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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

2008 MAR 31 PM 3: 23

In the Matter of the Application of AT&T Ohio)	
For Approval of an Alternative Form of)	Case No. 06-1013-TP-BLS
Regulation of Basic Local Exchange)	
and Other Tier 1 Services Pursuant to)	Case No. 07-259-TP-BLS
Chapter 4901:1-4, Ohio Administrative Code.)	

PUCO

AT&T OHIO'S MEMORANDUM CONTRA
OCC'S MARCH 13, 2008 MOTION

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AT&T OHIO'S MEMORANDUM CONTRA
OCC'S MARCH 13, 2008 MOTION

Introduction

AT&T Ohio¹, by its attorneys and pursuant to Ohio Admin. Code § 4901-1-12(B)(1), opposes the motion filed on March 13, 2008 by the Ohio Consumers' Counsel ("OCC") seeking a "show cause" order related to the alternative regulation of the Company's basic local exchange service ("BLES") in eleven exchanges that was granted in the captioned cases. OCC claims that the Commission should require the Company to show cause why its BLES alternative regulation should not be revoked. OCC Motion, p. 1.² It argues that due to the acquisition of the customer base of *one* of the *seven* competitive alternatives to AT&T Ohio's service that the Commission recognized when it granted BLES authority by another of the recognized carriers, the Company no longer meets the requirements of the test under which BLES alternative regulation was approved. OCC Motion, pp. 1-2. OCC argues that the findings supporting the Commission's orders as to the eleven exchanges "are no long valid" and should lead the Commission to "begin the process to abrogate or modify those orders" OCC, p. 10. It therefore concludes that BLES alternative regulation is no longer in the public interest. Based on this scant showing, the Commission should not proceed further and should deny OCC's motion.

OCC's claims are without merit and do not support turning back the clock on the progressive steps in regulatory reform that the Commission has taken. In addition, OCC's claims are contradicted by marketplace conditions and by the fact that AT&T Ohio's exchanges have

¹ The Ohio Bell Telephone Company uses the name AT&T Ohio.

² In this pleading, citations to OCC's motion are shown as "OCC Motion, p. x" while citations to its memorandum in support are shown as "OCC, p. x."

been irreversibly opened to competition pursuant to the Telecommunications Act of 1996.

AT&T Ohio's state- and federally-sanctioned entry into the interLATA long distance market is positive proof of competition in all of AT&T Ohio's exchanges, OCC's protestations notwithstanding.

The competitive telecommunications marketplace changes daily. A BLES alternative regulation revocation proceeding should not be instituted by the Commission without a clear showing of a substantial marketplace failure that would render such alternative regulation contrary to the public interest. Behind all of OCC's rhetoric lies a very thin reed - - the fact that only *one* of the alternative providers relied upon by AT&T Ohio, New Access, has ceased doing business as a separate provider and has transferred its remaining customer base (who were given the opportunity to retain their New Access service arrangements) to another of the alternative providers, First Comm. OCC, pp. 5-6. This insignificant fact cannot reasonably form the basis for the Commission to even initiate a revocation proceeding, much less the ultimate revocation of BLES alternative regulation authority that OCC seeks. The statute and the rule must require more than this thin reed before such a revocation would even be considered by the Commission. OCC has not made a clear showing of a substantial marketplace failure that might justify reexamining the Company's eligibility for BLES alternative regulation in the eleven exchanges in question. Moreover, OCC ignores the fact that any revocation action taken by the Commission implicates AT&T Ohio's due process rights under both the United States and Ohio Constitutions and the Ohio Revised Code.

Lastly, it must be noted that the Commission rejected a proposal for periodic review of the granting of BLES alternative regulation in its rulemaking case to implement the enabling legislation, Am. Sub. H. B. 218. There, it specifically rejected the Consumer Groups' proposal for a review of an ILEC's BLES alternative regulation plan on the fourth anniversary of the plan. Case No. 05-1305-TP-ORD, Opinion and Order, March 7, 2006, p. 50. The Commission saw "little to be gained" by that proposal. *Id.*, p. 51. Similarly, there is little to be gained - - and much to be lost - - if the Commission were to initiate a revocation proceeding based on the thin reed offered by OCC.

Background

OCC's motion is the first of its kind filed under the BLES alternative regulation rules. The Commission should therefore approach the motion with circumspection. It must be heedful of the circumstances and future consequences of any action it takes here. While OCC was quick to respond after its defeat in the Ohio Supreme Court³, the Commission should approach this matter carefully and deliberately.

The rule on which OCC relies requires that a stakeholder set forth "reasonable grounds" that the market has changed. The rule also provides that, based on its review of a stakeholder's alleged reasonable grounds, the Commission may take whatever action it deems necessary, if any, including initiating an investigation or scheduling a hearing, to consider revocation of the alternative regulation for BLES and other tier one services in a telephone exchange area. The rule also states that, pending any review of alternative regulation of BLES,

³ *Ohio Consumers' Counsel v. Pub. Util. Comm.*, Slip Opinion No. 2008-Ohio-861, March 6, 2008.

the ILEC will maintain the pricing flexibility previously granted until or unless otherwise modified by the Commission. Ohio Admin. Code § 4901:1-4-12(B). OCC also cites the relevant portion of the enabling statute. That provision, cited in the rule, reads as follows:

The public utilities commission has jurisdiction over every telephone company providing a public telecommunications service that has received an exemption or for which alternative regulatory requirements have been established pursuant to this section. As to any such company, the commission, after notice and hearing, *may* abrogate or modify any order so granting an exemption or establishing alternative requirements *if it determines that the findings upon which the order was based are no longer valid and that the abrogation or modification is in the public interest*. No such abrogation or modification shall be made more than five years after the date an order granting an exemption or establishing alternative requirements under this section was entered upon the commission's journal, unless the affected telephone company or companies consent.

R. C. § 4927.03(C) (emphasis added). These provisions *permit*, but do not *require*, the Commission to abrogate or modify its orders in certain circumstances, subject to the applicable restrictions. If the Commission exercises its discretion to undertake a further review based on "reasonable grounds" set forth in a stakeholder's motion, it must then determine, after notice and hearing, that (1) the findings upon which the order was based are no longer valid; and (2) that the abrogation or modification is in the public interest. It is important to note that, as a threshold matter, and in order to even begin this process, OCC must state "reasonable grounds," which it has not done here.

