

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**REPLY TO AT&T OHIO'S SHOW CAUSE PLEADING OF AUGUST 29, 2008
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

Respectfully submitted,

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CERTIFICATE OF SERVICE

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I. INTRODUCTION

On March 13, 2008, the Office of the Ohio Consumers’ Counsel (“OCC”), an intervenor in the above-captioned cases on behalf of residential utility consumers,¹ filed a Motion asking the Public Utilities Commission of Ohio (“PUCO” or “Commission”) to issue an order requiring The Ohio Bell Telephone Company d/b/a AT&T Ohio (“AT&T Ohio” or “Company”) to show cause why its alternative regulation (“alt. reg.”) for basic local exchange service (“basic service” or “BLES”) should not be revoked in eleven exchanges.² On June 13, 2008, OCC filed a similar Motion concerning eight additional exchanges.³

¹ OCC was granted intervention in Case No. 06-1013-TP-BLS (“06-1013”) by Entry dated September 1, 2006 and in Case No. 07-259-TP-BLS (“07-259”) by Entry dated April 11, 2007.

² Beallsville, Belfast, Danville (Highland), Graysville, Guyan, Marshall, Newcomerstown, Rio Grande, Shawnee, Vinton and Walnut.

³ Burton, Cheshire, Dresden, Ironton, Lowellville, New Lexington, Rogers and Toronto. OCC’s Motions were filed pursuant to Ohio Adm. Code 4901:1-4-12(B).

On August 15, 2008, the Commission issued an Entry finding that OCC had set forth reasonable grounds in its Motions for a show-cause order.⁴ The Commission directed AT&T Ohio “to show cause as to why alternative regulation of BLES and other tier one services in the involved telephone exchange areas should not be revoked,” pursuant to Ohio Adm. Code 4901:1-4-12(B).⁵ Under Commission precedent, AT&T Ohio now has the burden of proof in this proceeding. In response to the Entry, AT&T Ohio filed its showing on August 29, 2008.⁶

Per the Entry,⁷ OCC replies to AT&T Ohio’s Showing.⁸ In its Showing, AT&T Ohio provided the Commission with no basis for continuing to subject the approximately 33,000 AT&T Ohio residential customers in the 19 exchanges to the potential for rate increases that basic service alt. reg. allows.⁹ AT&T Ohio made several arguments that merely rehashed arguments that AT&T Ohio made in response to OCC’s Motions. But in the Entry, the PUCO determined that, despite AT&T Ohio’s arguments, OCC had set forth reasonable grounds for a show cause order. The PUCO should again reject AT&T Ohio’s arguments and schedule a hearing “to consider revocation of the alternative regulation for BLES and other tier one services” in the 19 exchanges.¹⁰

AT&T Ohio’s arguments concerning the openness of the national and Ohio telecommunications markets in general lack the specificity that the Commission requires

⁴ Entry at 4.

⁵ Id.

⁶ AT&T Ohio’s Showing Why Basic Service Alternative Regulation Should Not Be Revoked (August 29, 2008) (“Showing”).

⁷ Entry at 4.

⁸ If OCC does not respond specifically to an argument raised by AT&T Ohio, that fact should not be construed as OCC’s acquiescence to the argument.

⁹ See Schedule 28 of The Ohio Bell Telephone Company’s 2007 Annual Report filed with the PUCO.

¹⁰ Ohio Adm. Code 4901:1-4-12(B).

in basic service alt. reg. proceedings,¹¹ and have been previously rejected by the Commission. The only exchange-specific information provided by AT&T Ohio does not include basic information (e.g., the identity of carriers, whether they serve the residential market) that the Commission has relied upon in previous basic service alt. reg. proceedings to determine whether carriers should be deemed to be alternative providers. In addition, AT&T Ohio's claim that it has lost the requisite percentage of residential access lines in four exchanges is highly suspect; the Commission should carefully scrutinize AT&T Ohio's calculations.

