

## **House Bill 402 – Proponent Testimony – Scott Elisar**

Chairman Beagle, Vice Chairman McColley, Ranking Member Williams, my name is Scott Elisar and I serve as the General Counsel for the Ohio Telecom Association. I am here today to offer proponent testimony for House Bill 402 (“HB 402”). HB 402 is an effort to modernize state policy, and level the playing field for all providers in response to the explosive competition we’ve seen in this industry.

HB 402 covers three areas of reform.

First, it expands on the 2010 reforms contained in Senate Bill 162 by providing for additional pricing and regulatory flexibility for what once were monopoly services. Second, it attempts to mirror federal guidance where appropriate. Finally, HB 402 makes other changes in state telecom policy and addresses what can be called “clean-up” items from the last major reform effort.

In summary, here are the reforms contained in House Bill 402:

### **I. Pricing and Regulatory Flexibility**

- Amends the permissive authority currently in Ohio law, upon a showing of at least two competitive providers, to allow annual basic local exchange service (“BLES”) increases of up-to \$2.00 of the BLES rate and also permits a reduction in the BLES rate but not below a carrier’s incremental costs.
- Permits a Small Incumbent Local Exchange Company (“SLEC”) in service areas where the cost to provide landline telecom service exceeds 115 percent of the national average cost per line – to increase their BLES rate, again upon a competitive showing, to meet the FCC High Cost Loop Support floor. Retains PUCO jurisdiction to order a three-year phase in necessary to protect the public interest.
- Four years after the effective date of this legislation, if the Ohio General Assembly fails to act upon a PUCO report addressing landline competition in Ohio, and an Incumbent Local Exchange Company (“ILEC”) can show 50% line loss since 2002, and the PUCO competitive test has been met, an ILEC will be permitted complete BLES pricing flexibility.

- PUCO inspections of plants and facilities can occur in response to customer complaints.
- Customer notice of any change in the rates, terms, and conditions of service shall be directed at any retail service, and any wholesale service in which there is no other applicable notice requirement and any change in an ILEC's operations that are not transparent. Services deemed to be competitive and not required to be tariffed at the PUCO, would be administered through reasonable business practices by the ILEC.

## **II. Mirror FCC Guidance and eliminate regulatory duplication**

- Mergers and acquisitions that are subject to FCC review and approval would require notice to the PUCO of any merger or acquisition filing at the FCC.
- Directs the PUCO to review Lifeline programs and ensure conformance with FCC guidance and requirements.

## **III. Policy Updates**

- Updates Ohio's Telecom Policy statement to ensure the adequacy and reliability of BLES and recognizes competition and market forces in determining the availability, price, and terms of voice services.
- Expands 911 Immunity to include the latest telecommunications technologies and clarifies that the immunity extends to corporate parents and affiliates. Current law provides immunity to officers, directors, employees, agents and suppliers.
- Eliminates never used treble (triple) damages remedy against telephone companies. Telephone companies would remain liable for actual damages.
- Provides that nothing in the Act affects any existing contractual obligations or any right or obligation under federal law or rules.

HB 402 represents common sense business regulation and is the next logical step to maintain and accelerate telecommunications investment in Ohio. The modest reforms proposed in this bill will go a long way toward encouraging investment in Ohio. Thank you for the opportunity to testify.