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**TESTIMONY OF MICHAEL R. SMALZ**  
**TO HOUSE PUBLIC UTILITIES COMMITTEE**  
**ON HOUSE BILL 276**

Mr. Chairman and Committee Members:

I am a senior attorney with the Ohio Poverty Law Center (OPLC), the legal services state support center in Ohio. I am also representing Appalachian Peace and Justice Network, a coalition of over 200 mostly low-income residents and consumers in southeastern Ohio who engage in advocacy and community education activities on social justice, peace, consumer, and public utility issues. We are testifying in support of the three amendments proposed by the Ohio Protecting Telephone Consumers (OPTC) coalition. While acknowledging the substantial efforts of this committee and its leadership to address the concerns of residential and low income consumers, as reflected in the Community Voicemail and other committee amendments, we are still concerned that many consumers will not be adequately protected under this legislation.

One of the OPTC amendments expands the safe harbor for low-income Lifeline customers with respect to future rate increases for Basic Local Exchange Service (BLES). The OPTC amendment would extend that safe harbor for Lifeline customers to January 1, 2016. This change protects Lifeline customers against unaffordable rate increases and is consistent with the existing PUCO rule, which has no automatic expiration date. The alternative expiration date of January 1, 2012 (in a committee draft amendment) is largely meaningless since it would expire not very long after this bill becomes law.

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Another OPTC amendment extends the consumer protections regarding installation, service outage repairs, and reconnection of service to customers with bundled services, rather than limiting those important protections to BLES only customers. This change is consistent with existing PUCO rules and with the pertinent statutes or PUCO rules in most other states, including those states that have deregulated local phone service. The possibility or likelihood of competition in many phone exchanges does not eliminate the need for these basic consumer protections. A bundled service customer, like a BLES customer, is going to be harmed by the deprivation of service resulting from untimely installation, service outage repairs, or reconnection of service. They will suffer similar consequences in terms of being denied access to government agencies, law enforcement, medical providers, and potential employers during that time gap.

Moreover, in other competitive industries, ranging from auto repairs to used car dealers to rent-to-own furniture stores to payday loans—there are strict consumer protection rules. Consumer protections and competition are clearly compatible, and such protections are especially appropriate in an industry involving household necessities such as telephone communications and significant potential harm to members of the public.

The remaining OPTC amendment limits the ability of the incumbent telephone companies to obtain a carrier of last resort waiver. There is nothing in the current legislation that would prevent the companies from withdrawing service from certain markets and stranding their existing customers with either no service or very limited service options. Without this amendment, H.B. 276 would encourage companies to engage in redlining, i.e., dropping services in low-income rural or economically distressed communities in favor of shifting investments to more affluent or lucrative markets.

In addition, even with the ongoing expansion of broadband services, there are likely to remain some isolated residual markets. Economists define “residual markets” as markets for which little or no competition exists. We have learned from our state’s experience with electric deregulation that deregulation does not automatically bring about or facilitate competition in all potential markets. Customers in Central and southeastern Ohio are particularly aware of that scenario because

deregulation of electric generation service in central and southeastern Ohio has not translated into any significant competition for residential electric consumers.

In summary, these amendments protect residential and low-income consumers against a total loss of service, loss of reliable and quality service, and loss of Lifeline service. As a matter of equity, members of the public, including residential and low income consumers, should not be denied access to essential services such as telephone service because of the loss of a carrier of last resort, the dilatory installation, restoration, or reconnection of service, or the inability to pay because of annual rate increases for Lifeline services that render BLES service unaffordable even in markets where competition exists. Therefore, we urge this committee to approve the three OPTC amendments.

I will be happy to answer any questions. Thank you.

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