In its Showing, AT&T Ohio admitted that it does not meet the line loss criterion in four exchanges. AT&T Ohio, however, would like the Commission to ignore this fact and allow AT&T Ohio to maintain basic service alt. reg. in the four exchanges based on the generic competitive arguments presented in the Showing. Not only does this argument lack the exchange-specific details required by the Commission, it would require the Commission to examine the exchanges under a competitive test different from the test under which basic service alt. reg. was granted in the exchanges – a test that appears to be completely different from the tests found in Ohio Adm. Code 4901:1-4-10(C). The Commission should not accept AT&T Ohio's approach.¹²

AT&T Ohio has not shown that it should retain basic service alt. reg. in the 19 exchanges that are the subject of the show-cause order. The PUCO should schedule a hearing, under R.C. 4927.03(C) and Ohio Adm. Code 4901:1-4-12(B), to consider revoking AT&T Ohio's basic service alt. reg. in the 19 exchanges. At the hearing,

¹¹ See, e.g., 06-1013, Opinion and Order (December 20, 2006) ("06-1013 Order") at 7; 07-259, Opinion and Order (June 27, 2007) at 8.

¹² Again, to the extent that AT&T Ohio is proposing a new test, this would require a new proceeding to vet that test.

AT&T Ohio should be required to show that it meets all of the criteria of the competitive test for which the Company was granted basic service alt. reg. in each exchange.

II. BACKGROUND

Under basic service alt. reg., AT&T Ohio's stand-alone basic service customers in those exchanges are subject to annual rate increases of up to \$1.25 per month, and AT&T Ohio's Caller ID customers in those exchanges are subject to annual rate increases of up to \$0.50 per month, at AT&T Ohio's discretion.¹³ Although AT&T Ohio has not yet increased these rates under its basic service alt. reg. authority, the issue in this proceeding is AT&T Ohio's ability to raise these rates.¹⁴

AT&T Ohio had been granted basic service alt. reg. in the eleven exchanges named in the March 13 Motion through Ohio Adm. Code 4901:1-4-10(C)(3) ("Test 3"), which, among other things, requires a showing that there are at least two unaffiliated facilities-based competitive local exchange carriers ("CLECs") providing BLES to residential customers and at least five alternative providers serving the residential market in the exchange. In granting AT&T Ohio basic service alt. reg. in the eleven exchanges, the Commission had found that there were just five alternative providers in each exchange. In the March 13 Motion, OCC noted that two of the five alternative providers had merged. Thus, there are now only four alternative providers in each exchange, and AT&T Ohio no longer meets Test 3 in those exchanges.

AT&T Ohio had been granted basic service alt. reg. in the eight exchanges named in the June 13 Motion using Ohio Adm. Code 4901:1-4-10(C)(4) ("Test 4"), which,

¹³ Ohio Adm. Code 4901:1-4-11(A).

¹⁴ See June 13 Motion at 9.

among other things, requires the applicant to show it has lost at least 15% of its residential access lines in an exchange since 2002. OCC showed that, in comparing the residential access line data in AT&T Ohio's 2007 annual report filed with the PUCO to the same data from 2002, AT&T Ohio no longer meets Test 4 in the eight exchanges.

OCC's Motions asked the PUCO to issue an order requiring AT&T Ohio to show why its basic service alt. reg. should not be revoked in the 19 exchanges pursuant to Ohio Adm. Code 4901:1-4-12(B). AT&T Ohio filed a memorandum contra each Motion on March 31, 2008 and July 1, 2008, respectively. OCC replied to AT&T Ohio's memoranda contra on March 10, 2008 and July 11, 2008. In its August 15 Entry, the PUCO stated that OCC had presented reasonable grounds for a show cause order and directed AT&T Ohio to show why its basic alt. reg. should not be revoked in the 19 exchanges.

III. STANDARD OF REVIEW

The Commission's authority to abrogate or modify an alt. reg. plan is found in R.C. 4927.03(C), which states, in relevant part:

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.**

(Emphasis added.) The Supreme Court of Ohio has recognized the statutory right for revocation of basic service alt. reg. in an exchange, including OCC's opportunity to notify the PUCO if conditions change. In its decision in the appeal of the 06-1013 Order,

the Court stated: “R.C. 4927.03(C) reserves to the commission the right to modify or abrogate an award of alternative regulatory treatment should any evidence show that the findings relied upon are no longer valid. OCC can notify the commission if any conditions change.”¹⁵

Under the authority granted in R.C. 4927.03(C), the Commission adopted a revocation process to be used if an exchange for which an incumbent local exchange carrier (“ILEC”) has been granted basic service alt. reg. no longer meets the criteria under which the alt. reg. was granted.¹⁶ Ohio Adm. Code 4901:1-4-12(B) provides:

If the commission has reason to believe, based on a change in the telecommunications market in a telephone exchange area(s) or based on the motion of an interested stakeholder setting forth reasonable grounds, that the market in a telephone exchange area(s) has changed such that it may no longer meet one of the competitive market tests set forth in paragraph (C) of rule 4901:1-4-10 of the Administrative Code, the commission shall notice the ILEC and require it to show cause as to why alternative regulation for BLES and other tier one services in the involved telephone exchange area(s) should not be revoked. Based on that review, the commission will 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(s). Consistent with division (C) of section 4927.03 of the Revised Code, the commission may modify or revoke any order granting the ILEC alternative regulation for BLES and other tier one services in a telephone exchange area(s). Pending any review of alternative regulation of BLES, the ILEC will maintain the pricing flexibility previously granted until or unless otherwise modified by the commission.

¹⁵ *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 117 Ohio St.3d 301, 2008-Ohio-861, ¶ 37. See also *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 117 Ohio St.3d 289, 2008-Ohio-860, ¶ 35.

¹⁶ *In the Matter of the Implementation of H.B. 218 Concerning Alternative Regulation of Basic Local Exchange Service of Incumbent Local Exchange Telephone Companies*, Case No. 05-1305-TP-ORD, Opinion and Order (May 7, 2006) (“05-1305 Order”) at 51.

In proceedings concerning PUCO show-cause orders, the entity upon whom the order is served has the burden of proof.¹⁷ In this proceeding, AT&T Ohio has the burden of showing why its basic service alt. reg. should not be revoked in the 19 exchanges.

IV. AT&T OHIO FAILED TO MEET ITS BURDEN OF PROOF.

AT&T Ohio's arguments generally serve three purposes: (1) to attack OCC's motives and the information included in OCC's Motions; (2) to assert that competition is widespread in the telecommunications market in general; and (3) to assert that the competitive market tests in the Commission's rules should have no bearing on whether an ILEC should be able to retain basic service alt. reg. in an exchange once it has been granted. The first two arguments are irrelevant. The third argument would lead to situations where basic service residential customers would be subject to automatic price increases, without review, even though no other basic service providers were in the exchange to serve them.

The fact is, the Commission needs some benchmark to determine whether competition is "healthy and sustainable" under the statute. The Commission has chosen the competitive market tests to make such a determination and the Ohio Supreme Court has upheld that choice. The Commission has recognized that the market tests are more than a "threshold"; they are the means by which the Commission's basic service alt. reg. process meets the statutory requirements set forth in R.C. 4927.03.¹⁸

¹⁷ See, e.g., *In the Matter of the Commission Staff's Investigation into the Alleged MTSS Violations of Buzz Telecom*, Case No. 06-1443, Entry (December 13, 2006) at 2; *In the Matter of the Application of the Ohio Bell Telephone Company for Approval of an Alternative Form of Regulation*, Case No. 93-487-TP-ALT, Entry (October 6, 1997) at 3-4.

¹⁸ AT&T Ohio asserted that "the Commission should update its rules to account for the significant impact [VoIP and wireless] services have in the marketplace." Showing at 6-7. This is certainly not the place for such an update.

A. The Commission Has Already Determined that OCC's Motions Present Reasonable Grounds for a Show-Cause Order; Thus, AT&T Ohio Now Has the Burden of Proof in This Proceeding and Its Arguments Regarding the Content of OCC's Motions Are Irrelevant.

In its filing, AT&T Ohio first attempted to downplay the significance of the information presented in OCC's Motions. AT&T Ohio, however, seems to believe that OCC has the burden of proof regarding the show-cause order. AT&T Ohio used the term "bare showing" in referring to OCC's demonstration that AT&T Ohio no longer meets the competitive tests that it used for being granted basic service in the 19 exchanges.¹⁹ AT&T Ohio stated that "the Commission should not grant the relief sought by OCC."²⁰

But the Commission has already done that. The relief sought in OCC's Motions was for the Commission to issue an order requiring AT&T Ohio to show cause as to why its basic service alt. reg. should not be revoked in the 19 exchanges.²¹ The Entry did just that. The burden is now on **AT&T Ohio** to show that it should retain basic service alt. reg. in the 19 exchanges.

As discussed below, AT&T Ohio failed to meet this burden. The majority of AT&T Ohio's Showing discussed competitive circumstances that are generic in nature, with no discernable relevance to the 19 specific exchanges that were the subject of OCC's Motions. The only exchange-specific information presented by AT&T Ohio lacks the kind of detail that the Commission has required for basic service alt. reg. proceedings.

