

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
 Cincinnati Bell Telephone Company LLC)
 for an Out-of-Service Grace Period Under) Case No. 08-1124-TP-WVR
 the Minimum Telephone Service Standards.)

ENTRY

The attorney examiner finds:

- (1) Rule 4901:1-5-08(D), Ohio Administrative Code (O.A.C.), states in essence that, under certain circumstances as covered by the rule, local exchange carriers (LECs) may be permitted by the Commission to obtain a grace period of an additional forty-eight hours in each exchange where otherwise a customer adjustment would accrue pursuant to paragraph (C) of the same rule, due to an extreme, unique, or unforeseeable weather-related incident.

To be granted a grace period under Rule 4901:1-5-08(D), O.A.C., LECs must show either of two things: (a) that a declaration of emergency has been issued by the governor or a duly authorized county official for the county in which the involved exchange is situated; or, (b) in the exchange(s) involved, the LEC has experienced at least a 300 percent increase in the number of out-of-service trouble reports as compared to the historical average number of such reports for the exchange in the previous three years. Further, the rule provides that only exchanges that had at least ten daily out-of-service reports are eligible for the grace period.

- (2) On Sunday, September 14, 2008, Hurricane Ike hit the state of Ohio as a severe windstorm. On September 15, 2008, Governor Strickland issued a declaration of emergency for the entire state.
- (3) Due to the storm and its aftermath, on September 26, 2008, Cincinnati Bell Telephone Company LLC (CBT), acting pursuant to Rule 4901:1-5-08(D), O.A.C., filed an application seeking an additional 48-hour grace period to clear out-of-service trouble reports in certain of its Ohio exchanges. CBT originally sought to have the grace period apply to all trouble reports in all 12 of CBT's Ohio exchanges from the period from September 14

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through 19. These twelve exchanges are the Bethany, Bethel, Cincinnati, Clermont, Harrison, Hamilton, Little Miami, Newtonsville, Reily, Seven Mile, Shandon, and Williamsburg exchanges.

However, on October 27, 2008, CBT filed a pleading by which it modified and narrowed the scope of its application for a grace period. Specifically, with regard to both the Bethel and Seven Mile exchanges, the company has withdrawn its request altogether, because CBT did not receive at least ten out-of-service trouble reports on any individual day of the requested period in these two exchanges. For the same reason, CBT has withdrawn the request for September 14 in the Harrison, Newtonsville, Reily, Shandon, and Williamsburg exchanges; for September 15 in the Newtonsville exchange; for September 17 in the Cincinnati and Reily exchanges; and for September 18 in all exchanges except for Hamilton and Little Miami. Also, CBT has withdrawn its grace period request as regards the date of September 19 for all exchanges. (CBT's Supplemental Documentation Pleading at 2).

- (4) On October 27, 2008, CBT filed pursuant Rule 4901-1-24(D), O.A.C., a motion for protective order by which it seeks to protect the confidentiality of certain information used to support its grace period application in this case, all of which was filed under seal on October 27, 2008. Specifically, the information for which protective treatment is sought consists of the number of out-of-service reports on a daily basis CBT received in each of its involved Ohio exchanges during times pertinent to its grace period application in this case. In support of the motion for protective order, CBT states that nondisclosure of the information for which the confidential treatment is sought will not impair the purposes of Title 49, Revised Code, and that the Commission and its staff will still have full access to the information in order to review the competitive showings made in the application.
- (5) Having examined the motion, the attorney examiner concludes that CBT's October 27, 2008 motion for protective order is reasonable and should be granted.

- (6) On October 2, 2008, the office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene in this proceeding. In its motion, OCC asserts that it is the state agency that represents Ohio's residential utility consumers and that it seeks intervention to protect the interests of affected CBT customers in the involved exchanges. OCC adds that it satisfies the intervention standard in Section 4903.221, Revised Code, because CBT's residential customers in the involved exchanges may be adversely affected by the application in this case by which the company seeks the ability to avoid or reduce credits that may be due to these residential customers under the Commission's rules. OCC also asserts that its role as a residential utility consumer advocate complies with the standards set forth in Rule 4901-1-11(A)(2), O.A.C., which require that a party must have a real and substantial interest in a proceeding to intervene.

- (7) OCC's motion to intervene is reasonable and should be granted.

It is, therefore,

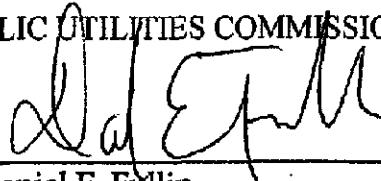
ORDERED, That CBT's motion for a protective order is granted in accordance with Finding (5). It is, further,

ORDERED, That the docketing division should maintain for 18 months from the date of this entry, all documents that are currently under seal in this proceeding. It is, further,

ORDERED, That OCC's motion for intervention is granted in accordance with Finding (7). It is, further,

ORDERED, That copies of this entry be served upon CBT, OCC, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Daniel E. Fullin
Attorney Examiner

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Renee J. Jenkins
Secretary