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## BEFORE

## THE PUBLIC UTILITIES COMMISSION OF OHIO

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

## REPLY COMMENTS OF WINDSTREAM

The Commission issued an Order<sup>1</sup> in this proceeding seeking comment on its proposed Carrier-to-Carrier Rules. Windstream Ohio, Inc. and Windstream Western Reserve, Inc. (collectively, "Windstream") hereby submit their reply comments in response to the Commission's request.

## I. Introduction

AT&T and Verizon have requested that the Commission reform the intrastate access rates of mid-size and small incumbent local exchange carriers ("ILECs"), asserting that such action is appropriate due to the failure by the Federal Communications Commission ("FCC") to reform intrastate access charges since the implementation of CALLS and MAG in 2001.<sup>2</sup> Specifically, AT&T seeks removal of implicit subsidies included in intrastate access rates and transition of

<sup>1</sup> *In the Matter of the Establishment of Carrier-to-Carrier Rules, In the Matter of the Commission Ordered Investigation of the Existing Local Exchange Competition Guidelines, In the Matter of the Commission Review of the Regulatory Framework for Competitive Telecommunications Services Under Chapter 4927, Revised Code, Case Nos. 06-1344-TP,ORD, 99-998-TP-COI, 99-563-TP-COI* (released November 21, 2006).

implicit subsidies to explicit. *AT&T Comments at 15*. Verizon proposes to reduce the intrastate access rates of mid-size and small carriers to CALLS levels. *Verizon Comments at 10*. Neither of these requests is timely or appropriate, and the requests should be denied.

Now is not the time for state commissions to engage in piece meal reform of intrastate access. Comprehensive federal reform is preferable and would yield consistent relief throughout the industry. For instance, the Missoula Plan is one type of such federal reform being considered. Interestingly, AT&T supports the Missoula Plan which seeks to address and resolve comprehensively all of the issues raised by AT&T and Verizon in their Ohio comments. The Missoula Plan currently is under review by the FCC. Additionally, this Commission is not required under any statute or regulation to remove all intrastate implicit subsidies and make them explicit, and transitioning mid-size and small carriers to the CALLS rates is inappropriate. Furthermore, Verizon's suggestion to implement in Ohio only those portions of CALLS that are beneficial to Verizon, specifically access rate reductions, is unacceptable. The Commission should deny this type of piece meal approach advocated by Verizon.

## **II. The Need for State-Specific Intrastate Access Reform in Ohio is Premature**

AT&T suggests that changes in the telecommunications industry and the FCC's failure to implement intrastate access reform necessitate immediate action by this Commission. AT&T's assertion is in error. Such reform is necessarily complicated which is one reason immediate FCC action has not been taken, although such efforts have culminated in proposals such as the Missoula Plan which is currently under consideration. A unified, federal approach is preferable to state-specific reform, which risks inconsistent results. Further, AT&T fails to support its claims regarding changes in the telecommunications industry with any evidence that would

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<sup>2</sup> AT&T Comments at 14; Verizon Comments at 9.

demonstrate that such piece meal reform is warranted at this time. To the contrary, the FCC currently is seeking comment and reviewing proposals such as the Missoula Plan, which is an industry sponsored plan supported by Windstream and AT&T, among others, that would comprehensively resolve the very issues raised by AT&T and Verizon in this proceeding.

Comprehensive intercarrier compensation reform is critical to the telecommunications industry. The existing intercarrier compensation regime is outdated and in need of comprehensive reform rather than a piece meal approach. AT&T itself acknowledges that the Missoula Plan is the only plan currently that resolves all of the outstanding issues surrounding intercarrier compensation.<sup>3</sup> Windstream agrees with AT&T on this point and, therefore, urges the Commission not to implement any state-specific intrastate access reform for mid-size and small ILECs at this time. Contrary to AT&T's comments in this proceeding, which are inconsistent with AT&T's support of the Missoula Plan, the FCC is actively considering federal reform. The FCC and the industry should be allowed to work through federal efforts like the Missoula Plan, which promises widespread and consistent reform throughout the states, without also having to address at the same time inconsistent state reform efforts undertaken prior to completion of the Missoula Plan review.

### **III. The 96 Act does not require the Ohio Commission to make all Implicit Subsidies Explicit**

AT&T asserts incorrectly that the Commission is required to initiate a proceeding to reform the intrastate access rates of mid-size and small carriers in order to comply with a policy that implicit subsidies be made explicit. *AT&T Comments at 15*. To support its position, AT&T relies on §254(e) of the 96 Act. AT&T's reliance on this statute, however, is misguided. The

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<sup>3</sup> AT&T Missoula Reply Comments at 1.

statute only addresses federal subsidies and does not impose any requirements on a state commission like the Ohio Commission to transition all implicit subsidies to explicit ones.

#### **IV. CALLS Rates were not Intended for Mid-Size and Small Carriers**

Verizon seeks a reduction of the intrastate access rates of mid-size and small carriers to CALLS levels. *Verizon Comments at 10*. In support of this position, Verizon asserts that the CALLS plan was negotiated by sophisticated carriers with equivalent bargaining power. *Id.* This is not the present case and ignores the FCC's prior determination that such a plan was not intended to be applied necessarily to mid-size and small carriers.

Mid-size and small ILECs did not participate in the CALLS negotiations. Therefore, Verizon's suggestion that such non-participating carriers possess equivalent bargaining power is illogical. CALLS was a negotiated plan among long distance providers and ILECs subject to federal price cap regulation. The CALLS plan was not intended to apply to mid-size and small ILECs, thereby giving rise to no need for them to participate in the negotiations.

Additionally, the CALLS plan was a comprehensive plan. CALLS provided for reductions in interstate access rates, modest increases in end user rates and additional explicit support. In this case, Verizon asks the Commission merely to adopt one aspect of the CALLS plan (*i.e.*, the rate reductions) but ignores the other critical components, particularly means for additional explicit support.

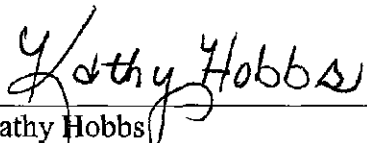
#### **V. Conclusion**

The existing intercarrier mechanism is outdated and must be reformed. Comprehensive reform is the only viable solution to the existing intercarrier compensation problems. AT&T and

Verizon recommend a piece meal approach that is only intended to reduce the intrastate access rates of the mid-size and small carriers. Windstream urges the Commission to work with the FCC and other state commissions to adopt more comprehensive reform like the Missoula proposal, that would resolve all the issues raised by AT&T and Verizon.

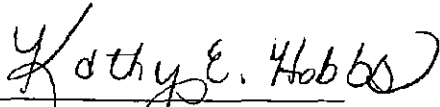
Respectfully submitted,

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By:   
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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments was served by first class United States Mail, postage prepaid, to the persons listed below, on this 23<sup>rd</sup> day of February, 2007.

  
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