In attempting to divert the Commission's attention from the real issue at hand, i.e., whether AT&T Ohio's basic service alt. reg. should be revoked in the 19 exchanges, AT&T Ohio regurgitated stale, irrelevant arguments concerning OCC's motives in filing

¹⁹ Id. at 5, 6.

²⁰ Id. at 6.

²¹ See June 13 Motion at 2; March 13 Motion at 3.

the Motions.²² AT&T Ohio produced this same smokescreen in both of its memoranda contra OCC's Motions.²³ That AT&T may not appreciate OCC's true motive of protecting Ohioans from unreasonable rate increases in their basic telephone service, is not a defense to the PUCO's order to show cause.

In issuing the show-cause order, the Commission rightly ignored the Company's rantings. The PUCO should ignore them once again in this phase of the proceeding.

B. The Information that AT&T Ohio Presented Regarding the Status of Competition in the Telecommunications Industry Is Not Exchange-Specific, and Thus Is Irrelevant to This Proceeding.

In adopting the basic service alt. reg. rules, the Commission determined that the exchange is the relevant market for examining whether competition exists for basic service.²⁴ The Commission requires that ILECs meet competitive tests on an exchange basis,²⁵ and has rejected arguments and information that is not exchange-specific.²⁶

Nevertheless, as in AT&T Ohio's memoranda contra OCC's Motions, the bulk of AT&T Ohio's Showing is not exchange-specific. AT&T Ohio once again pointed to the proceeding allowing AT&T Ohio to provide interLATA long distance for the proposition that its exchanges have been "irreversibly opened to competition...."²⁷ The Commission has rejected this notion as not being dispositive of competition for basic service, stating

²² See Showing at 9, 11-12, 14.

²³ See AT&T Ohio's July 1 Memorandum Contra at 8, 11; AT&T Ohio's March 31 Memorandum Contra at 4, 6-7, 11.

²⁴ 05-1305 Order at 18-19.

²⁵ See Ohio Adm. Code 4901:1-4-10(C).

²⁶ See 06-1013 Order at 7.

²⁷ Showing at 15.

that “it would be unwise given the newness of BLES alternative regulation to concede that the market **for BLES** is irreversibly open to competition.”²⁸

In its Showing, AT&T Ohio invoked statements on competition by the Federal Communications Commission,²⁹ the Ohio Telecom Association³⁰ and the Missouri Public Service Commission.³¹ AT&T Ohio also cited to studies by Forrester Research, Inc.,³² the National Center for Health Statistics³³ and Pew Internet and American Life Project.³⁴ None of this information says anything about the number of alternative providers or residential access line losses in the 19 exchanges, or about whether any of the 19 exchanges meets the criteria of the competitive for which AT&T Ohio was granted basic service alt. reg. in the exchange.

This information has no relevance to the question of whether residential consumers in the 19 exchanges have available competition or alternatives to AT&T Ohio’s basic service as required by Ohio law. The Commission should not consider any information presented by AT&T Ohio that is not specific to the 19 exchanges at issue here.

C. Based on the Exchange-Specific Information Provided in AT&T Ohio’s Showing, AT&T Ohio Should Not Retain the Ability to Raise the Basic Service Rates of Customers in the 19 Exchanges.

The only exchange-specific information found in AT&T Ohio’s Showing is the affidavit of Daniel R. McKenzie, included as Attachment 1 to the Showing. The affidavit

²⁸ 05-1305 Order at 51 (emphasis added).

²⁹ Showing at 17, 19-21.

³⁰ Id. at 22.

³¹ Id. at 24.

³² Id. at 22.

³³ Id.

