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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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PUCO


In the Matter of the Application of)
The Ohio Bell Telephone Company d/b/a) Case No. 08-107-TP-BLS
AT&T Ohio for Approval of an)
Alternative Form of Regulation of Basic)
Local Exchange Service and Other Tier 1)
Services Pursuant to Chapter 4901:1-4,)
Ohio Administrative Code.)

**MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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 grant OCC's intervention in the above-captioned proceeding, pursuant to R.C. Chapter 4911, R.C. 4903.221, Ohio Adm. Code 4901-1-11 and Ohio Adm. Code 4901:1-4-09(D). The reasons for granting OCC's motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL



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MEMORANDUM IN SUPPORT

I. INTRODUCTION

On February 8, 2008, the Ohio Bell Telephone Company d/b/a AT&T Ohio ("AT&T Ohio" or "the Company") filed an Application seeking alternative regulation ("alt. reg.") for the Company's Tier 1 Core services in eight exchanges, pursuant to Ohio Adm. Code 4901:1-4-09.¹ The services at issue include basic local exchange service ("BLES") and basic Caller ID.² OCC is the state agency that represents Ohio's residential utility consumers. OCC is moving to intervene in this case to protect the interests of the approximately 85,000 AT&T Ohio residential customers in the eight exchanges,³ many of whom could be subjected to annual increases of up to \$1.75 (BLES and Caller ID) per month as a result of the Application.

PUCO approval of the Application would allow AT&T Ohio to increase rates for Tier 1 Core services provided to residential telephone customers in the eight exchanges named in the Application. The PUCO should grant OCC's Motion to Intervene so that

¹ Chagrin Falls, Christiansburg, Hillcrest, Independence, Painesville, Pitchin, Uhrichsville and Willoughby.

² See Ohio Adm. Code 4901:1-6-04(A)(1)(a). BLES is defined in R.C. 4927.01(A) and Ohio Adm. Code 4901:1-6-01(B).

OCC can fully participate in this proceeding and protect the interests of residential customers.

II. INTERVENTION

OCC moves to intervene under its legislative authority to represent the interests of the residential telephone customers in the state of Ohio, pursuant to R.C. Chapter 4911. OCC meets the standards for intervention found in Ohio's statutes and the PUCO's rules.

R.C. 4903.221 allows for intervention by persons who may be adversely affected by PUCO proceedings. Because AT&T Ohio is seeking the ability to raise the rates of residential BLES customers in the eight exchanges, the interests of residential telephone customers may be "adversely affected" by this case. Thus, OCC satisfies the intervention standard in R.C. 4903.221.

OCC also meets the criteria for intervention in R.C. 4903.221(B), which requires the PUCO, in ruling on motions to intervene, to consider the following:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is to ensure that alt. reg. for AT&T Ohio's Tier 1 Core offerings does not result in unreasonable or unlawful rate increases

³ See Schedule 28 of The Ohio Bell Telephone Company's 2006 Annual Report, filed with the PUCO. "The Ohio Bell Telephone Company" is the Company's legal name.

that would harm AT&T Ohio's residential customers. Therefore, it is essential that the interest of residential customers be represented.

Second, OCC's legal positions include that residential consumers' rates should be "just and reasonable," pursuant to R.C. 4905.22 and R.C. 4927.02(A)(2), among other statutes. This legal position directly relates to the merits of the case.

Third, OCC's intervention will not unduly prolong or delay the proceeding, but should provide insights that will expedite the PUCO's effective treatment of the Application.

Fourth, OCC will significantly contribute to the full development and equitable resolution of the issues herein, based on its expertise in regulatory and telephone matters.

OCC also satisfies the intervention criteria in the PUCO's rules, which are subordinate to the Ohio Revised Code criteria that OCC satisfies. To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the residential utility consumer advocate, OCC has a real and substantial interest in this case where the outcome could have an effect on the BLES rates paid by residential customers.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC has already addressed, and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission shall consider the "extent to which the person's interest is represented by existing parties." While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion because OCC has been uniquely designated as the statutory representative of the interests of

Ohio's residential utility consumers.⁴ That interest is different from, and not represented by, any other entity in Ohio. In addition, OCC has been granted intervention in the other five BLES alt. reg. cases,⁵ as well as every elective alt. reg. case filed to date at the PUCO in which OCC has sought intervention.⁶

Moreover, the Supreme Court of Ohio confirmed OCC's right to intervene in PUCO proceedings, in ruling on an appeal in which OCC claimed the PUCO erred by denying its intervention. The Court found that the PUCO abused its discretion in denying OCC's intervention and that OCC should have been granted intervention.⁷

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf

⁴ R.C. Chapter 4911.

