

FILE

**THOMPSON
HINE**

ATLANTA

CINCINNATI

COLUMBUS

NEW YORK

BRUSSELS

CLEVELAND

DAYTON

WASHINGTON, DC

RECEIVED
2007 FEB 23 PM 3:16
BUCKETING DIV
PUCO

February 23, 2007

Via Hand Delivery

Ms. Reneé J. Jenkins
Director of Administration
Secretary of the Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

RE: In the Matter of the Establishment of Carrier-to-Carrier Rules
Public Utilities Commission of Ohio, Case No. 06-1344-TP-ORD;

In the Matter of the Commission Ordered Investigation of the Existing Local Exchange
Competition Guidelines; Public Utilities Commission of Ohio, Case No. 99-998-TP-COI;

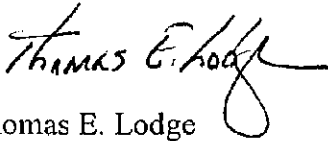
In the Matter of the Commission Review of the Regulatory Framework for Competitive
Telecommunications Services Under Chapter 4927, Revised Code; Public Utilities
Commission of Ohio, Case No. 99-563-TP-COI

Dear Ms. Jenkins:

Enclosed are an original and ten (10) copies of the Reply Comments of the Ohio Telecom
Association, to be filed in connection with the above-referenced matter.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Very truly yours,



Thomas E. Lodge

Enclosure

cc: Jay Agranoff, Attorney Examiner
Jeffrey Jones, Chief, Telephone Section
All Parties Listed on Service List

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business
Technician Ann Date Processed 2/23/07

Tom.Lodge@ThompsonHine.com Fax 614.469.3361 Phone 614.469.3246

TEL.th 532289.1

THOMPSON HINE LLP
ATTORNEYS AT LAW

10 West Broad Street
Suite 700
Columbus, Ohio 43215-3435

www.ThompsonHine.com
Phone 614.469.3200
Fax 614.469.3361

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-DOCKETING DIV
2007 FEB 23 PM 3:16
PUCO

In the Matter of the Establishment of Carrier-to-Carrier Rules.)	Case No. 06-1344-TP-ORD
In the Matter of the Commission Ordered Investigation of the Existing Local Exchange Competition Guidelines.)	Case No. 99-998-TP-COI
In the Matter of the Commission Review of the Regulatory Framework for Competitive Telecommunications Services Under Chapter 4927, Revised Code.)	Case No. 99-563-TP-COI

REPLY COMMENTS OF THE OHIO TELECOM ASSOCIATION

In accordance with the Commission's Entries in this matter, the OHIO TELECOM ASSOCIATION ("OTA"), on behalf of its membership, hereby submits its Reply Comments concerning the staff's revised proposed carrier-to-carrier rules (the "Staff Proposal").

Initial Comments in this matter were filed by a variety of parties representing incumbent carriers, competitive carriers, and consumers.¹ For clarity, the OTA will supply Reply Comments in response to identified rules.

Reply Comments

§4901:1-7-01- Definitions:

Several parties, including AT&T and OTA, noted that subsection (A) of this rule defines "Affiliate," but inexplicably establishes a new quantitative definition of "affiliate" to be common ownership of **ten percent (10%)** or more. Ten percent is an extremely low threshold for

¹ AT&T Ohio, Cincinnati Bell Telephone Company, Ohio Cable Television Association ("OCTA"), Office of the Ohio Consumer's Counsel ("OCC"), OTA, Qwest Communications Corp., Time Warner Telecom Of Ohio, L.L.C., United Telephone Company Of Ohio dba Embarq, Verizon North Inc, and XO Communications Services Inc.

defining an “affiliate;” Revised Code §4905.402, for example, confers Commission jurisdiction over changes-of-control only when the ownership interests exceed 20%. The rule should be revised to conform to Revised Code §4905.402's 20% standard. The Staff Proposal provided no rationale to support discarding the 20% threshold in the Revised Code.

§4901:1-7-3(F): Toll Presubscription

OTA supports the Staff Proposal for the handling of a subscriber's LPIC selection and opposes the OCC position that would establish a window of 60 or 90 days. OCC Comments at 8-10. The Commission has recently reviewed the issue in great detail, and has granted a waiver of the current guideline² to AT&T and all other LECs that provide intraLATA service. While the OCC did not oppose AT&T's waiver request, OCC now inexplicably suggests that consumers do not have ample opportunity to select a toll carrier prior to establishing service and therefore must be given additional time to make their selection.

In fact, consumers have been selecting their toll carriers since at least 1997 and do not need to be given additional time to select a carrier. Consumers are intelligent enough to know that they have many options available in all their communication decisions. OCC does not provide any explanation of why a customer will be any better prepared to make an informed decision about a toll carrier 60 days after the customer initially orders service. The rule should stand as proposed in the Staff Proposal.

