BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of )

The Ohio Bell Telephone Company d/b/a AT&T Ohio ) Case No. 10-1412-TP-BLS

For A Commission Determination Pursuant to )

Ohio Revised Code Section 4927.12(C)(3). )

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MEMORANDUM IN SUPPORT OF APPLICATION

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# Introduction

AT&T Ohio[[1]](#footnote-1), by its attorneys, submits this memorandum in support of its application filed in the captioned case. R. C. § 4927.12(C)(3)(a) (effective September 13, 2010) provides as follows:

If the commission has not 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 the effective date of this section, an incumbent local exchange carrier may not alter its rates for basic local exchange service upward for that exchange area unless the carrier first applies to the commission and the commission determines that the application demonstrates that two or more alternative providers offer, in the exchange area, competing service to the basic local exchange service offered by an incumbent local exchange carrier in the exchange area, regardless of the technology and facilities used by the alternative provider, the alternative provider's location, and the extent of the alternative provider's service area within the exchange area. An alternative provider includes a telephone company, including a wireless service provider, a telecommunications carrier, and a provider of internet protocol-enabled services, including voice over internet protocol.

For each of the sixteen AT&T Ohio exchanges included in this application, the Commission has not made a prior determination that the exchange area qualified for alternative regulation of basic local exchange service ("BLES") under Chapter 4901:1-4 of the Ohio Administrative Code as that chapter existed on the effective date of that section, which was September 13, 2010. AT&T Ohio's application filed on June 12, 2009 in Case No. 09-494-TP-BLS had sought such a determination, but the Commission has not made such a determination in that case.[[2]](#footnote-2) Thus, this application is being filed in compliance with that provision, and it demonstrates that two or more alternative providers offer, in the each of the sixteen exchange areas, competing service to the basic local exchange service offered by AT&T Ohio (which is an incumbent local exchange carrier) in the exchange area. Under the statute, this showing can be made regardless of the technology and facilities used by the alternative provider, the alternative provider's location, and the extent of the alternative provider's service area within the exchange area. The law further provides as follows:

Upon the filing of an application under division (C)(3)(a) of this section, the commission shall be deemed to have found that the application meets the requirements of that division unless the commission, within thirty days after the filing of the application, issues an order finding that the requirements have not been met.

R. C. § 4927.12(C)(3)(b) (effective September 13, 2010).

AT&T Ohio recognizes the pricing restriction set forth in the new law:

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

R. C. § 4927.12(C)(3)(c) (effective September 13, 2010). As to lifeline service, the Company also recognizes the following restriction:

In no event may an incumbent local exchange carrier, before January 1, 2012, alter the carrier's rates for basic local exchange service upward for a customer receiving lifeline service under section 4927.13 of the Revised Code.

R. C. § 4927.12(C)(4) (effective September 13, 2010).

This application specifically addresses the statutory criterion of R. C. § 4927.12(C)(3)(a) and demonstrates that the Company meets that criterion.

Through the Commission's Orders in the Company's nine applications filed under former R. C. § 4927.03 and the Commission's BLES alternative regulation rules in Chapter 4901:1-4 of the Ohio Administrative Code, 176 of AT&T Ohio's 192 exchanges were found to be competitive under the then-applicable criteria. These 176 exchanges represent 99.3% of AT&T's Ohio access lines (1,757,877 of 1,770,524 lines). Therefore, the sixteen exchanges covered by this application represent a mere 0.7% of AT&T Ohio's total lines in service. These sixteen exchanges are the subject of this application.

The average number of lines in each of these sixteen exchanges is 790, or 0.04% (i.e., four one-hundredths of one percent), of AT&T Ohio's access lines. Without question and regardless whether they are considered individually or collectively, the sixteen exchanges addressed in this application represent a *de minimis* number of AT&T Ohio's access lines.

Conversely, 99.3% of AT&T Ohio's access lines are in exchanges that have previously been found by the Commission to be competitive.

# Exhibit 1 - Exchange Areas/County Matrix

As a guide to those reviewing the application, there is included in this filing a matrix identifying the sixteen exchanges which are the subject of this application and the county or counties in which each exchange is located.

# Exhibit 2 - Affidavit With Supporting Information

In this exhibit, AT&T Ohio demonstrates how it meets the applicable statutory criterion. This information is contained within the affidavit of Thomas C. Pelto, the President of AT&T Ohio, attesting to the veracity of the data upon which the application is premised.

The information provided in this exhibit is summarized in the "Alternative Providers By Exchange" matrix. AT&T Ohio compiled the information necessary to meet the statutory criterion using several sources. In collecting information on alternative provider activity in its exchanges, AT&T Ohio reviewed and documented publicly available data, such as websites, carrier tariff filings, information on wireless licenses, and Commission certification case and interconnection agreement filings. In some cases, carriers provide web tools that permit an inquiry about the availability of their services in specific areas by using telephone numbers or zip codes. Those tools were used to identify the current service offerings of a carrier in an AT&T Ohio exchange.[[3]](#footnote-3)

# Conclusion

AT&T Ohio has demonstrated that it meets the statutory criterion in each of the sixteen exchanges included in this application. The Commission should either issue an order granting the application or allow it to be granted under the automatic approval process specified in R. C. § 4927.12(C)(3)(b).

Respectfully submitted,

AT&T OHIO

By: \_\_\_\_\_\_\_/s/ Jon F. Kelly\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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1. The Ohio Bell Telephone Company uses the name AT&T Ohio, which is also referred to herein as "the Company." [↑](#footnote-ref-1)
2. AT&T Ohio requests that the Commission take administrative notice of the record in that case to the extent the Commission deems it appropriate to do so. [↑](#footnote-ref-2)
3. The matrix and supporting carrier information relied on here is by no means a complete list of carriers currently offering service. In an effort to facilitate review by the Commission Staff during the 30-day review period, AT&T Ohio is relying on a few CLECs and wireless carriers that the Commission Staff has reviewed in previous AT&T Ohio BLES alternative regulation applications. AT&T Ohio did not cite other CLECs, wireless carriers, or any pure VoIP providers. AT&T Ohio also did not rely on any of its affiliates for this purpose, although the statute permits it to do so. The five or six service providers cited for each exchange far exceed the statutory threshold of two alternative providers. [↑](#footnote-ref-3)