OCC's Motion Is Not Ripe For Consideration

OCC concedes that AT&T Ohio has not increased any of its residential BLES rates under the authority it received in these two cases. OCC, p. 3. Yet, it seeks to "protect" the customers in the eleven exchanges from "unlawful rate increases." *Id.* Under the rule quoted above, however, AT&T Ohio's BLES alternative regulation in the eleven exchanges in question

is valid "until or unless" it is modified by the Commission. The Ohio Supreme Court has validated the rules and the order in the first AT&T Ohio case under which BLES alternative regulation was granted.⁴

It is also the case that the process requested by OCC is simply not necessary. AT&T Ohio has not exercised any of the BLES alternative regulation authority with respect to any customer in any of the eleven exchanges.⁵ OCC argues that even *attaining* pricing flexibility and the associated *ability* to raise rates should be enough for the Commission to begin a revocation proceeding. OCC, p. 11. The statute does not support OCC's interpretation. As explained above, the statute *allows* (but does not *require*) the Commission to abrogate or modify any order granting an exemption or establishing alternative requirements if it determines that the findings upon which the order was based are no longer valid and that the abrogation or modification is in the public interest. This is yet another reason why OCC has failed to state reasonable grounds, as it is required to do under the applicable rule.

OCC's Motion Lacks Merit

In addition to being untimely, OCC's motion lacks merit under any reasonable interpretation of the statute and the rule. OCC continues to quibble with the competitive tests that the Commission established in its rules. OCC, p. 4, note 11. From behind its blinders, OCC states that it "does not concede that the 'competitive tests' substitute for the showing required by

⁴ OCC properly dismissed its appeal of the second such order in light of the Court's decision.

⁵ OCC is not authorized to represent, and presumably does not purport to represent, any business customers. *See*, R. C. §§ 4911.02 and 4911.15

R. C. [§] 4927.03." There is no need for a "concession" on this point; the Ohio Supreme Court unanimously disposed of that issue. OCC blatantly ignores the Court's specific holding:

Ultimately, OCC is appealing the rules that the commission adopted to streamline its review for alternative treatment under the statute. *The rules*, as applied to the facts in this case, *satisfy the statutory factors* needed to award alternative treatment. The commission made appropriate factual determinations. OCC's arguments to the contrary are rejected, and the commission's order is affirmed.

Ohio Consumers' Counsel v. Pub. Util. Comm., Slip Opinion No. 2008-Ohio-861, March 6, 2008, ¶ 52 (emphasis added).

OCC notes that AT&T Ohio used Test 3 as the basis for each of the eleven exchanges in question. OCC, p. 4. First Comm and New Access were included in the Company's proof as separate alternative providers. OCC, p. 5. The Company's first application was compiled using June 30, 2006 data. 06-1013, Memorandum in Support of Application, August 11, 2006, p. 3. Its second application was compiled using December 31, 2006 data. 07-259, Memorandum in Support of Application, March 9, 2007, p. 3. As OCC states, New Access applied to withdraw its certificate on October 25, 2007 and sold substantially all of its assets to First Comm. OCC, p. 6. OCC argues that this is a "change in market conditions" that results in AT&T Ohio no longer qualifying for BLES alternative regulation in the eleven exchanges. OCC, p. 7. OCC appears to argue, without foundation, that the Company knew or should have known about New Access' plans when it filed its applications. OCC, p. 8. But the letter New Access reported that it sent to AT&T Ohio is dated October 17, 2007.⁶ AT&T Ohio would have had no reason to be aware of New Access' December 5, 2006 letter to its customers, also included in the abandonment filing.

⁶ See, Case No. 07-1098-TP-ABN, attachment to letter filed October 25, 2007. The New Access abandonment file is attached for the Commission's convenience.

OCC believes that New Access should not have qualified as an alternative provider in the Belfast Exchange, included in Case No. 07-259-TP-BLS. OCC, p. 8. OCC asserts that the Commission ignored the evidence OCC provided on this point. OCC, p. 9. It characterizes the data provided by AT&T Ohio as "superficial." If OCC believed that the Commission ignored its claims, it should have raised this argument on rehearing of the Commission's 07-259 order and in OCC's appeal of that order, but it did not do so. The fact is that the Commission did not find OCC's evidence convincing at that time, and it should not do so now.

OCC's motion presents the question of what steps, if any, the Commission should take if a carrier, relied upon to support BLES alternative regulation, is no longer operating at some point in the future. Continuing its long battle against BLES alternative regulation in any form, OCC appears to argue that any change in the marketplace justifies revisiting the granting of BLES alternative regulation. This approach, however, would require a continuous updating of the data to account for the presence and absence of qualifying competitors and alternative providers, as well as changes in the data underlying their qualifications.⁷ OCC would likely call for a continuing analysis of the "barriers to entry" and "public interest" tests as well, because this would suit OCC's agenda. Besides being poor public policy, the statute and the rule do not call for such a process. Such a process should not be triggered by a stakeholder's insubstantial and unreasonable claims.

⁷ It should be remembered that AT&T Ohio filed thousands of pages of data supporting its application in Case No. 06-1013-TP-BLS.

The Commission has already recognized and dealt with the issue of changes in the marketplace. In adopting the BLES alternative regulation rules, it stated:

Nonfacilities-based alternative providers are entities that can be in the market today and gone tomorrow, with no investment in facilities to indicate the serious commitment to the provision of alternative services to BLES.

Case No. 05-1305-TP-ORD, Entry on Rehearing, May 3, 2005, p. 15. It went on to say:

Inasmuch as the telecommunications market is continuously evolving, the Commission cannot pigeonhole a competitive market analysis via one specific test.

Id., p. 18. Test 3 requires a showing of two facilities-based CLECs and five alternative providers. Here, the Commission adopted a reasonable and practical approach to the application of the statutory criteria in the implementation of BLES alternative regulation. OCC would upset all of this work with its hyper-technical reliance on the loss of one competitor, even a non-facilities-based one, in a few exchanges.

The tests the Commission developed to implement the statute call for a snapshot in time of competitive data that can be used to meet the tests. The tests were designed as thresholds to assure the presence of ample competition that would support additional pricing flexibility for the ILECs. AT&T Ohio's applications provided that appropriate snapshot in time for the eleven exchanges and provided valid proof of the existence of unaffiliated CLECs, alternative providers, and the applicable 15% market share calculation. A subsequent merger of one or more unaffiliated alternative providers does not, as OCC seems to suggest, mean that the original findings are no longer valid, or that there is less competition, or that there now exist barriers to entry. The competitive tests are threshold tests; they are not permanent benchmarks that are etched in stone that must be monitored and met every day. As threshold tests, intended to provide a means of meeting the statutory requirements that there is ample competition, no

barriers to entry, and that BLES alternative regulation is in the public interest. On this point, the Supreme Court stated as follows:

We find that the commission appropriately relied on the statutory amendments and *created lawful and reasonable tests* to effectuate those changes. Likewise, we affirm the commission's factual determinations in approving AT&T's application.

