



Before
The Senate Agriculture Committee
Testimony on Amended Substitute House Bill 490
(Ohioans' Basic Telephone Service)

By
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Chairman Hite, Vice Chairman Balderson, Ranking Minority Member Gentile, and Members of the Senate Agriculture Committee, thank you for this opportunity to testify. I am Bruce Weston, the Ohio Consumers' Counsel. The Office of the Ohio Consumers' Counsel is the state's representative for Ohioans regarding their electric, natural gas, telephone, and water utility services.

My testimony relates to the part of this legislation that affects basic telephone service for Ohioans. This consumer issue appears in the Bill on lines 6240 to 6474 and lines 7906 to 7974. Basic telephone service, under Ohio Revised Code 4927.01(A), means dial tone for a flat monthly rate, with access to 9-1-1, operator services, telephone relay services for the hearing impaired, caller ID blocking on a per-call basis, directory assistance and long distance service, among other things. **I recommend that you protect Ohioans, including rural Ohioans, by removing this deregulatory legislation from the Bill. The legislation is premature and detrimental to Ohioans.**

In this regard, I appreciate Director Zehringer's testimony before this Committee stating the Governor's opposition to this legislation. And I thank Governor Kasich for his leadership to protect the continued availability of affordable basic telephone service for Ohioans.

I tend to favor competitive markets over regulation. But the mere act of deregulating in a law does not mean that a market has or will have effective competition for consumers. That point is applicable to this deregulatory legislation. For example, consumers and business users can carry a cellphone. But the lack of signal on that cellphone in many rural areas of Ohio means that the wireless service is not adequate as an alternative to the local phone company's service for those consumers and businesses.

The telephone companies seek this legislation to, among other things, allow for state consistency with the *future* policy of the Federal Communications Commission (FCC). There is no need for Ohio policymakers to rush to judgment. The FCC is engaged in an historic transition of the public switched telephone network to an Internet-based network. That transition will take time to implement, potentially years to implement, as a telephone company witness acknowledged during questions from this Committee on December 2, 2014. More needs to be known about the FCC's plans. In this regard, the FCC's announcement of some of its intentions, in a mere press release dated November 21, 2014, does not warrant establishing now an Ohio timeline for allowing telephone companies to withdraw basic service or to raise prices above the current statutory price caps.

The General Assembly can reach an informed conclusion in the future about how price and quality protections should be assured for Ohioans using basic service if the need arises from the FCC's plan or otherwise. The need for legislation is not now. This legislation that the telephone companies seek would defer to federal regulators too much, too soon, about Ohio's telephone policymaking.

What follows is a discussion of some of the Bill's specific mechanics that are problematic for Ohio consumers. The Bill would allow telephone companies to abandon basic service with only 90 days of notice to the consumer and the Public Utilities Commission of Ohio (PUCO), upon the FCC's adoption of an order. (Lines 6412 to 6417) This proposal for allowing abandonment of basic service by mere "notice" from the telephone company gives the telephone company, and not the PUCO, control over when customers could lose basic service. That is a bad idea for Ohioans. At a minimum, an abandonment of service should be presented to the PUCO as a request and not as a mere notice of the telephone company's future action. And apparently the abandonment of basic service could be done without any need for proof by telephone companies that there are alternative providers capable of serving the affected customers.

The amendment could allow telephone companies to eliminate their basic landline service and leave consumers with less-reliable service, no service, or higher-priced alternatives (i.e., cable or cellular). Those higher priced alternatives may include service bundles (phone, Internet and cable) that some customers do not want or need.

My above concern about the Bill's questionable default to federal policy is based on the new Section 4927.10 that the Bill would insert in the Revised Code. That provision (lines 6404 to 6417) would exempt the telephone companies from the prohibition in Ohio law against abandoning basic service if the FCC adopts an order allowing telephone companies to withdraw the interstate access component of basic service. This proposal is for a significant change in the law, rather than a mere "tweaking" as a telephone company witness described it during Committee questions on December 2, 2014.

The industry is seeking this legislation despite there already being a law that allows for withdrawal of service. That law is R.C. 4927.11(C). But that law, unlike this Bill, requires the telephone company to prove its proposal to the satisfaction of the PUCO. It makes sense to require that proof, for Ohioans who depend upon the PUCO for protection of their utility bills and service quality. Moreover, the General Assembly has already legislated significant deregulation of telephone service in Revised Code Chapter 4927 with S.B. 162 (2010). This Bill is not needed.

The Bill also would undermine the state policy ensuring the availability of adequate basic local exchange service throughout Ohio, in R.C. 4927.02(A)(1). This result would occur from giving telephone companies the option of providing either basic service or the newly referenced "voice service" as defined in the FCC's rules. (Lines 6344-6345) But basic service as defined in Ohio law and the new voice service are not the same. At least three key elements of basic service 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 utilized by victims of domestic violence and other

customers; and (3) access to operator services and directory assistance, which are most beneficial to the elderly and those who do not have Internet access.

