

House Bill 402 – Proponent Testimony – Scott Elisar

Chairman Cupp, Vice Chairman Carfagna, Ranking Member Ashford, 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 update old laws, modernize state policy, and level the playing field for all providers in response to explosive competition we’ve seen in the past decade.

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 \$1.25 or 20% of the BLES rate.
- 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.
- Eliminates specific prescriptive regulatory service standards for landline basic local exchange service, while retaining PUCO oversight and jurisdiction.

- PUCO inspections of plants and facilities may occur in response to a customer complaint concerning those plants and facilities.
- Customer notice of any change in the rates, terms and conditions of service shall be used for basic local exchange service, and any other services would be governed by reasonable business practices.

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 recognize emergence of competition and market forces.
- Expands 911 Immunity to include 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. Imbalanced regulatory burdens placed on local landline phone companies create an unlevel playing field and inhibit greater investment in their networks. Public policy should create incentives - not barricades - for these investments. The modest reforms proposed in this bill will go a long way toward accomplishing that goal for the entire telecom industry.

Thank you for the opportunity to testify. I'd be pleased to answer your questions.