



Ohio Revised Code

Section 4905.402 Acquiring or merging with domestic telephone or electric utility company or holding company.

Effective: June 11, 2012

Legislation: House Bill 487 - 129th General Assembly

(A) As used in this section:

(1) "Control" means the possession of the power to direct the management and policies of a domestic telephone company or a holding company of a domestic telephone company, or the management and policies of a domestic electric utility or a holding company of a domestic electric utility, through the ownership of voting securities, by contract, or otherwise, but does not include the power that results from holding an official position or the possession of corporate office with the domestic company or utility or the holding company. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds the power to vote, or holds with the power to vote proxies that constitute, twenty per cent or more of the total voting power of the domestic company or utility or the holding company.

(2) "Electric utility" has the same meaning as in section 4928.07 of the Revised Code.

(3) "Holding company" excludes any securities broker performing the usual and customary broker's function.

(4) "Telephone company" means any company described in division (A) of section 4905.03 of the Revised Code that is a public utility under section 4905.02 of the Revised Code and provides basic local exchange service, as defined in section 4927.01 of the Revised Code.

(B) No person shall acquire control, directly or indirectly, of a domestic telephone company or a holding company controlling a domestic telephone company or of a domestic electric utility or a holding company controlling a domestic electric utility unless that person obtains the prior approval of the public utilities commission under this section. To obtain approval the person shall file an application with the commission demonstrating that the acquisition will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge. The



application shall contain such information as the commission may require. If the commission considers a hearing necessary, it may fix a time and place for hearing. If, after review of the application and after any necessary hearing, the commission is satisfied that approval of the application will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge, the commission shall approve the application and make such order as it considers proper. If the commission fails to issue an order within thirty days of the filing of the application, or within twenty days of the conclusion of a hearing, if one is held, the application shall be deemed approved by operation of law.

(C) No domestic telephone company shall merge with another domestic telephone company unless the merging companies obtain the prior approval of the commission. An application seeking such approval shall be filed, processed, and decided in the manner provided for an application under division (B) of this section.

(D) The commission shall adopt such rules as it finds necessary to carry out the provisions of this section.

(E) If it appears to the commission or to any person that may be adversely affected that any person is engaged in or about to engage in any acts or practices that would violate division (B) or (C) of this section or any provision of a rule adopted under this section, the attorney general, when directed to do so by the commission, or the person claiming to be adversely affected may bring an action in any court of common pleas that has jurisdiction and venue to enjoin such acts or practices and enforce compliance. Upon a proper showing, the court shall grant, without bond, a restraining order or temporary or permanent injunction.

(F) The courts of this state have jurisdiction over every person not a resident of or domiciled or authorized to do business in this state that files, or is prohibited from acting without first filing, an application under division (B) or (C) of this section, and over all actions involving such person arising out of violations of any provision of this section or of a rule adopted under this section. The secretary of state shall be the agent for service of process for any such person in any action, suit, or proceeding arising out of such violations. Copies of all such lawful process shall be served upon the secretary of state and transmitted by certified mail, with return receipt requested, by the secretary of state to such person at the person's last known address.