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Senator LaRose

Cosponsors: Senators Seitz, Jones, Manning, Widener, Eklund, Burke,

Coley, Sawyer, Patton, Jordan, Schaffer, Beagle, Hite, Wagoner

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A B I L L

To amend sections 4927.07, 4927.08, 4927.11, and 1
4927.12 and to enact sections 4927.071 and 4927.10 2
of the Revised Code to establish certain 3
exemptions, including permitting the withdrawal of 4
services, for incumbent local exchange carriers 5
determined to be fully competitive, and, regarding 6
the provision of basic local exchange service, for 7
other telephone companies operating in the same 8
areas. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4927.07, 4927.08, 4927.11, and 10
4927.12 be amended and sections 4927.071 and 4927.10 of the 11
Revised Code be enacted to read as follows: 12

Sec. 4927.07. (A) As used in this section: 13

(1) "Exchange area" has the same meaning as in section 14
4927.12 of the Revised Code. 15

(2) "Fully competitive incumbent local exchange carrier" 16
means an incumbent local exchange carrier to which both of the 17
following apply: 18

(a) The carrier has elected the designation as a fully competitive incumbent local exchange carrier by notifying the public utilities commission in writing. 19
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(b) Either of the following applies to each exchange area in which the carrier is an incumbent local exchange carrier: 22
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(i) The commission has made a prior determination that the exchange area qualified for alternative regulation of basic local exchange service under Chapter 4901:1-4 of the Ohio Administrative Code as that chapter existed on September 13, 2010. 24
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(ii) The commission has found or has been deemed to have found that the carrier's application for the exchange area, filed under division (C)(3)(a) of section 4927.12 of the Revised Code, meets the requirements of that division. 28
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(B) Except as provided in divisions (C) and (E) of this section, a telephone company may withdraw any telecommunications service if it gives at least thirty days' prior notice to the public utilities commission and to its affected customers. 32
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~~(B)~~ A (C)(1) Subject to the restrictions in division (C)(2) of this section, a fully competitive incumbent local exchange carrier may withdraw basic local exchange service if it gives at least ninety days' prior notice to all of the following: 36
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(a) The commission; 40

(b) The consumers' counsel; 41

(c) Affected customers, which notice may be provided in any reasonable manner, including a bill insert, bill message, direct mail, or, if the customer consents, by electronic means; 42
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(d) The public in accordance with a rule adopted by the commission that is consistent with the public notice requirements established in section 4909.19 of the Revised Code. 45
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Notice required under this division may be provided before 48

the dates specified in division (C)(2) of this section, so that 49
the withdrawal may take effect on those dates. 50

(2) A fully competitive incumbent local exchange carrier may 51
not withdraw basic local exchange service before July 1, 2013, in 52
any exchange area to which division (A)(2)(b)(i) of this section 53
applies. A fully competitive incumbent local exchange carrier may 54
not withdraw basic local exchange service before July 1, 2014, in 55
any exchange area to which division (A)(2)(b)(ii) of this section 56
applies. 57

(D) Except as provided in division (E) of this section, a 58
telephone company may abandon entirely telecommunications service 59
in this state if it gives at least thirty days' prior notice to 60
the commission, to its wholesale and retail customers, and to any 61
telephone company wholesale provider of its services. 62

~~(C) (E) Divisions (A) and (B), (C), and (D)~~ of this section 63
do not apply to any of the following: 64

(1) Basic local exchange service provided by an incumbent 65
local exchange carrier that is not fully competitive; 66

(2) Pole attachments under section 4905.71 of the Revised 67
Code; 68

~~(3) Conduit and conduit~~ occupancy under section 4905.71 of 69
the Revised Code; 70

~~(4) Interconnection and resale agreements approved under the~~ 71
~~"Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 et~~ 72
~~seq., as amended.~~ 73

~~(D) An incumbent local exchange carrier may not withdraw or~~ 74
~~abandon basic local exchange service.~~ 75

~~(E)~~ A telephone company may not, without first filing a 76
request with the commission and obtaining commission approval, 77
withdraw any tariff filed with the commission for pole attachments 78

or conduit occupancy under section 4905.71 of the Revised Code or 79
abandon service provided under that section. 80

(3) Interconnection and resale agreements approved under the 81
"Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 et 82
seq., as amended. 83

Sec. 4927.071. (A) As used in this section: 84

(1) "Exchange area" has the same meaning as in section 85
4927.12 of the Revised Code. 86

(2) "Fully competitive incumbent local exchange carrier" has 87
the same meaning as in section 4927.07 of the Revised Code. 88

