



Mary S. Connor

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 314**

123rd General Assembly  
(As Introduced)

**Reps. Van Vyven, Barrett, Bateman, Buchy, Carey, Clancy, Haines, Householder, Jolivette, Krebs, Luebbers, Metelsky, O'Brien, Patton, Schuler, Taylor, Terwilleger, Vesper, Winkler, Young**

---

### **BILL SUMMARY**

- Authorizes specified alternative regulation under the bill, upon an informational filing with the Public Utilities Commission, for any incumbent local exchange carrier that, on February 8, 1996, provided telephone exchange service in Ohio, had fewer than 2% of the nation's subscriber access lines installed in the aggregate nationwide, and was deemed to be a member of the National Exchange Carrier Association or, after that date, became that member's successor or assignee.
- Provides that the terms and conditions of such alternative regulation include, among other things, freezing the carrier's residential basic local exchange service rates for three years, authorizing the carrier to provide public telecommunications service anywhere within Ohio without the necessity of a certificate of public convenience, and providing low-income subscribers within the area it served on February 8, 1996, a specified reduction in lifeline rates and other benefits.

---

### **CONTENT AND OPERATION**

#### **Introduction**

The bill authorizes an additional alternative regulation option for any telephone company that meets specified criteria. The terms and conditions applicable to the regulatory option are specified in the bill. Under the bill, the regulatory option goes into effect upon the company making an informational filing with the PUCO. It may be terminated only upon the PUCO issuing an order prescribing other regulatory treatment for the company upon an application under existing law filed by the company.

Under existing law, alternative regulation is granted based on a proposal by any telephone company that is a public utility under Ohio public utility law (sec. 4905.02) for a particular regulatory treatment within the general authority granted by statute. The alternative regulation is granted only after the PUCO makes certain findings relating to the public interest.

Specifically, existing law authorizes any such telephone company to apply as to any public telecommunications service except basic local exchange service for either of the following: (1) an exemption from any provision of Ohio public utility law (Chapter 4905. or 4909.) or any rule or order issued under those chapters, or (2) alternative regulatory requirements. To grant such alternative regulation, the PUCO must make certain findings with respect to the public interest and competition. The PUCO maintains jurisdiction over the company once it is granted that alternative regulation, and later may abrogate or modify the exemption or requirement if it determines that the findings are no longer valid and that the abrogation or modification is in the public interest, and if, acting more than eight years after an order, the affected company gives its consent. (Sec. 4927.03.)

Additionally under existing law, in considering an application for a rate adjustment, the PUCO, on its own initiative or the company's request, may establish rates and charges, for basic local exchange service or any public telecommunications service for which an exemption or alternative regulatory requirement has not been granted, by a method other than that found in traditional rate-making law. To do so, the PUCO must find the alternative method to be in the public interest, and the company must consent. Existing law also provides alternative regulatory treatment for small telephone companies having fewer than 15,000 access lines. (Sec. 4927.04.)

The remainder of this analysis focuses on the details of the bill.

**Criteria for an eligible company under the bill**

(secs. 4927.01(A) and 4927.05(A)(1))

The bill provides that its alternative regulation option is available to an incumbent local exchange carrier that, with respect to a particular area of Ohio, meets all of the following criteria:

(1) Provided telephone exchange service in that area on February 8, 1996;

(2) Had fewer than 2% of the nation's subscriber access lines installed in the aggregate nationwide as of that date ("access line" defined in the bill as a

communications facility extending from a customer's premise to a local exchange carrier's serving central office);

(3) Was deemed to be a member on that date of the National Exchange Carrier Association pursuant to federal regulation (47 C.F.R. 69.601(B)) or, after that date, became a successor or assignee of that member.

**Procedures for electing deregulation**

(sec. 4927.05(A)(1))

The bill permits an incumbent local exchange carrier that meets the criteria listed above to elect to have the authority, and be subject to the regulatory treatment, provided under the bill, notwithstanding that the carrier operates under an exemption, alternative regulatory requirement, alternative method of establishing rates and charges, or plan of alternative regulation authorized under current law (sec. 4927.03 or 4927.04). This new alternative authority would occur by the carrier filing notice of its election for informational purposes with the PUCO. Under the bill, effective on the date of that filing, the carrier has the new alternative authority, and is subject exclusively to the regulatory treatment specified in the bill.

**Scope of alternative regulation under the bill**

(sec. 4927.05(C)(1) to (4) and (D))

Following are the terms and conditions of the alternative regulatory option provided by the bill:

(1) Upon a qualifying incumbent local exchange carrier filing a notice of election under the bill, any alternative regulation of that carrier under existing law (that is, any exemption, alternative regulatory requirement, alternative method of establishing rates and charges, or plan of alternative regulation under section 4927.03 or 4927.04) expires;

(2) Upon that filing, all rates, terms, and conditions for the public telecommunications services provided by the carrier that were in effect on the date of the filing are deemed just and reasonable;

(3) The electing carrier cannot increase rates for basic local exchange service for residential end use customers at any time during the first three years an election is in effect;

(4) Thirty days after the date of filing an election under the bill, and for the duration of the election, all public telecommunications services, including carrier

access, that are provided by the electing carrier are exempt from all provisions of Ohio public utility law (Chapters 4905. and 4909.) or of any rules or orders adopted or issued under that law, except for the statutes, rules, or orders pertaining to telephone service standards (sec. 4905.231), service complaints (sec. 4905.26), lifeline telephone service and service rates (secs. 4905.76, 4905.77, and 4909.50), and tax credits for service to the communicatively impaired (sec. 4905.79);