Ohio Consumers' Counsel v. Pub. Util. Comm., Slip Opinion No. 2008-Ohio-861, March 6, 2008, ¶ 2 (emphasis added).

The statute and the rule must be accorded a reasonable interpretation, contrary to OCC's claims. There is simply no evidence of a reduction in competition in the eleven exchanges. OCC thus fails to state reasonable grounds. The Commission should only consider revocation of BLES alternative regulation in a given exchange if there has been a significant failure of the marketplace. The elimination of a CLEC, especially when its customer base is purchased by another viable CLEC, can by no means be considered a significant failure of the marketplace. This is especially true where, as here, the New Access customers could keep their New Access-defined service and rates even though First Comm acquired the customer base.⁸

These facts show that the competitive marketplace is working. This is demonstrated by the ease of competitive entry and exit. The New Access customer base was an attractive asset for First Comm to acquire, and the marketplace responded. The facts presented by OCC provide no basis for beginning the process to revoke AT&T Ohio's BLES alternative regulation authority that OCC seeks.

⁸ The December 5, 2006 letter that First Comm and New Access sent to the New Access customers is an attachment to New Access' letter filed October 25, 2007 in Case No. 07-1098-TP-ABN. In that letter, it is stated, "Your services will not be affected during this transition. * * * During this transition, there will be NO change to your rates, service options, or the way that you dial and NO interruption in service." (Emphasis in original.)

It should be noted that First Comm gave notice to all of New Access' customers, based on what it filed with the Commission. The New Access customers had a competitive choice to subscribe to First Comm or to subscribe to one of the other providers, or even a non-CLEC. They were not forced or even urged to subscribe to AT&T Ohio. These facts do not set forth "reasonable grounds" for OCC's motion, as the applicable rule requires.

The Relief Sought By OCC Would Not Serve The Public Interest

OCC attempts to meet the requirements of the "public interest" prong of the statute by its characteristic refrain that BLES alternative regulation is not in the public interest. OCC, pp. 10-12. This is a circular argument. Worse, it is no different than the "public interest" arguments OCC made in opposing the Company's applications and in challenging the Commission's decisions on appeal. OCC does not like BLES alternative regulation in any form, even when it has been granted under Commission rules which have been validated by the Ohio Supreme Court. On the public interest issue, the Court said the following:

Moreover, the public-benefit finding is a factual determination made by the commission. Its finding that AT&T met the requirements for a showing of public interest will not be disturbed by this court absent a demonstration that it is clearly unsupported by the record. AT&T, 88 Ohio St.3d at 555, 728 N.E.2d 371. OCC has made no such showing.

Ohio Consumers' Counsel v. Pub. Util. Comm., Slip Opinion No. 2008-Ohio-861, March 6, 2008, ¶ 50.

Perhaps the best response to the OCC's argument in this regard is that AT&T Ohio's exchanges have been irreversibly opened to competition pursuant to the Telecommunications Act of 1996. AT&T Ohio's state- and federally-sanctioned entry into the

interLATA long distance market is proof of this. That entry was achieved over four years ago precisely because of a finding made by this Commission and the FCC that there were *no barriers to entry* in AT&T Ohio local exchanges. In adopting its recommendation to the FCC, this Commission observed that "local competition has continued to grow since the commencement of this proceeding."⁹ In his letter to the FCC accompanying the Commission's report, Chairman Schriber stated as follows:

"... the Ohio commission Report and Evaluation demonstrates that SBC Ohio has opened its local market to competitive local exchange companies who wish to compete in Ohio. SBC Ohio has done so by fully implementing the competitive checklist found in Sec. 271(c)(2)(B) with respect to its provision of access and interconnection pursuant to Sec. 271(c)(1)(A). Therefore, it is our belief, based on the proceeding we conducted, that SBC Ohio's network for the purpose of satisfying the requirements of the 1996 Act, is open to competitors on a non-discriminatory basis."¹⁰

In its report to the FCC, the Commission concluded as follows:

The PUCO believes that the operations of these companies via UNE loops and UNE-P signify the offering of telephone exchange service either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities in combination with the resale of the telecommunications service of another carrier.¹¹

* * *

Based on our review of the record in this proceeding, the PUCO believes that SBC Ohio satisfies the requirements of Section 271 of the 1996 Act and has, for the purposes of Section 271 relief, opened its local market to CLECs that wish to compete within its incumbent local service territory.¹²

And in its order granting interLATA relief to AT&T Ohio, the FCC held as follows:

We grant SBC's application in this Order based on our conclusion that SBC has taken the statutorily required steps to open its local exchange markets in these states to competition. (pp. 2-3)

⁹ *In the Matter of the Investigation Into SBC Ohio's Entry Into In-Region InterLATA Service Under Section 271 of the Telecommunications Act of 1996*, Case No. 00-942-TP-COI, Order, June 26, 2003, p. 6.

¹⁰ *Id.*, letter to FCC Commissioners from Chairman Alan R. Schriber, June 26, 2003.

¹¹ *Id.*, Commission Report and Evaluation, June 26, 2003, p. 23.

¹² *Id.*, p. 266.

* * *

On June 1, 2000, the Ohio Commission initiated a proceeding to review SBC's section 271 application for Ohio. The Ohio Commission held numerous and detailed collaborative workshops between SBC and the competitive LECs focused on OSS enhancements, development and supervision of OSS tests, performance measurements, and checklist items including UNE combinations. On June 26, 2003, the Ohio Commission issued an order concluding that SBC has opened the local markets in Ohio to competition and has satisfied all the requirements for section 271 approval. (p. 5)

* * *

We conclude that approval of this application is consistent with the public interest. After extensive review of the competitive checklist we find that barriers to competitive entry into the local exchange markets of the four applicant states have been removed, and that these local exchange markets are open to competition.¹³ (p. 103)

These findings conclusively establish that AT&T Ohio has removed barriers to entry in its local exchanges. Nothing OCC says can bring them back.