³⁴ Id. at 23.

included two tables. The first table referenced OCC's March 13 Motion, which addressed the eleven Test 3 exchanges. The table is recreated below:

	CLECs Reselling or Leasing	CLECs w/WP Listings	Unaffiliated Wireless Cos.	Cable w/ Broadband & Digital Phone
Beallsville	5	5	1	
Belfast	8	5	4	1
Danville	7	7	4	1
Graysville	6	6	1	
Guyan	7	7	1	1
Marshall	4	3	4	1
Newcomerstown	11	11	4	1
Rio Grande	7	6	3	
Shawnee	8	8	1	1
Vinton	9	8	1	1
Walnut	6	5	1	

The second table referenced OCC's June 13 Motion, which concerned the eight Test 4 exchanges. The second table is recreated below:

	2002 EOP LINES	12/31/2007 LINES	3/31/2008 LINES	6/30/2008 LINES	12/31/2007 % CHG	3/31/2008 % CHG	6/30/2008 % CHG
Burton	2,659	2,340	2,299	2,262	-12.00%	-13.54%	-14.93%
Cheshire	776	708	706	698	-8.76%	-9.02%	-10.05%
Dresden	1,426	1,235	1,173	1,033	-13.39%	-17.74%	-27.56%
Ironton	11,272	9,678	9,683	9,505	-14.14%	-14.10%	-15.68%
Lowellville	1,483	1,270	1,250	1,215	-14.36%	-15.71%	-18.07%
New Lexington	3,668	3,123	3,107	3,160	-14.86%	-15.29%	-13.85%
Rogers	1,046	894	859	843	-14.53%	-17.88%	-19.41%
Toronto	2,925	2,565	2,575	2,533	-12.31%	-11.97%	-13.40%

The affidavit did not explain what the data purports to show, except that it is "made in support of" AT&T Ohio's Showing. Although the Showing itself is slightly more explanatory of the data,³⁵ it did not provide the kind of information that the Commission has relied upon in basic service alt. reg. cases.

In addition, although Mr. McKenzie attested to the veracity of the information, nothing in the affidavit or anywhere else in the Showing stated that the alleged alternative providers serve residential customers or that access line data concerns residential access

³⁵ Showing at 6.

lines. This is important because Test 3 and Test 4 focus exclusively on the residential market. Because AT&T Ohio provided no basis for the relevancy of the data presented in the affidavit, the Commission should ignore the data. AT&T Ohio failed to show that it should be allowed to retain basic service alt. reg. in the 19 exchanges.

1. The Test 3 data in the affidavit does not identify the alleged alternative providers, and thus is inadequate to support continuation of basic service alternative regulation in the eleven Test 3 exchanges.

In addition to its failure to specify that the alleged alternative providers alluded to in the affidavit serve residential customers, AT&T Ohio also did not even identify the providers. Instead, the affidavit merely stated the number of alternative providers that purportedly are providing service of some kind in each exchange.

In basic service alt. reg. proceedings, the Commission has examined each alleged alternative provider to determine whether the carrier is present in the market and is serving residential customers. For wireline providers, the Commission generally has looked at whether the carrier has a presence in the market through such things as white pages listings, and at whether the carrier has a tariffed residential service, an indication that the carrier serves the residential market.³⁶ In order to do this, the Commission must know the identity of the alleged alternative providers.

Thus, the identity of the alternative providers is essential to the Commission's determination of whether to continue basic service alt. reg. in the eleven Test 3 exchanges. The Commission has no way of knowing whether any of the carriers, let

³⁶ See, e.g., Case No. 07-1312, Opinion and Order (May 14, 2008) at 22-23. The first table in Mr. McKenzie's affidavit referred to "CLECs"; presumably this does not include wireless carriers. But the Commission has also required that wireless carriers be identified in order to show a presence in the market through ported numbers (id. at 25) and an indication through their marketing that they serve residential customers (id. at 22).

alone five of them, have the type of presence in the market that the Commission has required, or even provide service to residential customers.³⁷

AT&T Ohio failed to make the showing necessary to retain basic service alt. reg. in the eleven Test 3 exchanges. The Commission should schedule a hearing pursuant to R.C. 4927.03(C) and Ohio Adm. Code 4901:1-4-12(B) to determine whether consumers in the eleven exchanges should remain subject to basic service alt. reg.

2. AT&T Ohio admitted that it does not meet Test 4 in four of the eight Test 4 exchanges, and the data regarding the other four Test 4 exchanges are highly suspect.

AT&T Ohio admitted that it does not meet Test 4 in “some” of the eight exchanges at issue in this proceeding.³⁸ More specifically, the data in Mr. McKenzie’s affidavit show that, as of June 30, 2008, AT&T Ohio did not meet the 15% line loss criterion of Test 4 in the Burton (14.93%), Cheshire (10.05%), New Lexington (13.85%) and Toronto (13.40%) exchanges. Indeed, AT&T Ohio’s affidavit shows that in the Cheshire exchange AT&T Ohio has nearly 90% of the residential access lines that it did more than five years ago.