(5) Thirty days after the date of filing an election under the bill, and for the duration of the election, the carrier may adjust the rates, terms, and conditions of all its public telecommunications services, except as basic local exchange rates are restricted under the bill as described in (3) above, by filing an informational schedule with the PUCO, to be effective on the date designated by the electing carrier;

(6) Thirty days after the date of filing an election under the bill, and for the duration of the election, the electing carrier may package or bundle any of its services with any other service it, its affiliate, or another carrier provides, with or without a discount, provided that basic local exchange service for residential end use customers may be purchased separately;

(7) Thirty days after the date of filing an election under the bill, and for the duration of the election, the electing carrier may offer within Ohio any public telecommunications service, including basic local exchange service, outside its local service area without the necessity of obtaining a certificate of public convenience from the PUCO;

(8) For the duration of an election under the bill, the electing carrier must do all of the following in that area for which it provided telephone exchange service on February 8, 1996:

(a) Offer to qualifying residential end use customers a lifeline basic local exchange service that provides a reduction of \$3.50 from the basic monthly rate for basic local exchange service offered by the electing carrier. This reduction must be in addition to any reduction available under federal programs, except that the total amount of federal and state lifeline reductions for qualifying residential end use customers cannot exceed the usual charges of the electing carrier for the services provided. Eligible services must include flat rate and nonflat rate basic local exchange services as generally offered by the carrier.

(b) Provide to a qualifying residential end use customer, all at no additional charge, tone dialing, toll restriction at the subscriber's option, and automatic call blocking for 900 and 976 calls;

(c) Eliminate any requirement that a qualifying residential end use customer pay a service connection deposit;

(d) Determine a residential end use customer's eligibility as a qualifying customer for the above-stated purposes only by requiring the customer to verify for the carrier the customer's participation in any one or more of the following programs: the state Home Energy Assistance Program, the Ohio Energy Credit Program, Ohio Works First Benefits, Supplemental Security Income on the basis of blindness or disability, the state Disability Assistance Program, Medicaid, Medicare, or Food Stamps.

The bill authorizes the PUCO to adopt rules to carry out the bill's provision regarding the duties of an electing carrier listed in (8) above.

**Termination of alternative regulation and subsequent regulation**

(sec. 4927.05(B)(1) and (2))

The carrier's election under the bill and its associated authority and regulatory treatment expire only upon the effective date of a PUCO order subjecting the carrier to traditional rate regulation or current alternative rate regulation. Specifically, the election and associated authority expires upon the effective date of a PUCO order determining the carrier's rates and charges under traditional Ohio rate-making law (sec. 4909.15) pursuant to an application filed by the carrier under existing law (sec. 4909.18), or pursuant to a PUCO order authorizing an exemption, alternative regulatory requirement, alternative method of establishing rates and charges, or plan of alternative regulation under Ohio alternative telephone regulation law (sec. 4927.03 or 4927.04). Upon the effective date of the PUCO order, the carrier becomes subject to Ohio public utility law (Chapters 4905. and 4909.) and the rules and orders adopted and issued under that law or, as applicable, is subject to such exemption, alternative regulatory requirement, alternative method of establishing rates and charges, or plan of alternative regulation under Ohio alternative telephone regulation law as the PUCO specifies in the order.

Under the bill, the effective date of any such PUCO order returning the incumbent local exchange carrier to regulation cannot be earlier than three years after the date of the carrier's filing of a notice of election under the bill. Once such an order is issued, the carrier is not eligible to file again for an election under the bill for a period of three years after the effective date of the order.

**Definitions of "basic local exchange service" and "public telecommunications service" under the bill**

(sec. 4927.01)

Under the bill and existing law, "basic local exchange service" means the end user and carrier access to and usage of telephone company-provided facilities that enable customers, over a local exchange telephone company network operated within a local service area, to originate or receive voice grade, data, or image communications and to access interexchange or other networks (sec. 4927.01(A) of existing law and sec. 4927.01(B) of the bill). "Carrier access" is defined in the bill as the offering of access to telephone exchange services or facilities, for the purpose of originating or terminating telephone toll services (sec. 4927.01(D)).

"Public telecommunications service" is defined both under existing law and the bill as the transmission by a telephone company, by electromagnetic or other means, of signs, signals, writings, images, sounds, messages, or data originating and terminating in Ohio regardless of actual call routing. The term excludes a system, including its construction, maintenance, or operation, for the provision of telecommunications service, or any portion of that service, by any entity for the sole and exclusive use of that entity, its parent, a subsidiary, or an affiliated entity, and not for resale, directly or indirectly; the provision of terminal equipment used to originate or terminate telecommunications service; broadcast transmission by radio, television, or satellite broadcast stations regulated by the federal government; or cable television service (sec. 4927.01(D) of existing law and sec. 4927.01(F) of the bill).

For the purpose of the definition of "public telecommunications service," "cable television service" means any transmission or video or other programming service to subscribers and any subscriber interaction required for the selection of that video or other programming service (sec. 4927.01(B) of existing law and sec. 4927.01(C) of the bill). Additionally, "telephone company" means any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation that is engaged in the business of transmitting telephonic messages to, from, through, or in Ohio, that is a common carrier, and that is a public utility under Ohio public utility law (sec. 4905.02) (sec. 4927.01(E) of existing law and sec. 4927.01(G) of the bill).

---

**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	04-28-99	p. 490

H0314-I.123/rss