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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Motion of the Office of)
the Ohio Consumers' Counsel for an) Case No. 07-¹³⁸-TP-UNC
Investigation into Telephone Companies')
Charges for Duplicate Bill Copies)

PUCO

MOTION FOR IMMEDIATE INVESTIGATION INTO TELEPHONE
COMPANIES'
CHARGES FOR PROVIDING DUPLICATE BILLS TO OHIO RESIDENTIAL
CONSUMERS
AND
MOTION TO MAKE CURRENT BILL COPY CHARGES SUBJECT TO
REFUND
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

Pursuant to R.C. 4911.02 and Ohio Adm. Code 4901-1-12, the Office of the Ohio Consumers' Counsel ("OCC"), on behalf of residential utility consumers, moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") to open an investigation pursuant to R.C. 4905.26 into telephone companies' bill copy charges imposed on residential consumers. OCC also moves the Commission for an order making all current bill copy charges subject to refund if the Commission ultimately determines that, under the circumstances described herein, the imposition of bill copy charges is unjust and unreasonable.

This motion is necessitated by the decision of the Internal Revenue Service ("IRS") to provide consumers with refunds of the federal excise tax ("FET") they paid on

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their interstate long distance telephone bills from March 2003 though July 2006.¹ In order to get these refunds, consumers must either submit a special form itemizing the taxes paid through their telephone bills or accept a “standard refund” of \$30-\$60 without submitting the form.² Many residential customers will not have retained their bills for any or the entirety of that period, so those customers will need copies of those bills in order to support their request for a larger refund or even to decide whether to request a larger refund.

Many telephone companies do not have a tariffed bill copy charge, but some do. Some telephone companies have recently filed to initiate new bill copy charges of \$5.00 per bill.³ OCC submits that it may be unjust and unreasonable for customers to have to pay what may be amounts that exceed the potential refund just to determine which refund to request. The Commission should immediately investigate such charges, and make the current charges subject to refund.

Further, to the extent that carriers maintain customer bills in an electronic format, they should be required to inform customers of their availability. This may be more convenient for the customers, and should reduce the number of copies requested from the telephone companies.

OCC urges the Commission to act expeditiously on this motion. The grounds for the motion are more fully set forth in the accompanying Memorandum in Support.

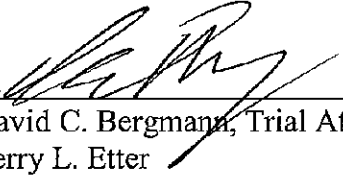
¹ The IRS decision was a result of court actions around the country that invalidated the tax. See <http://www.irs.gov/newsroom/article/0,,id=164032,00.html>.

² See id..

³ On February 1, 2007, the Attorney Examiner suspended the duplicate bill copy tariffs of Qwest (Case No. 07-44-TP-ZTA and 07-98-TP-ZTA), AT&T Communications of Ohio (Case No. 07-48-TP-ZTA), TCG Ohio (Case No. 07-49-TP-ZTA) and AT&T Ohio (Case No. 07-53-TP-ZTA).

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. THE BILL COPY CHARGES OF OHIO TELEPHONE COMPANIES.

OCC has performed a non-exhaustive review of the tariffs of Ohio telephone companies, and has discovered that many companies do not have such duplicate bill charges. A few companies do, however, as set forth below. A few companies have also recently filed applications to establish such charges, apparently in reaction to the FET situation.

A. COMPANIES WITH BILL COPY CHARGES

The companies with tariffed bill copy charges include:

- CenturyTel of Ohio, Inc. (PUCO Tariff No. 12, Section 2.5.7, 3rd Revised Sheet No. 18): Multiple Copies of Bills \$1.25 per bill copy.
- LDMI Telecommunications, Inc. (PUCO Tariff No. 5, Section 7.17, First Revised Sheet No. 177): Duplicate Bill Request, \$25 per bill copy.
- McLeod USA Telecommunications Services, Inc. (PUCO Tariff No. 2, Section 5.1.7, Fourth Revised Sheet No. 106): Bill Copies Residential customer: \$5.00 per copy; Business Customer \$10.00 per copy.