In addition to addressing local exchange service competition in the long distance entry case, the FCC also addressed it in the Triennial Review proceeding. It is instructive to review the findings related to competition (or, more precisely, the findings of the "lack of impairment") made by the FCC in that case. In analyzing the competitiveness of mass market local circuit switching, the FCC found as follows:

C. Mass Market Unbundling Analysis

Based on the evidence of deployment and use of circuit switches, packet switches, and softswitches, and changes in incumbent LEC hot cut processes, we determine not only that competitive LECs are not impaired in the deployment of switches, but that it is feasible for competitive LECs to use competitively deployed switches to serve mass market customers throughout the nation. Further, regardless of any potential impairment

¹³ *In the Matter of Joint Application by SBC Communications Inc., Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, the Ohio Bell Telephone Company, Wisconsin Bell, Inc., and Southwestern Bell Communications Services, Inc. for Authorization To Provide In-Region, InterLATA Services in Illinois, Indiana, Ohio, and Wisconsin*, WC Docket No. 03-167, Memorandum Opinion and Order, FCC 03-243, adopted October 14, 2003, released October 15, 2003 (footnotes omitted). This Commission's order was adopted on June 26, 2003 in Case No. 00-942-TP-COI.

that may still exist, we exercise our "at a minimum" authority and conclude that the disincentives to investment posed by the availability of unbundled switching, in combination with unbundled loops and shared transport, justify a nationwide bar on such unbundling. Nor do we find that other factors, not relied upon in the *Triennial Review Order* impairment analysis, warrant unbundling of mass market local circuit switching.¹⁴

The language here is important because it represents a declaration by the FCC that there are no barriers to entry for competitors. It is also the fact that competitors have easy exit, as demonstrated by the New Access abandonment filing. The Commission cannot ignore these marketplace conditions.

OCC's Approach Would Hamstring The Commission And The ILECs

Just as it did in opposing the applications in these cases, OCC invents new tests and processes that it believes should apply in considering the revocation of BLES alternative regulation authority. Its approach would unnecessarily and improperly bind both the Commission and the ILECs.

OCC asks the Commission to establish a procedural schedule for the revocation of the Company's BLES alternative regulation in the eleven exchanges. OCC, p. 14. It invents its own rules in this regard. OCC believes the Company must be "limited to an attempt to demonstrate (somehow) that New Access still qualifies as an alternative provider in the eleven exchanges" OCC, p. 14. Neither the statute nor the rule call for such a limitation, and it does not make sense in any event. As the Commission is aware, the telecommunications marketplace is ever-changing and ever-evolving. New technologies displace old ones. New carriers and alternative providers arrive on the scene while others depart. The use of wireless

¹⁴ *In the Matter of Unbundled Access to Network Elements, Order on Remand*, FCC 04-290, Released February 4, 2005, ¶ 204; See, http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-290A1.doc.

and VoIP services has exploded.¹⁵ Clearly, the telecommunications marketplace has significantly changed since the adoption of the Telecommunications Act of 1996, since the passage of Am. Sub. H. B. 218 in 2005, and since the Commission issued its BLES alternative regulation rules in 2006. It has also changed since the applications in these cases were ruled upon by the Commission. The changes have increased competition and consumer choice, not reduced them, as OCC suggests. At least in AT&T Ohio's territory, the local exchange telecommunications marketplace is irreversibly open to competition.

Alternatively, OCC suggests that the Company could attempt to show that it meets all of the criteria of Test 3 with "one or more additional alternative providers. . . ." OCC, p. 14. Here, it invents another restriction in proposing that previously disqualified providers could not be included. OCC, p. 14, note 30. It apparently would not allow the Company to show that it met a competitive test other than the one it chose in its application. These suggestions put all of the burden on the Company and none on the OCC, the movant here. In the insignificant fact of New Access' departure from eleven exchanges, OCC believes it has found a grenade. It has lobbed that grenade and run. Despite the fact that the OCC appears to monitor the marketplace and make recommendations concerning CLEC, wireless, and VoIP alternatives on its website, it apparently feels it has no obligations here beyond lobbing the grenade. This cannot satisfy the rule's requirement that OCC state reasonable grounds in support of its motion.

The Commission needs to be very mindful of the slippery-slope onto which the OCC is asking it to step. The type of constant monitoring that OCC recommends would mire the

¹⁵ The evolution of VoIP service itself shows that the Commission should update its rules to account for the significant impact this service has had in the marketplace. Anyone with a broadband connection has access to a multitude of VoIP providers.

Commission and the parties in a never-ending and needless process. It would be akin to constantly adjusting rates to account for changes in utility earnings for the traditional rate-of-return companies. The Commission would not be equipped to perform that task, nor would the public interest support it. Given the pace of change in the marketplace, the Commission must exercise caution in initiating the review requested by OCC or it could be faced with revisiting its BLES alternative regulation decisions, and potentially holding a formal hearing, every time there is a change in the carrier mix in a given exchange. OCC's motion does not set forth reasonable grounds to even begin down that path.

Any Revocation Action Implicates AT&T Ohio's Due Process Rights

OCC fails to recognize the important due process rights that are implicated by its request, but is clear that the due process rights guaranteed by the United States and Ohio Constitutions apply in administrative proceedings. *Lonergan v. State Med. Bd. of Ohio*, 2006-Ohio-6790, at ¶ 9, citing *Urban v. State Med. Bd. of Ohio*, Franklin App. No. 03AP-426, 2004-Ohio-104, at ¶ 25. By granting AT&T Ohio BLES alternative regulation, the Commission has given the Company a significant property interest that is subject to due process protections. Furthermore, R. C. § 4927.03(C) gives the Commission the discretion to investigate previous grants of alternative regulation and to abrogate such grants only after notice and hearing. Clearly, OCC has not given the Commission just cause to even initiate such an investigation.

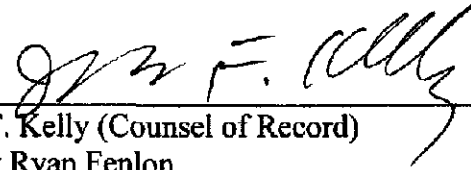
Conclusion

For all of the foregoing reasons, OCC's motion should be denied.

Respectfully submitted,

AT&T Ohio

By:



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Its Attorneys

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ATTACHMENT

CASE NUMBER: 07-1098-TP-ABN
CASE DESCRIPTION: NEW ACCESS COMMUNICATIONS LLC

DOCUMENT SIGNED ON: 3/31/2008

DATE OF SERVICE: _____

11/03/2007 Memo closing case with an effective date of 11/3/07.

10/25/2007 Request for withdrawal of certificate filed by D. Backstrand on behalf of New Access Communications LLC.

10/04/2007 In the matter of the application of New Access Communications LLC to rescind/revoke the certificate(s) that authorized the authority to transact telecommunications business in the state of Ohio.

NC

FILE

3

The Public Utilities Commission of Ohio
TELECOMMUNICATIONS APPLICATION FORM for ROUTINE PROCEEDINGS

(Effective: 09/19/2007)

(Pursuant to Case No. 06-1345-TP-ORD)

In the Matter of the Application of New Access Communications LLC)
 to Repeal/Revoke the certificate(s) that authorized)
 the authority to transact telecommunications)
 business in the State of Ohio.)

TRF Docket No. 90-_____

Case No. 07 - 1043 - TP - ATW

NOTE: Unless you have reserved a Case # or are filing a Contract, leave the "Case No" fields BLANK.