(B) Not later than one hundred twenty days after the 89
effective date of this section, the public utilities commission 90
may adopt a rule that addresses situations in which a fully 91
competitive incumbent local exchange carrier provides notice of 92
the withdrawal of basic local exchange service and no other 93
comparable service is available at one or more customer locations 94
in the exchange area where the service is to be withdrawn. The 95
commission shall establish a competitively and technologically 96
neutral process by which such service may be provided to those 97
customer locations. In doing so, the commission shall rely on the 98
national broadband plan and the connect America fund adopted by 99
the federal communications commission in determining the 100
availability of comparable service and the funding for that 101
service. The commission shall not adopt a funding mechanism for 102
this process or service and shall not order any carrier to provide 103
such service involuntarily to those customer locations. 104

Sec. 4927.08. (A) A Except as provided in section 4927.10 of 105
the Revised Code, a telephone company providing basic local 106
exchange service shall conduct its operations so as to ensure that 107
the service is available, adequate, and reliable, consistent with 108

applicable industry standards. 109

(B) The public utilities commission shall adopt rules 110
prescribing the following standards for the provision of basic 111
local exchange service, and shall adopt no other rules regarding 112
that service except as expressly authorized in this chapter: 113

(1) Basic local exchange service shall be installed within 114
five business days of the receipt by a telephone company of a 115
completed application for that service. 116

(2) A basic local exchange service outage or 117
service-affecting problem shall be repaired within seventy-two 118
hours after it is reported to the telephone company, and the 119
telephone company shall make reasonable efforts to repair a basic 120
local exchange service outage within twenty-four hours, excluding 121
Sundays and legal holidays, after the outage is reported to the 122
telephone company. 123

(3)(a) Except as provided in division (B)(3)(b) of this 124
section, if a basic local exchange service outage is reported to 125
the telephone company and lasts more than seventy-two hours, the 126
telephone company shall credit every affected customer, of which 127
the telephone company is aware, in the amount of one month's 128
charges for basic local exchange service. 129

(b) If the outage is caused by a customer, the telephone 130
company may elect not to credit that customer. 131

(4) No telephone company shall establish a due date earlier 132
than fourteen consecutive days after the date the bill is 133
postmarked for a bill for basic local exchange service provided to 134
end users. 135

(5) A telephone company may disconnect basic local exchange 136
service for nonpayment of any amount past due on a billed account 137
not earlier than fourteen days after the due date of the 138

customer's bill, provided that the customer is given notice of the
disconnection seven days before the disconnection.

(6) A telephone company may require a deposit, not to exceed
two hundred thirty per cent of a reasonable estimate of one
month's service charges, for the installation of basic local
exchange service for any person that it determines, in its
discretion, is not creditworthy.

(7) A telephone company shall, unless prevented from doing so
by circumstances beyond the telephone company's control or unless
the customer requests otherwise, reconnect a customer whose basic
local exchange service was disconnected for nonpayment of past due
charges not later than one business day after the day the earlier
of the following occurs:

(a) The receipt by the telephone company of the full amount
of past due charges;

(b) The receipt by the telephone company of the first payment
under a mutually agreed-upon payment arrangement.

(C) The rules described in division (B) of this section shall
provide for a waiver of the standards described in that division
in circumstances determined appropriate by the commission.

Sec. 4927.10. (A) As used in this section:

(1) "Exchange area" has the same meaning as in section
4927.12 of the Revised Code.

(2) "Fully competitive incumbent local exchange carrier" has
the same meaning as in section 4927.07 of the Revised Code.

(B) On the applicable date for each exchange area as
prescribed in division (C)(2) of section 4927.07 of the Revised
Code, whether or not basic local exchange service is withdrawn
pursuant to that division:

(1) Section 4927.08 of the Revised Code and any rules adopted 168
under that section do not apply to a fully competitive incumbent 169
local exchange carrier, or to any other telephone company to the 170
extent that the telephone company provides basic local exchange 171
service in the same exchange area of the fully competitive 172
incumbent local exchange carrier. 173

(2) Section 4927.11 of the Revised Code and any rules adopted 174
under that section do not apply to a fully competitive incumbent 175
local exchange carrier. 176

Sec. 4927.11. (A) Except as otherwise provided in this 177
section and section 4927.10 of the Revised Code, an incumbent 178
local exchange carrier shall provide basic local exchange service 179
to all persons or entities in its service area requesting that 180
service, and that service shall be provided on a reasonable and 181
nondiscriminatory basis. 182

(B)(1) An incumbent local exchange carrier is not obligated 183
to construct facilities and provide basic local exchange service, 184
or any other telecommunications service, to the occupants of 185
multitenant real estate, including, but not limited to, 186
apartments, condominiums, subdivisions, office buildings, or 187
office parks, if the owner, operator, or developer of the 188
multitenant real estate does any of the following to the benefit 189
of any other telecommunications service provider: 190