⁵ *In the Matter of the Application of The Ohio Bell Telephone Company d/b/a AT&T Ohio for Approval of an Alternative Form of Regulation of Basic Local Exchange Service and Other Tier 1 Services Pursuant to Chapter 4901:1-4, Ohio Administrative Code*, Case No. 07-1312-TP-BLS, Entry (January 17, 2008) at 2; *In the Matter of the Application of United Telephone Company of Ohio d/b/a Embarq for Approval of an Alternative Form of Regulation of Basic Local Exchange Service and Other Tier 1 Services Pursuant to Chapter 4901:1-4, Ohio Administrative Code*, Case No. 07-760-TP-BLS, Entry (September 13, 2007) at 1; *In the Matter of the Application of The Ohio Bell Telephone Company d/b/a AT&T Ohio for Approval of an Alternative Form of Regulation of Basic Local Exchange Service and Other Tier 1 Services Pursuant to Chapter 4901:1-4, Ohio Administrative Code*, Case No. 07-259, Entry (April 11, 2007) at 1; *In the Matter of the Application of The Ohio Bell Telephone Company d/b/a AT&T Ohio for Approval of an Alternative Form of Regulation of Basic Local Exchange Service and Other Tier 1 Services Pursuant to Chapter 4901:1-4, Ohio Administrative Code*, Case No. 06-1013, Entry (September 1, 2006) at 3; *In the Matter of the Application of Cincinnati Bell Telephone Company LLC for Approval of an Alternative Form of Regulation of Basic Local Exchange Service and Other Tier 1 Services Pursuant to Chapter 4901:1-4, Ohio Administrative Code*, Case No. 06-1002-TP-BLS, Entry (September 29, 2006) at 1.

⁶ Most recently, OCC was granted intervention in *In the Matter of the Application of Telephone Service Company for Approval of an Alternative Form of Regulation Pursuant to Chapter 4901:1-4, Ohio Administrative Code*, Case No. 06-794-TP-ALT, Finding and Order (July 26, 2006) at 4; *In the Matter of the Application of Verizon North, Inc. for Approval of an Alternative Form of Regulation Pursuant to Chapter 4901:1-4, Ohio Administrative Code*, Case No. 06-700-TP-ALT, Finding and Order (June 22, 2006) at 4; and *In the Matter of the Application of The Champaign Telephone Company for Approval of an Alternative Form of Regulation Pursuant to Chapter 4901:1-4, Ohio Administrative Code*, Case No. 06-651-TP-ALT, Finding and Order (June 14, 2006) at 4. OCC was also granted intervention in the elective alt. reg. case involving AT&T Ohio's predecessor, SBC Ameritech Ohio. *In the Matter of the Application of SBC Ameritech Ohio for Approval of an Alternative Form of Regulation*, Case No. 02-3069-TP-ALT, Finding and Order (January 6, 2003) at 9.

⁷ *Ohio Consumers' Counsel v. Public Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20.

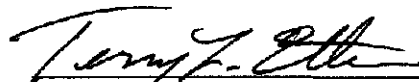
of AT&T Ohio's residential consumers, the Commission should grant OCC's Motion to Intervene.

III. CONCLUSION

This proceeding can adversely affect the residential customers in AT&T Ohio's service territory, including the potential for allowing unlawful or unreasonable rate increases up to \$1.75 on monthly bills (BLES and Caller ID) each year. For the reasons stated above, the PUCO should grant OCC's Motion to Intervene on behalf of the residential customers who have an interest in the outcome of this case.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

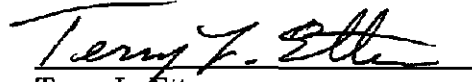


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Motion to Intervene by the Office of the Ohio Consumers' Counsel was provided electronically to the persons listed below this 12th day of February 2008.


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