Name of Registrant(s) New Access Communications LLC

DBA(s) of Registrant(s) _____

Address of Registrant(s) 60 South 6th Street, Suite 2535, Minneapolis, MN 55402

Company Web Address N/A

Regulatory Contact Person(s) Christine Gronewald

Phone 612-465-0271 Fax 612-455-1028

Regulatory Contact Person's Email Address gronewald@necuity.net

Contact Person for Annual Report Christine Gronewald

Phone 612-465-0271

Address (if different from above) _____

Consumer Contact Information _____

Phone _____

Address (if different from above) _____

Motion for protective order included with filing? ☐ Yes ☒ No

Motion for waiver(s) filed affecting this case? ☐ Yes ☒ No (Note: Waivers may toll any automatic timeframe.)

Section I - Pursuant to Chapter 4901:11-6 OAC - Part I - Please indicate the Carrier Type and the reason for submitting this form by checking the boxes below. CMRS providers: Please see the bottom of Section II.

NOTES: (1) For requirements for various applications, see the identified section of Ohio Administrative Code Section 4901 and/or the supplemental application form noted.

(2) Information regarding the number of copies required by the Commission may be obtained from the Commission's web site at www.puc.ohio.gov under the docketing information system section, by calling the docketing division at 614-466-4095, or by visiting the docketing division at the offices of the Commission.

Carrier Type <input type="checkbox"/> Other (explain below)	<input type="checkbox"/> ILEC	<input checked="" type="checkbox"/> CLEC	<input type="checkbox"/> CTS	<input type="checkbox"/> AOS/IOS
Tier 1 Regulatory Treatment				
Change Rates within approved Range	<input type="checkbox"/> TRF 1-6-04(B) (0 day Notice)	<input type="checkbox"/> TRF 1-6-04(B) (0 day Notice)		
New Service, expanded local calling area	<input type="checkbox"/> ZTA 1-6-04(B) (0 day Notice)	<input type="checkbox"/> ZTA 1-6-04(B) (0 day Notice)		
Change Terms and Conditions, Introduce non-recurring service charges	<input type="checkbox"/> ATA 1-6-04(B) (Auto 30 days)	<input type="checkbox"/> ATA 1-6-04(B) (Auto 30 days)		
Introduce or Increase Late Payment or Returned Check Charge	<input type="checkbox"/> ATA 1-6-04(B) (Auto 30 days)	<input type="checkbox"/> ATA 1-6-04(B) (Auto 30 days)		
Business Contract	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)		
Withdrawal	<input type="checkbox"/> ATW 1-6-12(A) (Non-Auto)	<input checked="" type="checkbox"/> ATW 1-6-12(A) (Auto 30 days)		
Raise the Ceiling of a Rate	Not Applicable	<input type="checkbox"/> SLF 1-6-04(B) (Auto 30 days)		
Tier 2 Regulatory Treatment				
Residential - Introduce non-recurring service charges	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)		
Residential - Introduce New Tariffed Tier 2 Service(s)	<input type="checkbox"/> TRF 1-6-05(C) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(C) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(C) (0 day Notice)	
Residential - Change Rates, Terms and Conditions, Promotions, or Withdrawal	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)	
Residential - Tier 2 Service Contracts	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)	
Commercial (Business) Contracts	Not Filed	Not Filed	Not Filed	
Business Services (see "Other" below)	Detariffed	Detariffed	Detariffed	
Residential & Business Toll Services (see "Other" below)	Detariffed	Detariffed	Detariffed	

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 SM Date Processed 10/4/07

Section I – Part II – Certificate Status and Procedural

Certificate Status	ILEC	CLEC	CTS	AOS/IOS
Certification (See Supplemental ACE form)		<input type="checkbox"/> ACE 1-6-10 (Auto 30 days)	<input type="checkbox"/> ACE 1-6-10 (Auto 30 days)	<input type="checkbox"/> ACE 1-6-10 (Auto 30 days)
Add Exchanges to Certificate	<input type="checkbox"/> ATA 1-6-09(C) (Auto 30 days)	<input type="checkbox"/> AAC 1-6-10(B) (0 day Notice)	CLECs must attach a current GLEC Exchange Listing Form	
Abandon all Services - With Customers	<input type="checkbox"/> ABN 1-6-11(A) (Non-Auto)	<input type="checkbox"/> ABN 1-6-11(A) (Auto 90 day)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)
Abandon all Services - Without Customers		<input type="checkbox"/> ABN 1-6-11(A) (Auto 30 days)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)
Change of Official Name	<input type="checkbox"/> ACN 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ACN 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Change in Ownership	<input type="checkbox"/> ACO 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ACO 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Merger	<input type="checkbox"/> AMT 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> AMT 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Transfer a Certificate	<input type="checkbox"/> ATC 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ATC 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Transaction for transfer or lease of property, plant or business	<input type="checkbox"/> ATR 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ATR 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Procedural				
Designation of Process Agent(s)	<input type="checkbox"/> TRF (0 day Notice)	<input type="checkbox"/> TRF (0 day Notice)	<input type="checkbox"/> TRF (0 day Notice)	<input type="checkbox"/> TRF (0 day Notice)

All Section I applications that result in a change to one or more tariff pages require, at a minimum, the following exhibits. Other exhibits may be required under the applicable rule(s).

Exhibit	Description:
A	The tariff pages subject to the proposed change(s) as they exist before the change(s)
B	The Tariff pages subject to the proposed change(s), reflecting the change, with the change(s) marked in the right margin.
C	A short description of the nature of the change(s), the intent of the change(s), and the customers affected.
D	A copy of the notice provided to customers, along with an affidavit that the notice was provided according to the applicable rule(s).

Section II – Carrier to Carrier (Pursuant to 95-845-TP-COI), CMRS and Other

Carrier to Carrier	ILEC	CLEC		
Interconnection agreement, or amendment to an approved agreement	<input type="checkbox"/> NAG (Auto 90 day)	<input type="checkbox"/> NAG (Auto 90 day)		
Request for Arbitration	<input type="checkbox"/> ARB (Non-Auto)	<input type="checkbox"/> ARB (Non-Auto)		
Introduce or change c-t-o service tariffs.		<input type="checkbox"/> ATA (Auto 30 day)		
Introduce or change access service pursuant to 07-464-TP-COI	<input type="checkbox"/> ATA (Auto 30 day)			
Request rural carrier exemption, rural carrier suspension or modification	<input type="checkbox"/> UNC (Non-Auto)	<input type="checkbox"/> UNC (Non-Auto)		
Pole attachment changes in terms and conditions and price changes.	<input type="checkbox"/> UNC (Non-Auto)	<input type="checkbox"/> UNC (Non-Auto)		
CMRS Providers See 4901:1-6-15	<input type="checkbox"/> RCC (Registration & Change in Operations) (0 day)		<input type="checkbox"/> NAG (Interconnection Agreement or Amendment) (Auto 90 days)	
Other* (explain) _____				

*NOTE: During the interim period between the effective date of the rules and an Applicant's Detariffing Filing, changes to existing business Tier 2 and all toll services, including the addition of new business Tier 2 and all new toll services, will be processed as 0-day TRF filings, and briefly described in the "Other" section above.