(a) Permits only one provider of telecommunications service 191
to install the company's facilities or equipment during the 192
construction or development phase of the multitenant real estate; 193

(b) Accepts or agrees to accept incentives or rewards that 194
are offered by a telecommunications service provider to the owner, 195
operator, developer, or occupants of the multitenant real estate 196
and are contingent on the provision of telecommunications service 197
by that provider to the occupants, to the exclusion of services 198

provided by other telecommunications service providers; 199

(c) Collects from the occupants of the multitenant real 200
estate any charges for the provision of telecommunications service 201
to the occupants, including charges collected through rents, fees, 202
or dues. 203

(2) A carrier not obligated to construct facilities and 204
provide basic local exchange service pursuant to division (B)(1) 205
of this section shall notify the public utilities commission of 206
that fact within one hundred twenty days of receiving knowledge 207
thereof. 208

(3) The commission by rule may establish a process for 209
determining a necessary successor telephone company to provide 210
service to real estate described in division (B)(1) of this 211
section when the circumstances described in that division cease to 212
exist. 213

(4) An incumbent local exchange carrier that receives a 214
request from any person or entity to provide service under the 215
circumstances described in division (B)(1) of this section shall, 216
within fifteen days of such receipt, provide notice to the person 217
or entity specifying whether the carrier will provide the 218
requested service. If the carrier provides notice that it will not 219
serve the person or entity, the notice shall describe the person's 220
or entity's right to file a complaint with the commission under 221
section 4927.21 of the Revised Code within thirty days after 222
receipt of the notice. In resolving any such complaint, the 223
commission's determination shall be limited to whether any 224
circumstance described in divisions (B)(1)(a) to (c) of this 225
section exists. Upon a finding by the commission that such a 226
circumstance exists, the complaint shall be dismissed. Upon a 227
finding that such circumstances do not exist, the person's or 228
entity's sole remedy shall be provision by the carrier of the 229
requested service within a reasonable time. 230

(C) An incumbent local exchange carrier may apply to the commission for a waiver from compliance with division (A) of this section. The application shall include, at a minimum, the reason for the requested waiver, the number of persons or entities who would be impacted by the waiver, and the alternatives that would be available to those persons or entities if the waiver were granted. The incumbent local exchange carrier applying for the waiver shall publish notice of the waiver application one time in a newspaper of general circulation throughout the service area identified in the application and shall provide additional notice to affected persons or entities as required by the commission in rules adopted under this division. The commission's rules shall define "affected" for purposes of this division. The commission shall afford such persons or entities a reasonable opportunity to comment to the commission on the application. This opportunity shall include a public hearing conducted in accordance with rules adopted under this division and conducted in the service area identified in the application. After a reasonable opportunity to comment has been provided, but not later than one hundred twenty days after the application is filed, the commission either shall issue an order granting the waiver if, upon investigation, it finds the waiver to be just, reasonable, and not contrary to the public interest, and that the applicant demonstrates a financial hardship or an unusual technical limitation, or shall issue an order denying the waiver based on a failure to meet those standards and specifying the reasons for the denial. The commission shall adopt rules to implement division (C) of this section.

Sec. 4927.12. (A) As used in this section, "exchange area" means a geographical service area established by an incumbent local exchange carrier and approved by the public utilities commission.

(B) Subject to divisions (C), (D), and (E) of this section, 263
and upon not less than thirty days' notice to the public utilities 264
commission and to affected customers, an incumbent local exchange 265
carrier may alter its rates for basic local exchange service. 266

(C) In addition to the requirements of division (B) of this 267
section, all of the following apply to any upward alteration of 268
rates for basic local exchange service made under that division: 269

(1) If the incumbent local exchange carrier, within twelve 270
months prior to ~~the effective date of this section~~ September 13, 271
2010, increased the carrier's rates for basic local exchange 272
service for an exchange area, ~~both of the following apply:~~ 273

~~(a) The incumbent local exchange carrier may not alter the 274
carrier's rates for basic local exchange service for the exchange 275
area upward by any amount during the period that ends twelve 276
months after the date of the last increase of the rates for basic 277
local exchange service. 278~~

~~(b) In in no event may the incumbent local exchange carrier, 279
during ~~the~~ any twelve-month period that begins immediately after 280
the ~~end date~~ annual anniversary of the day of the period described 281
~~in division (C)(1)(a) of this section, and during any subsequent~~ 282
~~twelve-month period~~ that rate increase, alter the carrier's rates 283
for basic local exchange service upward for the exchange area by 284
more than the amount authorized for an annual increase in the rate 285
for basic local exchange service by division (A) of rule 286
4901:1-4-11 of the Ohio Administrative Code as that rule existed 287
on ~~the effective date of this section~~ September 13, 2010. 288~~