- Windstream Ohio (PUCO Tariff No. 1, Section 3.6, Fourth Revised Sheet No. 5 and Section 16.1.8 Eighth Revised Sheet No. 2): Multiple Bill Copy Charge, \$2.00 per first page and \$.50 for each additional page.
- Windstream Western Reserve (PUCO Tariff No. 8, Section 3.6, Fourth Revised Sheet No. 4 and Section 16.1.7, Seventh Revised Sheet No. 1): Multiple Bill Copy Charge, \$2.00 per first page and \$.50 for each additional page.

CenturyTel and Windstream appear to be the only large incumbent local exchange carriers (“ILECs”) that have had such charges; it does not appear that any of the small ILECs have such charges.

B. RECENT APPLICATIONS FOR BILL COPY CHARGES

On January 17, 2007, Qwest Communications Corporation (“Qwest”) filed an application to introduce a \$5.00 duplicate bill charge for bills older than six months.⁴ The application was filed as a “ZTA” under the Commission’s rules, which means that the charge went into effect upon filing.⁵ On January 31, 2007, however, Qwest filed a new application which removed the charge from residential customers.⁶

On January 19, 2007, AT&T Communications of Ohio, Inc. and TCG Ohio, Inc., which are AT&T Ohio affiliates, filed applications with the Commission to introduce a \$5.00 duplicate bill charge, in Case No. 07-48-TP-ZTA and 07-49-TP-ZTA, respectively. According to the applications, however, the charge applies only to business customers.

⁴ Case No. 07-44-TP-ZTA (January 17, 2007).

⁵ Ohio Adm. Code 4901:1-6-21(D).

⁶ Case No. 07-98-TP-ZTA (January 31, 2007). This motion takes no position on whether business customers should be charged for copies of their bills during the refund period. Notably, businesses should be more likely to retain past bills, and also likely have bills that are longer and more complex than residential bills.

On January 22, 2007, AT&T Ohio filed an application with “to introduce a new, optional service that permits customers to request duplicate paper copies of their bills ... subject to Company retention policies, availability of the bill(s), and the ability of the Company to retrieve the bill(s).”⁷ On January 30, 2007, OCC filed a motion to intervene and a motion to suspend AT&T Ohio’s application *ex post facto*.

As previously noted, the duplicate bill copy tariffs of Qwest (Case No. 07-44-TP-ZTA), AT&T Communications of Ohio (Case No. 07-48-TP-ZTA), TCG Ohio (Case No. 07-49-TP-ZTA) and AT&T Ohio (Case No. 07-53-TP-ZTA) were suspended by Attorney Examiner Entry issued February 1, 2007. This suspension, of course, does not render OCC’s motion moot with regard to these companies’ charges for residential customers.

II. ARGUMENT

Given the choice that has been given to taxpaying consumers -- that they must either submit a special form itemizing the taxes paid through their telephone bills or accept a “standard refund” of \$30-\$60 without submitting the form -- residential consumers with higher levels of interstate usage will need to get copies of their bills from the companies in order to submit the form, unless they have retained all of those bills. Customers who have questions about whether they are better off to claim their actual payment of the tax will also likely want to see copies of their bills. Although the charges in question are for interstate telephone calls, the charges may appear on the customer’s local telephone bill or on a stand-alone long-distance bill.

The need for these copies is caused by the IRS’ administration of the refund of an illegal tax. Consumers should not be required to pay substantial amounts just to find out

⁷ Case No. 07-53-TP-ZTA, Application (January 22, 2007), Exhibit C.

which form of refund they should seek. At the extreme, an LDMI customer seeking copies of 41 months of bills would have to pay **\$1,025** for those copies, or seventeen times the amount of the maximum standard refund. At the other end, a CenturyTel customer would have to pay \$51.25 for those bills. And an AT&T Ohio customer would have to pay \$205.