Section III. – Attestation

Registrant hereby attests to its compliance with pertinent entries and orders issued by the Commission.

AFFIDAVIT

Compliance with Commission Rules and Service Standards

I am an officer/agent of the applicant corporation, New Access Communications LLC, and am authorized to make this statement on its behalf.
(Name)

I attest that these tariffs comply with all applicable rules, including the Minimum Telephone Service Standards (MTSS) Pursuant to Chapter 4901:1-5 OAC for the state of Ohio. I understand that tariff notification filings do not imply Commission approval and that the Commission's rules, including the Minimum Telephone Service Standards, as modified and clarified from time to time, supersede any contradictory provisions in our tariff. We will fully comply with the rules of the state of Ohio and understand that noncompliance can result in various penalties, including the suspension of our certificate to operate within the state of Ohio.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on (Date) _____ at (Location) _____

*(Signature and Title) _____ (Date) _____

- This affidavit is required for every tariff-affecting filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.

VERIFICATION

I, Drew Backstrand

verify that I have utilized the Telecommunications Application Form for Routine Proceedings provided by the Commission and that all of the information submitted here, and all additional information submitted in connection with this case, is true and correct to the best of my knowledge.

*(Signature and Title) Drew S. Backstrand - General Counsel (Date) 9/28/2007

*Verification is required for every filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.

Send your completed Application Form, including all required attachments as well as the required number of copies, to:

Public Utilities Commission of Ohio
Attention: Docketing Division
180 East Broad Street, Columbus, OH 43215-3793

Or

Make such filing electronically as directed in Case No 06-900-AU-WVR



NEW ACCESS
COMMUNICATIONS, LLC
The Smart Choice for Local and Long Distance Service

07-1098-TP-ARB

RECEIVED-DOCKETING DIV

2007 OCT 25 PM 2:24

October 17, 2007

PUCO

Secretary
Ohio Public Utilities Commission
180 East Broad Street
Columbus, OH 43215

Re: Request for Withdrawal of Certificate of Public Convenience and Necessity for New Access Communications LLC, that approved its authority to provide Telecommunications Services per Ohio Public Utilities Commission rules 4901:1-6-11.

Dear Ladies and Gentleman:

New Access Communications LLC ("New Access") is an authorized telecommunications provider in your state, and wishes to withdraw the certificates that approved its original request to provide residential resold local and long distance services. As part of the withdrawal process required by the Ohio Public Utilities Commission ("Commission"), this letter serves as a statement to the following.

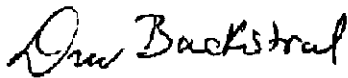
1. The entire customer base and related assets were purchased from New Access by First Communications LLC ("First"), a licensed telecommunications provider in your state, effective March 1, 2007. As part of this purchase, New Access ceased to provide services to customers on March 1, 2007.
2. As part of the daily business procedure, New Access never required prepayment or other deposits from its customers, and I have enclosed an affidavit to that effect.
3. New Access was a reseller of local and long distance services, and had no need to have any area code prefixes, nor thousands block to be assigned to them from the NANPA, as it was a reseller.
4. Since New Access no longer has any customers, and is no longer conducting any business in the State of Ohio as a telecommunications reseller or otherwise, this letter serves as a request to withdraw or rescind any and all tariffs, certificates, and authorizations that may be held. This includes the local tariff, the local certificate, the long distance certificate, and any other filings which may have been unnam'd in this paragraph.

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 TM Date Processed 10/25/2007

As per the new rules for abandonment, I have also included with this letter a signed Affidavit swearing to the authenticity and correctness of this letter and the items contained herein; a copy of the letter that was sent to AT&T Ohio, notifying them of our intent to withdraw in the State of Ohio; a copy of the customer notification letter; and a completed Commission-approved Telecommunications Application Form for Routine Proceedings.

Should any questions or concerns arise out of this letter, or of the application, please contact myself at 612-465-0265, or Christine Gronewald at 612-465-0271.

Sincerely,

A handwritten signature in cursive script that reads "Drew Backstrand".

Drew Backstrand
General Counsel
New Access Communications LLC

Enclosures

The Public Utilities Commission of Ohio
TELECOMMUNICATIONS APPLICATION FORM for ROUTINE PROCEEDINGS

(Effective: 09/18/2007)
(Pursuant to Case No. 04-1345-TP-ORD)

In the Matter of the Application of New Access
Communications LLC)
To Withdraw all certificates that authorized it to provide)
telecommunications services in Ohio.)

TRF Docket No. 90- 9202-TP-TRF

Case No. 07 - 1098-TP-46N

NOTE: Unless you have reserved a Case # or are filing a Contract,
leave the "Case No" fields BLANK.

Name of Registrant(s) New Access Communications LLC

DBA(s) of Registrant(s) _____

Address of Registrant(s) 60 South 6th Street, Suite 2535 Minneapolis, MN 55402

Company Web Address N/A

Regulatory Contact Person(s) Christine Gronewald

Phone 612.465.0271 Fax 612.455.1022

Regulatory Contact Person's Email Address gronewald@ncequity.net

Contact Person for Annual Report Christine Gronewald

Phone 612.465.0271

Address (if different from above) _____

Consumer Contact Information Christine Gronewald

Phone 612.465.0271

Address (if different from above) _____

Motion for protective order included with filing? ☐ Yes ☒ No

Motion for waiver(s) filed affecting this case? ☐ Yes ☒ No [Note: Waivers may toll any automatic timeframe.]

Section I - Pursuant to Chapter 4901:11-6 OAC - Part I - Please indicate the Carrier Type and the reason for submitting this form by checking the boxes below. CMRS providers: Please see the bottom of Section II.

NOTES: (1) For requirements for various applications, see the identified section of Ohio Administrative Code Section 4901 and/or the supplemental application form noted.

(2) Information regarding the number of copies required by the Commission may be obtained from the Commission's web site at www.puco.ohio.gov under the docketing information system section, by calling the docketing division at 614-466-4095, or by visiting the docketing division at the offices of the Commission.