(2) If the incumbent local exchange carrier did not, within 289
twelve months prior to ~~the effective date of this section~~ 291
September 13, 2010, increase the carrier's rates for basic local 292
exchange service for an exchange area, and if the commission has 293

made a prior determination that the exchange area qualified for 294
alternative regulation of basic local exchange service under 295
Chapter 4901:1-4 of the Ohio Administrative Code as that chapter 296
existed on ~~the effective date of this section~~ September 13, 2010, 297
in no event may the incumbent local exchange carrier, ~~during the~~ 298
~~twelve-month period that begins on the effective date of this~~ 299
~~section, and~~ during any subsequent twelve-month period that begins 300
on September 13 of any year, alter the carrier's rates for basic 301
local exchange service upward for the exchange area by more than 302
the amount described in division (C)(1)~~(b)~~ of this section. 303

(3)(a) If the commission has not made a prior determination 304
that the exchange area qualified for alternative regulation of 305
basic local exchange service under Chapter 4901:1-4 of the Ohio 306
Administrative Code as that chapter existed on ~~the effective date~~ 307
~~of this section~~ September 13, 2010, an incumbent local exchange 308
carrier may not alter its rates for basic local exchange service 309
upward for that exchange area unless the carrier first applies to 310
the commission and the commission determines that the application 311
demonstrates that two or more alternative providers offer, in the 312
exchange area, competing service to the basic local exchange 313
service offered by an incumbent local exchange carrier in the 314
exchange area, regardless of the technology and facilities used by 315
the alternative provider, the alternative provider's location, and 316
the extent of the alternative provider's service area within the 317
exchange area. An alternative provider includes a telephone 318
company, including a wireless service provider, a 319
telecommunications carrier, and a provider of internet 320
protocol-enabled services, including voice over internet protocol. 321

(b) Upon the filing of an application under division 322
(C)(3)(a) of this section, the commission shall be deemed to have 323
found that the application meets the requirements of that division 324
unless the commission, within thirty days after the filing of the 325

application, issues an order finding that the requirements have 326
not been met. 327

(c) In no event may an incumbent local exchange carrier that 328
applies to the commission under division (C)(3)(a) of this 329
section, during the twelve-month period that begins on the 330
thirty-first day after the company files the application, and 331
during any subsequent twelve-month period, alter the carrier's 332
rates for basic local exchange service upward for the exchange 333
area to which the application applies by more than the amount 334
described in division (C)(1)(~~b~~) of this section. 335

~~(4) In no event may an incumbent local exchange carrier,~~ 336
~~before January 1, 2012, alter the carrier's rates for basic local~~ 337
~~exchange service upward for a customer receiving lifeline service~~ 338
~~under section 4927.13 of the Revised Code Divisions (C)(1) and~~ 339
~~(2), and division (C)(3)(c) of this section shall be applied~~ 340
~~separately to business and residential classes of service. Under~~ 341
~~those divisions, an incumbent local exchange carrier may alter~~ 342
~~rates for basic local exchange service upward multiple times in~~ 343
~~the same exchange area during a single twelve-month period~~ 344
~~described in those divisions, as long as the total amount of the~~ 345
~~upward alterations does not exceed the authorized amount described~~ 346
~~in those divisions.~~ 347

(D) Except as provided in division (E) of this section, no 348
banking of upward rate alterations made under division (B) of this 349
section is permitted. 350

(E) At any time and upon not less than thirty days' notice to 351
the commission and to affected customers, an incumbent local 352
exchange carrier owned and operated exclusively by and solely for 353
its customers may alter its rates for basic local exchange service 354
by any amount. 355

(F) The rates, terms, and conditions for basic local exchange 356

service and for installation and reconnection fees for basic local 357
exchange service shall be tariffed in the manner prescribed by 358
rule adopted by the commission. 359

Section 2. That existing sections 4927.07, 4927.08, 4927.11, 360
and 4927.12 of the Revised Code are hereby repealed. 361

Section 3. Not later than one hundred twenty days after the 362
effective date of this act, the Public Utilities Commission shall 363
amend its rules to the extent necessary to bring them into 364
conformity with this act. 365

Section 4. Nothing in sections 4927.07, 4927.071, 4927.08, 366
4927.10, 4927.11, and 4927.12 of the Revised Code as amended or 367
enacted by this act is intended to affect any contractual 368
obligation or any right or obligation under federal law or rules. 369