

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of United)
 Telephone Company of Ohio d/b/a)
 Embarq for an Out-of-Service Grace Period) Case No. 08-1118-TP-WVR
 Under 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 24, 2008, United Telephone Company of Ohio d/b/a Embarq (Embarq), 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 exchanges. Embarq originally sought to have the grace period apply to all

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trouble reports in at least 88 exchanges from the period from September 15 through 19. However, on October 24, 2008, Embarq filed a pleading by which it modified and narrowed the scope of its application so as to have the requested grace period, if granted, apply in the 55 exchanges listed in Attachment 1 to its October 24, 2008 pleading, each of which, Embarq claims, had at least 10 out-of-service reports "on a given day" during the period from September 15 to 19, 2008 (Embarq's Supplemental Waiver Information at 2).

- (4) Rule 4901:1-5-08(D)(4), O.A.C., states that if the Commission or an attorney examiner appointed by the Commission does not act to suspend or reject a request for a grace period within forty-five days of its filing, then the request for the grace period will be presumed granted.
- (5) The attorney examiner finds that Embarq's September 24, 2008 application for a grace period, as modified on October 24, 2008, should be, and by this entry is, suspended. As a result of this suspension, the application for a grace period is neither granted, nor any longer subject to being granted under the automatic approval process contemplated by 4901:1-5-08(D)(4), O.A.C.
- (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 Embarq customers in the involved exchanges. OCC adds that it satisfies the intervention standard in Section 4903.221, Revised Code, because Embarq'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.

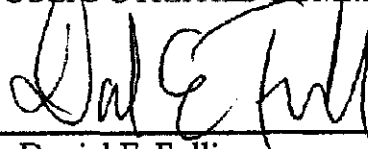
It is, therefore,

ORDERED, That, in accordance with the above findings, Embargo's September 24, 2008 application for a grace period, as modified on October 24, 2008, is suspended. It is, further,

ORDERED, That OCC's motion to intervene is granted. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Daniel E. Fullin
Attorney Examiner

JPJ ct

Entered in the Journal

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Renee J. Jenkins
Secretary