§4901:1-7-26(A)(1)(c): Competition Safeguards

OTA supports Verizon's proposal to delete this rule. Verizon Comments at 13-18. As written, the proposed rule is overbroad and vague. Verizon did an excellent job explaining how

² *In the matter of Commission Investigation Relative to Establishment of Local Exchange Competition and Other Competitive Issues*, Case No. 95-845-TP-CPI (Entry, November 16, 2006).

difficult it would be to attempt to interpret much less implement such a rule. This Commission need not establish CPNI rules; doing so merely invites inconsistency and confusion. The federal rules cited in subsection (A)(1)(b) of this rule are adequate in and of themselves, and Ohio need not and should not compel compliance with them as a matter of Ohio law. This rule should be deleted.

§4901:1-7-29: Local Exchange Carrier Default

OTA opposes OCC's request to receive notice that a LEC's service may be terminated due to breach of an interconnection agreement. OCC Comments at 10. To inject OCC into the termination process would simply add an additional obligation into an already-difficult situation. If OCC receives calls from affected customers, OCC can contact the defaulting LEC to explain what is happening. The LEC that is not in default should not have to bear additional responsibilities.

Further, OTA further opposes OCC's suggestion of sixty-days notice to customers if the Commission suspends the pending disconnection. *Id.* Again the OCC would impose costs and process upon a LEC that is not in default, as the LEC would have to maintain the defaulting carrier for at least sixty days without any guarantee of payment. The OCC has provided no supporting data to support changing the status quo that has worked well for nine years.

OCC-Proposed §§4901:1-7- 31-35

The Staff Proposal quite correctly abandoned a previous proposal to establish "compliance and enforcement" rules, and OCC is wrong to attempt to resurrect them. OCC Comments at 3-8. OTA opposed the compliance and enforcement rules in 2001 and 2003³ and

³ *In the Matter of Commission Ordered Investigation of the Existing Local Exchange Competition Guidelines*, Case No. 99-998-TP-COI, OTIA Updated Comments, April 16, 2001, OTIA Reply Comments, May 25, 2001, and OTA Application for Rehearing, March 17, 2003.

by reference incorporates those prior comments into the current proceeding. The OTA continues to maintain that such rules would be as dangerous, defective and unlawful today as they were when previously proposed.

In these proceedings, OCC points to the recent Stipulation between the Commission Staff and Embarq⁴ as an example of why such compliance and enforcement rules are necessary. Id. OTA submits that the Settlement shows why such rules are NOT necessary. The Stipulation resulted in "a fair and equitable settlement"⁵ without the added expense of a formal investigation and hearing suggested by the OCC. Enacting quasi-criminal regulations in today's competitive environment is neither necessary nor lawful nor appropriate. OCC's suggestion should be rejected.

Conclusion

The Ohio Telecom Association submits that the Staff Proposal should be revised and adopted in accordance with the foregoing.

Respectfully submitted,

OHIO TELECOM ASSOCIATION

By: Thomas E. Lodge /cf
Thomas E. Lodge (0015741)
THOMPSON HINE LLP
One Columbus
10 West Broad Street, Suite 700
Columbus, Ohio 43215-3435
(614) 469-3200
Its Attorney

⁴ *In the Matter of the Settlement Agreement Between the Staff of the Public Utilities Commission of Ohio and United Telephone Company of Ohio dba Embarq Relating to the Minimum Telephone Service Standards*, Case No. 06-1354-TP-UNC.

⁵ *Id.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon all parties on the attached Service List by e-mail transmission and/or ordinary U.S. mail, postage prepaid, this 23rd day of February, 2007.



Carolyn S. Flahive

SERVICE LIST
CASE No. 06-1344-TP-ORD

Thomas J. O'Brien
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215-4291
tobrien@brickjer.com

Patricia Rupich
Cincinnati Bell
201 E Fourth Street
P.O. Box 2301
Cincinnati, OH 45201-2301

Jon F. Kelly
AT&T Ohio
150 East Gay Street, Room 4-A
Columbus, OH 43215
jk2961@sbc.com

Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH 43216-1008
smhoward@vssp.com

David C. Bergmann
Terry L. Etter
Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215
bergmann@occ.state.oh.us
etter@occ.state.oh.us

David Turano
Shoemaker, Howarth & Taylor, LLP
471 E. Broad Street, Suite 2001
Columbus, OH 43215
dturano@midohiolaw.com

Joseph R. Stewart
United Telephone Company of Ohio
dba Embarq
50 West Broad Street, Suite 3600
Columbus, OH 43215-5918
joseph.r.stewart@embarq.com

Todd Rodgers
Chester, Willcox & Saxbe, LLP
65 East State Street, Suite 1000
Columbus, OH 43215
trodders@cwsllaw.com

Nancy Leigh Jacobson
One Communications
24 Albion Road, Suite 230
Lincoln, RI 02865

R. Edward Price
Senior Director, Regulatory Affairs
One Communications Corp.
10 Chestnut Street, Suite 600
Rochester, NY 14604
tprice@onecommunications.com