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Before the Senate Finance Committee - Opponent Testimony on
Telecommunications Provisions of House Bill 64
Presented by: Michael R. Smalz, Ohio Poverty Law Center and
Appalachian Peace and Justice Network (APJN)
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My name is Michael Smalz. I am a Senior Attorney with the Ohio Poverty Law Center (OPLC). OPLC is a nonprofit statewide legal aid office whose mission is to advocate for and protect the legal rights of low-income Ohioans. I am testifying on behalf of OPLC and the Appalachian Peace and Justice Network (APJN). APJN is an Athens County-based community social justice and consumer advocacy organization with a membership of over 200 largely low-income residents of southeastern Ohio. I have represented APJN in various cases before the Public Utilities Commission of Ohio (PUCO). I also currently serve as a member of the PUCO Statewide Telephone Lifeline Advisory Board.

We oppose the telecommunications provisions in the budget bill (HB 64), which would allow the major telephone companies to withdraw their basic landline service to Ohio telephone customers. These provisions are both unnecessary and harmful to Ohio consumers, especially low-income, rural and elderly Ohioans.

FIRST, these provisions are unnecessary because current law already provides a fast-track mechanism for a phone company to obtain PUCO approval to terminate its basic local exchange (BLES) service. The Commission must issue an order granting or denying the company's requested waiver within 120 days of the filing of the company's application. The Commission must grant the company's requested waiver if it finds the waiver to be just, reasonable, and in the public interest, and the applicant demonstrates a financial or technical hardship. The burden is on the company to demonstrate that the termination of basic landline service is in the public interest, instead of placing the burden of proof on the individual consumer.

SECOND, some consumers will be worse off. In some rural areas there is no reliable cellphone or broadband service. Customers with basic local service would lose the

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quality of service standards, including protections from lengthy service outages (including bill credits), security deposit limits, and required pre-disconnection notice notices, while the companies remain exempt from the Consumer Sales Practices Act (CSPA). Even worse, many customers will lose access to comparable quality, affordable phone service, e.g. access to flat rate unlimited local phone service, free 411 directory assistance, and more reliable 911 service. Phone service is a necessity. It is essential to communicating with one's family, friends, medical and social service providers, lawyers, and law enforcement, and many administrative hearings are now conducted by phone. Loss of basic telephone service will leave some customers without adequate and affordable service.

HB 64 would allow an individual customer of a phone company to file a petition with the PUCO objecting to the termination of their BLES service for the reason that they do not have "alternative reasonable and comparatively priced voice service." This is insufficient because the burden is placed upon the consumer to establish that reasonable and comparatively priced alternative service is unavailable. The notice may be buried in the fine print of a bill or bill insert. The customer may or may not receive the notice and may or may not read and understand it. The customer must act within 30 days after the notice of termination of BLES service is provided to the customer. During that short time window, the customer must research alternatives; evaluate those alternatives based on pricing terms, quality of service, and other criteria; determine whether any alternative service is "reasonable and comparatively priced"; obtain legal advice or representation; and then prepare and file a legal petition with the PUCO. This would be an especially daunting challenge for more vulnerable customers.

Furthermore, HB 64 does not require the availability of alternative service that is of comparable service quality, is as reliable as BLES service, or meets the needs of current BLES customers. There are many situations where alternative service is not comparable in service quality to BLES service.

In the first place, BLES and "voice service" are not the same thing. Three key elements of BLES are missing from "voice service": (1) access to telecommunications relay services for the deaf; (2) Caller ID blocking on a per-call basis, which is often an essential service for domestic violence victims and shelters; and (3) access to operators and free directory assistance, which benefit the elderly and those who lack internet access. Meanwhile, voice service provided through IP networks normally requires the purchase of an expensive bundle of services, which many low-income or elderly

customers cannot afford and do not need or want.

In addition, the operation of many medical devices and security systems depends on the operation of landline phones. This is a question of customers' health and safety. Medicaid and access to health care could also be affected. Medicaid MCO's in Ohio complain that they often have difficulty contacting patients who rely on cellphones because their patients have to change phones or run out of minutes on their limited minute cellphone plans. The abolition of basic landline service will exacerbate those problems.

The bottom line is that many customers who lose basic telephone service will end up in one of three situations: (1) with no phone service; (2) with inadequate phone service, or with (3) higher-priced and possibly unaffordable phone service, and in any case without the consumer protections now enjoyed by BLES customers. None of these outcomes are fair to customers or serve the public interest.

THIRD, these provisions are premature. The FCC has initiated an investigative and rulemaking process to address a wide range of technology issues and transitions. This legislation yields too much of Ohio's policy making authority to federal regulators. Under HB 64, the right of the telephone companies to withdraw their basic local landline service is automatically triggered by the FCC's adoption of certain changes. Although the FCC's adoption of a new policy will be a significant development, Ohio should not default to the timing of a future FCC decision without knowing what that FCC policy will be or how it will impact the health and safety of rural, elderly, and low-income Ohioans.

CONCLUSION. For all of these reasons, we urge the Senate to remove the telephone-related provisions in HB 64. We agree with the OCC that requiring PUCO approval for the companies to abandon service is a better approach than putting the burden on consumers to file a legal petition with the PUCO. Alternatively, we urge the Subcommittee to amend the bill to provide greater consumer protections.

1. Expand the time period for a BLES customer to file a petition objecting to the abandonment of their existing service from 30 days to at least 60 days.
2. Allow the OCC to provide consumer assistance to individual consumers.
3. For those lines where the language says the PUCO "may" order the carrier to

provide reasonable and comparatively priced service to the customer, “**may**” should be changed to “**shall.**”

4. Remove the exemption of telephone and telecommunications service from the coverage of the Ohio Consumer Sales Protection Act (CSPA), R.C. 1345.01(A).
5. Add “representatives of low-income and senior citizen organizations” to the list of participants in the PUCO collaborative.
6. Follow the example of our neighboring state of Kentucky, which has exempted areas with fewer than 15,000 households from telecom deregulation.

These changes would be significant improvements, but the better course of action would be to simply remove the telecom deregulation provisions from the budget bill.

Thank you. I am happy to answer any questions.