocacy organization that works throughout the state on issues that impact affordable housing. HARCATUS Tri-County C.A.O., Inc. is a private non-profit corporation which serves Harrison, Carroll, and Tuscarawas Counties, contracting with federal, state, and local governments and other groups to

develop, manage, and deliver human and social services for the betterment of our communities. 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 is a statewide law office that pursues statewide advocacy to protect, enforce and expand the legal rights of low-income Ohioans. Pro Seniors was founded in 1975 as a non-profit organization dedicated to providing legal and long term help to Ohio seniors.

We appreciate that the Substitute Bill does not include some of the provisions in previous versions of the bill that could harm consumers. Particularly, the Substitute Bill does not allow telephone companies to increase the monthly basic service charges that consumers pay by 20 percent per year and does not repeal the service quality requirements for basic service in R.C. 4927.08. Thank you for those changes.

Unfortunately, the Substitute Bill still contains provisions regarding pricing of basic telephone service and other aspects of telephone service that can harm consumers. Thus, the Consumer Groups oppose the Substitute Bill and recommend changes consistent with our proposals today and earlier, before any enactment of legislation.

A new provision in 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 550-593) 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 654-673) The report must be submitted to the General Assembly three years after the Bill's effective date.

If the General Assembly doesn't 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 unlimited price increases). (Lines 550-593) 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. Unfortunately for consumers, this proposed standard lacks consumer protection because nearly every telephone company in the state could likely make the required showing already 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 filed back then, 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 2010.¹ And therefore, 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 entire pricing discussion for purposes of this legislation should be limited to whether to subject consumers to monthly basic service increases of \$2 per year (up from the current \$1.25

¹ But, 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.

limit) that appears on lines 455-479. 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 567-568), the benchmark should be the number of basic service customers the company has as of the effective date of the Bill. The report the PUCO must submit to the General Assembly (Lines 663-676) 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 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 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. There's no requirement that every customer in the exchange have an alternative to the telephone company's basic service. So 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 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 also have reasonable and comparably priced alternatives available.

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 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, and the limiting of the PUCO's right to inspect facilities used for telephone service (Line 635-634), which is important for protecting consumers' service quality (as expressed in earlier testimonies). Also, telephone companies should continue to be liable for the long-standing consumer protection of treble damages (Lines 367-368), which can avoid litigation by being an incentive for telephone companies to provide adequate service.

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