It would be truly unjust and unreasonable for any carrier to receive a windfall from customers' needs for information about their bills, and for the invalidation of this tax to be thwarted by telephone company bill copy charges that could cost a consumer more than the refund being sought. The Commission should act now to protect Ohio consumers by ensuring that telephone companies' bill copy charges do not exceed their costs and are suspended (or limited to nominal amounts) during the income tax filing season. In considering such charges, the PUCO's guidance should include the regulatory principles of equity for consumers and gradualism in rate changes with regard to such charges.

The Commission should also identify whether the telephone companies have alternatives for making customers' past bills more easily available and at no cost to the customer, such as via Internet access. On its website, AT&T states that "[o]nline copies of AT&T bills from the FET refund period will be made available free of charge to customers wherever available."⁸ This provision should be required of all telephone companies, to the extent feasible.

⁸ See <http://www.att.com/gen/general?pid=7916>; see also [http://ask.sbc.com/esh/request.do?session={a53734d0-b081-11db-fd24-00096bdd7251}&event=2&view\(3a10\)=c{26c73a10-893e-11db-d996-00096b6efdf}](http://ask.sbc.com/esh/request.do?session={a53734d0-b081-11db-fd24-00096bdd7251}&event=2&view(3a10)=c{26c73a10-893e-11db-d996-00096b6efdf}.).

It may be argued that the long distance industry is robustly competitive, and that the Commission should therefore not be concerned about whether telephone companies are taking advantage of this complicated situation, such as by levying a charge on customers that is in excess of the company's costs. However, a telephone company's **bill copying charge** itself is not subject to competition. A customer wanting copies of the customer's telephone past bills has nowhere other than the company that issued the bills to get those copies. Moreover, the public interest underlies all of the Commission's reviews of telephone company applications,⁹ requiring a closer examination here.

Clearly, a charge for a duplicate bill will inhibit some consumers from verifying their bills. For others, it will reduce or eliminate the effective benefit of the IRS' refund. It should be recalled that the telephone companies had possession of these customer funds before they were transferred to the IRS. Customers should not be required to pay their telephone company again in order to see their correct refunds. Further, although the telephone companies may receive customer inquiries regarding the duplicate bill charge, customers may also contact state and federal officials agencies for relief from the charges when there may be little or no way to assist those consumers if the PUCO does not act now.

Based on the results of the investigation, the Commission may find that it is in the public interest for it to issue an order requiring all telephone companies within the Commission's jurisdiction to waive any bill copy charges imposed on residential customers from the date of the Commission Order through April 17, 2007, as well as to

⁹ R.C. 4905.22; R.C. 4927.03(A).

waive bill copy charges billed after that date which resulted from consumer requests submitted by April 17, 2007, for past bills.¹⁰

In any event, the Commission should immediately order telephone companies to inform their customers of bills that are available on line, and to make whatever arrangements to increase customers' access to those bills. This may obviate some of the necessity for paper copies of the bills.

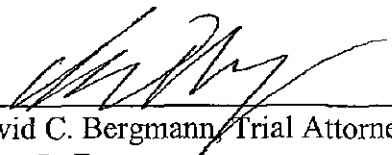
III. CONCLUSION

Wherefore, for the reasons set forth above, the PUCO should act to protect Ohio consumers, as they file for their federal excise tax refunds, by suspending telephone companies' charges for bill copies until the federal tax filing deadline of April 17, 2007, or by providing other comparable relief to consumers. Under the circumstances of this federal tax refund, the charge may be unjust and unreasonable and has the potential to cause widespread confusion and inequity for Ohio consumers seeking the federal tax reduction related to long distance charges.

¹⁰ April 17, 2007 is of course the date when federal tax returns are due to be filed. The Commission should consider whether to waive the bill copy charges for consumers who file for an extension of the tax filing date.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was served by first class United States Mail, postage prepaid, to the persons listed below, on this 8th day of February, 2007.



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