AT&T Ohio, however, asserted that “that fact is not – and should not be – dispositive.”³⁹ AT&T stated that “[w]hat is more important is the overall level of competition.”⁴⁰ Not only did AT&T Ohio reargue the validity of the criteria of Test 4 –

³⁷ Indeed, to the extent that AT&T Ohio is submitting information about alternative providers that were not part of the review in Case No. 06-1013-TP-BLS, this is no grounds not to revoke the basic service alt. reg. authority for those exchanges. AT&T Ohio should be required to submit a new application nominating these providers.

³⁸ Showing at 6.

³⁹ Id.

⁴⁰ Id.

which, as the Company recognized,⁴¹ have been upheld by the Ohio Supreme Court⁴² – but AT&T Ohio also provided no exchange-specific information regarding “the overall level of competition” in any of the eight Test 4 exchanges. It is ironic that AT&T Ohio now challenges the Commission’s rules, when the rules do not suit AT&T Ohio’s purposes, after AT&T Ohio defended the rules at the Ohio Supreme Court. The Commission should reject AT&T Ohio’s position and uphold its rules.

Further, AT&T Ohio seemed to be asking the Commission to retain basic service alt. reg. in the eight Test 4 exchanges based on a Company-proposed alternative competitive market test that the Commission has not scrutinized or approved. As OCC noted in its Motions,⁴³ if AT&T Ohio proposes to have the Commission continue to subject consumers in the eight Test 4 exchanges (or the eleven Test 3 exchanges) to basic service alt. reg. based on a competitive test other than Test 4 (or Test 3 in the other eleven exchanges), the Commission should revoke basic service alt. reg. in the exchanges. AT&T Ohio could then, if it is so inclined, submit these exchanges in a new application that includes the new test.

The Commission should also investigate AT&T Ohio’s claims that it meets the line loss criterion of Test 4 in the Dresden, Ironton, Lowellville and Rogers exchanges as of June 30, 2008. AT&T Ohio’s assertion is highly suspect. Particularly questionable is AT&T Ohio’s claim that its residential line losses since 2002 in the Dresden exchange more than doubled (from 13.39% at the end of 2007 to 27.56% on June 30, 2008) in just six months. The Company’s claim that it lost more than 200 residential access lines in

⁴¹ Id. at 10-11.

⁴² *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 117 Ohio St.3d 301, 2008-Ohio-861; *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 117 Ohio St.3d 289, 2008-Ohio-860.

⁴³ June 13 Motion at 13-14; March 13 Motion at 16.

such a small exchange (1,235 residential access lines as of December 31, 2007) in such a short time strains credibility, especially because AT&T Ohio lost just 191 residential access during the five-year period between the end of 2002 and 2007.⁴⁴

Likewise, the alleged losses in Rogers (51 residential access lines out of 894) and Lowellville (55 residential access lines out of 1,270) in just six months also do not seem likely. And although the alleged residential access line loss in Ironton (173 out of 9,678 in six months) is less unbelievable, the purported line loss since 2002 (15.68%) is just above the Test 4 line loss criterion. Thus, the Commission should also examine the residential line loss in Ironton in order to determine whether the Company meets Test 4 in that exchange.

AT&T Ohio failed to make the showing necessary to retain basic service alt. reg. in the eight Test 4 exchanges. The Commission should schedule a hearing pursuant to R.C. 4927.03(C) and Ohio Adm. Code 4901:1-4-12(B) to revoke the basic service alt. reg. to which consumers in the eight exchanges are subjected.

V. CONCLUSION

Despite AT&T Ohio's allusions to the contrary, AT&T Ohio has the burden of proof in responding to the Commission's show-cause order. AT&T Ohio has failed to meet that burden. In order to protect the approximately 33,000 AT&T Ohio residential customers in the 19 exchanges from the potential for unjustified rate increases, the Commission should now schedule a hearing pursuant to R.C. 4927.03(C) and Ohio Adm. Code 4901:1-4-12(B) to consider revoking AT&T Ohio's basic service alt. reg. in the 19 exchanges.

⁴⁴ 1,426 minus 1,235.

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I hereby certify that a copy of the foregoing Reply by the Office of the Ohio Consumers' Counsel was sent by First Class United States Mail, postage prepaid, to the persons listed below this 12th day of September 2008.

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