Carrier Type <input type="checkbox"/> Other (explain below)	<input type="checkbox"/> ILEC	<input checked="" type="checkbox"/> CLEC	<input checked="" type="checkbox"/> CTS	<input type="checkbox"/> AOS/IOS
Tier 1 Regulatory Treatment				
Change Rates within approved Range	<input type="checkbox"/> TRF 1-6-04(B) (0 day Notice)	<input type="checkbox"/> TRF 1-6-04(B) (0 day Notice)		
New Service, expanded local calling area,	<input type="checkbox"/> ZTA 1-6-04(B) (0 day Notice)	<input type="checkbox"/> ZTA 1-6-04(B) (0 day Notice)		
Change Terms and Conditions, Introduce non-recurring service charges	<input type="checkbox"/> ATA 1-6-04(B) (Auto 30 days)	<input type="checkbox"/> ATA 1-6-04(B) (Auto 30 days)		
Introduce or Increase Late Payment or Returned Check Charge	<input type="checkbox"/> ATA 1-6-04(B) (Auto 30 days)	<input type="checkbox"/> ATA 1-6-04(B) (Auto 30 days)		
Business Contract	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)		
Withdrawal	<input type="checkbox"/> ATW 1-6-12(A) (Non-Auto)	<input type="checkbox"/> ATW 1-6-12(A) (Auto 30 days)		
Raise the Ceiling of a Rate	Not Applicable	<input type="checkbox"/> SLF 1-6-04(B) (Auto 30 days)		
Tier 2 Regulatory Treatment				
Residential - Introduce non-recurring service charges	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)		
Residential - Introduce New Tariffed Tier 2 Service(s)	<input type="checkbox"/> TRF 1-6-05(C) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(C) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(C) (0 day Notice)	
Residential - Change Rates, Terms and Conditions, Promotions, or Withdrawal	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)	
Residential - Tier 2 Service Contracts	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)	
Commercial (Business) Contracts	Not Filed	Not Filed	Not Filed	
Business Services (see "Other" below)	Detariffed	Detariffed	Detariffed	
Residential & Business Toll Services (see "Other" below)	Detariffed	Detariffed	Detariffed	

Section I – Part II – Certificate Status and Procedural

Certificate Status	ILEC	CLEC	CTS	AOS/IOS
Certification (See Supplemental ACE form)		<input type="checkbox"/> ACE 1-6-10 (Auto 30 days)	<input type="checkbox"/> ACE 1-6-10 (Auto 30 days)	<input type="checkbox"/> ACE 1-6-10 (Auto 30 days)
Add Exchanges to Certificate	<input type="checkbox"/> ATA 1-8-09(C) (Auto 30 days)			
Abandon all Services - With Customers	<input type="checkbox"/> ABN 1-6-11(A) (Non-Auto)	<input type="checkbox"/> ABN 1-6-11(A) (Auto 90 day)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)
Abandon all Services - Without Customers		<input checked="" type="checkbox"/> ABN 1-6-11(A) (Auto 30 days)	<input checked="" type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)
Change of Official Name	<input type="checkbox"/> ACN 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ACN 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Change in Ownership	<input type="checkbox"/> ACO 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ACO 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Merger	<input type="checkbox"/> AMT 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> AMT 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Transfer a Certificate	<input type="checkbox"/> ATC 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ATC 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Transaction for transfer or lease of property, plant or business	<input type="checkbox"/> ATR 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ATR 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Procedural				
Designation of Process Agent(s)	<input type="checkbox"/> TRF (0 day Notice)	<input type="checkbox"/> TRF (0 day Notice)	<input type="checkbox"/> TRF (0 day Notice)	<input type="checkbox"/> TRF (0 day Notice)

All Section I applications that result in a change to one or more tariff pages require, at a minimum, the following exhibits. Other exhibits may be required under the applicable rule(s).

Exhibit	Description:
A	The tariff pages subject to the proposed change(s) as they exist before the change(s)
B	The Tariff pages subject to the proposed change(s), reflecting the change, with the change(s) marked in the right margin.
C	A short description of the nature of the change(s), the intent of the change(s), and the customers affected.
D	A copy of the notice provided to customers, along with an affidavit that the notice was provided according to the applicable rule(s).

Section II – Carrier to Carrier (Pursuant to 95-845-TP-COI), CMRS and Other

Carrier to Carrier	ILEC	CLEC		
Interconnection agreement, or amendment to an approved agreement	<input type="checkbox"/> NAG (Auto 90 day)	<input type="checkbox"/> NAG (Auto 90 day)		
Request for Arbitration	<input type="checkbox"/> ARB (Non-Auto)	<input type="checkbox"/> ARB (Non-Auto)		
Introduce or change c-t-c service tariffs,		<input type="checkbox"/> ATA (Auto 30 day)		
Introduce or change access service pursuant to 07-464-TP-COI	<input type="checkbox"/> ATA (Auto 30 day)			
Request rural carrier exemption, rural carrier suspension or modification	<input type="checkbox"/> UNC (Non-Auto)	<input type="checkbox"/> UNC (Non-Auto)		
Pole attachment changes in terms and conditions and price changes.	<input type="checkbox"/> UNC (Non-Auto)	<input type="checkbox"/> UNC (Non-Auto)		
CMRS Providers See 4901:1-6-15	<input type="checkbox"/> RCC (Registration & Change in Operations) (0 day)		<input type="checkbox"/> NAG (Interconnection Agreement or Amendment) (Auto 90 days)	
Other* (explain): _____				

*NOTE: During the interim period between the effective date of the rules and an Applicant's Detariffing Filing, changes to existing business Tier 2 and all toll services, including the addition of new business Tier 2 and all new toll services, will be processed as 0-day TRF filings, and briefly described in the "Other" section above.

Section III. - Attestation

Registrant hereby attests to its compliance with pertinent entries and orders issued by the Commission.

AFFIDAVIT

Compliance with Commission Rules and Service Standards

I am an officer/agent of the applicant corporation, New Access Communications LLC, and am authorized to make this statement on its behalf.
(Name)

I attest that these tariffs comply with all applicable rules, including the Minimum Telephone Service Standards (MTSS) Pursuant to Chapter 4901:1-5 OAC for the state of Ohio. I understand that tariff notification filings do not imply Commission approval and that the Commission's rules, including the Minimum Telephone Service Standards, as modified and clarified from time to time, supersede any contradictory provisions in our tariff. We will fully comply with the rules of the state of Ohio and understand that noncompliance can result in various penalties, including the suspension of our certificate to operate within the state of Ohio.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on (Date) October 17, 2007 at (Location) New Access Communications LLC

*(Signature and Title) Drew S. Backstrand (Date) 10/17/2007

- This affidavit is required for every tariff-affecting filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.

VERIFICATION

I, Drew Backstrand

verify that I have utilized the Telecommunications Application Form for Routine Proceedings provided by the Commission and that all of the information submitted here, and all additional information submitted in connection with this case, is true and correct to the best of my knowledge.