Even where telephone companies transition to Internet protocol networks, there should be a requirement for telephone companies to make a basic telephone service available to customers. Not all customers will want all the added features that can be made available through Internet protocol networks, and certainly not all customers will want (or want to pay for) the bundling of their voice service with Internet access and video (either by cable or satellite). The current law provides pricing and service protections that should be continued for residential and small business customers.

The telephone companies are justifying the legislation, in part, by saying that the Bill has “fail-safe” protections for Ohio consumers. A Merriam-Webster definition for “fail-safe” is “some feature for automatically counteracting the effect of an anticipated possible source of failure.” But the legislation does assure the counteracting of the unavailability of telephone service for Ohioans. There is a collaborative process involving the PUCO, the Consumers’ Counsel, telephone companies, and others. While I appreciate good intentions, that collaborative process may be arduous and unsuccessful, especially if there are numerous customers losing service. For customers not identified by the collaborative, the legislation would require the customer to take action within 30 days after receiving the abandonment notice to try to obtain an alternative voice service. Within those same 30 days, the customer would have to file a petition with the PUCO, in the absence of finding an alternative service. The PUCO would have 60 days to act on the petition. (Lines 6420-6431)

This procedure of the customer petitioning the PUCO would be outside the experience of most Ohioans, who would not have ever filed a petition or anything else at the PUCO. And the procedure presumes that the customer has read, understood and remembered the notice that explained this unusual procedure. Ohioans already have plenty to concern them—children, elderly parents, work, bills and so on—without adding to their list the reading of an obscure notice and filing a petition at a government agency in order to avoid losing their basic phone service. And even if the PUCO orders a telephone company to provide the new voice service, that order could only last two years at most under the proposed law. (Lines 6447-6456) The telephone companies’ alleged fail-safe is not safe for Ohioans. It does not justify this legislation.

The Governing Board of the Office of the Ohio Consumers’ Counsel last year approved a Resolution for consumer protection on this same subject. On June 4, 2013, the Board—a nine-member body appointed by the Ohio Attorney General—voiced its support for “maintaining the most basic telephone service with price and quality protections for consumers....” The Resolution is attached to this testimony.

While I oppose this legislation, I could support one part of it, with a modification. The Bill directs the PUCO to study the transition to an Internet-based phone network. (Lines 7906 through 7917) The study could be beneficial if it were focused on protecting Ohio consumers during the transition to a future network. In this regard, Section 7 (lines 7906 through 7917) should be replaced with the following words: “The public utilities commission shall study the actions of the Federal Communications Commission for a transition from the public switched

telephone network to future network technologies, and shall make recommendations to the Ohio General Assembly for protecting consumers in any such transition.”

In conclusion, I look forward to working with Members of the Committee and the General Assembly on telephone policy, including any future policy adopted by the FCC. Please decline this premature and detrimental legislation. Ohio policy should advance our state’s interest in ensuring the availability of affordable basic telephone service for Ohioans, which has benefits for their families, their communities and the development of their economy. I appreciate that the General Assembly, to date, has protected those benefits of basic service for Ohioans. Thank you.

Resolution

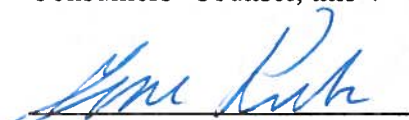
Governing Board of the Office of the Ohio Consumers' Counsel

In Support of Basic Local Telephone Service for Ohio Consumers

- WHEREAS,** Ohioans are dependent upon electricity, natural gas, telephone and water services; and
- WHEREAS,** It is the policy of the state of Ohio to ensure the availability of adequate basic local exchange service to citizens throughout the state; and
- WHEREAS,** Basic local telephone service is an essential service to thousands of consumers, especially elderly and rural consumers; and
- WHEREAS,** Ohio law requires incumbent local telephone companies to provide basic local telephone service, on a reasonable and nondiscriminatory basis, to all persons in their service areas who request basic local telephone service; and
- WHEREAS,** Ohio law provides pricing and service quality protections for basic local telephone service; and
- WHEREAS,** The pending state budget bill (Am. Sub. H.B. 59) may be amended with language that, among other things, could allow incumbent local telephone companies, in as soon as two years and at their option, to transfer customers from regulated basic local telephone service to an unregulated "voice service" that would not have pricing and service quality protections.

THEREFORE, BE IT RESOLVED, that the Governing Board of the Office of the Ohio Consumers' Counsel supports maintaining the most basic telephone service with price and quality protections for consumers and further recommends that, if this subject is to be considered, the subject should be considered in a stand-alone bill separate from the budget bill.

I verify that this Resolution has been approved by the Governing Board of the Office of the Ohio Consumers' Counsel, this 4th day of June 2013.



Gene Krebs, Chairman

Governing Board of the Office of the Ohio Consumers' Counsel