*(Signature and Title) Drew S. Backstrand Drew Backstrand, General Counsel (Date) 10/17/2007

..*Verification is required for every filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.

Send your completed Application Form, including all required attachments as well as the required number of copies, to:

**Public Utilities Commission of Ohio
Attention: Docketing Division
180 East Broad Street, Columbus, OH 43215-3793**

Or

Make such filing electronically as directed in Case No 06-900-AU-WVR

Affidavit of Verification

I, Drew S. Backstrand, first being duly sworn upon oath depose and say that I am the General Counsel for New Access Communications LLC, a limited liability company formed under the laws of the state of Minnesota; that I have read the above and forgoing petition by letter dated October 17, 2007, which Affidavit of Verification is signed and sworn to below by me as true and correct. Further, the affiant indicates that New Access Communications LLC did not take customer deposits or hold customer prepayment deposits in any way in the normal course of its business.

Drew S. Backstrand
Signature

General Counsel
Title

State of Minnesota)
)
) ss.
County of Hennepin)

Subscribed and sworn before me this 17th day of October, 2007, by Drew S. Backstrand, General Counsel of New Access Communications, LLC.

Christine Leah Orchenwald
Notary Public



My Commission Expires January 31, 2011



NEW ACCESS
COMMUNICATIONS, LLC
The Smart Choice for Local and Long Distance Service

October 17, 2007

AT&T Ohio
Attn: Account Manager
150 E Gay Street
Columbus, OH 43215

Dear Account Manager:

Please be advised that New Access Communications LLC ("New Access") has applied with the Ohio Public Utilities Commission to withdraw its certificate to provide telecommunications services in Ohio. This is due to the sale of substantially all assets, including the customer base to First Communications LLC, a licensed telecommunications provider in Ohio. From the sale, New Access ceased to provide billing, customer service, and related support to customers on March 1, 2007 and no longer owns the customers. It has discontinued its telecommunications business.

As of the date of this letter, New Access is no longer conducting any business in the State of Ohio. From this, we wish to notify you of the intent to withdraw at this time, and of the discontinuance of business operations with your company.

Should you have any questions, or concerns regarding this letter or the items contained within it, please contact me immediately. My contact information follows:

Christine Gronewald
Regulatory and Compliance Manager
New Access Communications LLC
60 South 6th Street
Suite 2535
Minneapolis, MN 55402
Ph 612.465.0271
Fax 612.455.1022
Email gronewald@ncequity.net

Sincerely,

Christine Gronewald
New Access Communications LLC



IMPORTANT INFORMATION REGARDING YOUR TELECOMMUNICATIONS SERVICE.

December 5, 2006

Dear :

We are happy to share some exciting news about your telecommunications services. We are proud to announce that, beginning on or about March 1, 2007, your telecommunications services, formerly provided by New Access Communications will be provided by First Communications.

Who is First Communications?

First Communications is a full service, facilities-based telecommunications provider located in Northeast Ohio. First Communications serves more than 130,000 business and residential customers across the U.S. with the majority located in Ohio, Michigan and Indiana. First Communications is a solid financial company with 23 straight quarters of profitable growth with a strong equity base, including a Fortune 100 company. For more information about First Communications, please visit the First Communications website www.firstcomm.com.

What does this mean?

First Communications is purchasing the proprietary rights to many of New Access Communications products, including long distance and circuits. The initial period of transition will involve your account migration to First Communications billing system. Therefore, once the migration is complete, First Communications will support your telecommunications needs.

What happens to my services?

Your services will not be affected during this transition. In fact, from the first day of the transitional period you will experience a superior quality of service led by First Communications veteran staff of Client Care management. During this transition, there will be NO change to your rates, service options, or the way that you dial and NO interruption in service. Please, also be assured that the operations of New Access Communications Network Operations Center (NOC) will remain fully functional during this period. Therefore, you will continue to be able to request changes to your service, submit trouble tickets and receive timely troubleshooting resolutions.

Any future changes in rates, terms and conditions of service will be done as prescribed by the Federal Communications Commission (FCC) and your applicable state regulatory commission.

Will I be charged for this change?

Absolutely NOT! There will be no charge or fee as a result of this change to First Communications. Please contact First Communications if a charge does appear on your bill. The only difference that you will notice will be the name of your carrier and the look of your new monthly bill.

When will this Change Occur?

No further action is required on your part. First Communications anticipates that the transfer will occur on or about March 1, 2007, provided that the necessary regulatory approvals have been obtained. Beginning on or after that date, First Communications will be providing your service and New Access Communications will no longer be your service provider. First Communications is

confident that you will find that remaining with us is the smart choice to meet your telecommunications needs; however, First Communications realizes that you have a choice of service providers, and you may choose another carrier at any point, subject to any applicable termination provisions in your contract. Please check the Missouri Public Service Commission website, <http://www.psc.mo.gov/consumer-telecoinfo.asp> for Alternative Carriers selections.

All subscribers receiving this notice, even those who had arranged preferred carrier freezes through their local service providers on the service(s) involved in the transfer, will be transferred to First Communications, unless they select a different carrier before the transfer date. Existing preferred carrier freezes on the service(s) involved in the transfer will be lifted. You must contact your new local service provider (First Communications or other local service provider that you choose) to arrange a new freeze to protect you from unauthorized carrier changes after the transfer.

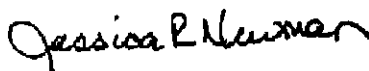
If you have any questions or concerns in regards to service needs, complaints or billing issues, you can also call First Communications at 1.800.274.1015 or prior to the transfer on or around March 1, 2007, call New Access Communications at 1.877.613.7487, and a representative will assist you.

Welcome to First Communications and thank you for your time.

Sincerely,



Ray Hexamer
Chief Executive Officer
First Communications



Jessica R. Newman
Chief Executive Officer
New Access Communications

McCauley, Betty

From: Sheets, Kerry
Sent: Tuesday, October 30, 2007 5:56 PM
To: McCauley, Betty; Johnson, Lois; Hiles, Cindy; Parsons, Linda; Wright, Mariruth; Hengely, Martin
Subject: 07-1098-TP-ABN, New Access Communications LLC
Attachments: image001.png

Public Utilities Commission of Ohio
180 E. Broad Street
Columbus, OH 43215

Case Status Form

Case Information

07-1098-TP-ABN

Case Number: _____

New Access Communications LLC

Case Name: _____

Docketing please:

☒ Close, 11/3/07

☐ Re-Open

☐ Archive

The above-captioned case docket.

Kerry K. Sheets

10/30/07

Signature

Date


Authorized

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 2 Date Processed 10/31/07

10/31/2007

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via first class mail, postage prepaid, on the parties listed below on this 31st day of March, 2008.



Jon F. Kelly

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