

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Ordered)
Investigation of an Elective Alternative) Case No. 00-1532-TP-COI
Regulatory Framework for Incumbent)
Local Exchange Companies.)

ENTRY ON REHEARING

The Commission finds:

- (1) On January 21, 2009, the Commission issued an entry granting to United Telephone Company of Ohio dba Embarq (Embarq) a waiver from Rule 4901:1-4-06(B)(1)(c), Ohio Administrative Code (O.A.C.), which restricts the purchase of vertical features by lifeline customers for a trial period until such time as the Commission rules otherwise. As a result, during this trial period, lifeline customers will be permitted to purchase optional services, in addition to call-waiting, either individually or in a package from Embarq without having to certify that the optional service is necessary for medical or safety reasons. Additionally, Embarq will be permitted to market such services and packages to lifeline-eligible customers.
- (2) The Commission also conditioned its approval of the waiver of Rule 4901:1-4-06(B)(1)(c), O.A.C., upon Embarq collecting and remitting to the Embarq lifeline advisory board and to Commission staff certain data on a monthly basis. The data Embarq was instructed to collect includes (a) disconnection information for lifeline customers with basic local exchange service (BLES) only compared to that for lifeline customers taking optional features, including the reasons for the disconnections tracked by category; (b) arrearage information for lifeline customers with BLES only compared to that for lifeline customers taking optional features; (c) the number of lifeline customers availing themselves of optional features versus the number of lifeline customers opting for BLES only; (d) the average bill for lifeline customers availing themselves of optional features who are disconnected; (e) the average number of vertical services and/or packages for lifeline customers availing themselves of optional features who are disconnected;

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and (f) lifeline enrollment data to gauge the growth of enrollment. Embarq is instructed to collect and provide such data on a monthly basis to the Commission staff and the Embarq lifeline advisory board. As a final matter, the Commission noted that we will review this data in the future, and determine the appropriateness of terminating or extending the waiver indefinitely.

- (3) Section 4903.10, Revised Code, indicates that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined by filing an application within 30 days after the entry of the order upon the journal of the Commission. Under Rule 4901:1-35(B), O.A.C., any party may file a memorandum contra within ten days after the filing of an application for rehearing.
- (4) On February 20, 2009, the office of the Ohio Consumers' Counsel (OCC) filed an application seeking rehearing of the January 21, 2009, entry, along with an accompanying memorandum in support thereof. In its sole assignment of error, OCC explains that the January 21, 2009, entry is unreasonable and unlawful as it undermines certain other protections afforded lifeline customers under Rule 4901:1-4-06(B), O.A.C. Specifically, OCC argues that Rule 4901:1-4-06(B)(1)(a), O.A.C., requires incumbent local exchange carriers (ILECs) operating under elective alternative regulation to provide lifeline customers a credit equal to one hundred percent of all nonrecurring service order charges for commencing monthly service and a monthly credit that will ensure the maximum matching contribution for federally available lifeline assistance. Additionally, OCC submits, Rule 4901:1-4-06(B)(1)(b), O.A.C., provides lifeline customers of ILECs operating under elective alternative regulation a waiver of deposit requirements for establishing local exchange service.

OCC claims that the aforementioned protections afforded lifeline customers are undermined by the Commission citing to the service termination rule (Rule 4901:1-5-10, O.A.C.) as support for granting Embarq the ability to market vertical services, including packages, to lifeline customers and allowing Embarq lifeline customers to subscribe to vertical services. First, OCC submits, the reference to the service termination rule could be interpreted to mean that a disconnected lifeline-

eligible customer could be required to pay Embarq's tariffed stand-alone BLES rate, which is, according to OCC, considerably higher than the discounted lifeline rate, in order to reconnect to stand-alone BLES. OCC explains that Embarq's discounted stand-alone BLES rate applicable to lifeline-eligible customers waives the monthly federal subscriber line charge, the intrastate access fee, and the federal universal service end user charge. Second, according to OCC, the service termination rule requires disconnected customers to pay applicable deposits and connection charges to reestablish BLES whereas the lifeline requirements afford lifeline-eligible customers a waiver from deposits and connection charges. Thus, the January 21, 2009, entry could be interpreted, OCC claims, to require disconnected lifeline-eligible customers to pay deposits and connection charges waived under the lifeline rules. Therefore, OCC submits that the Commission should modify the January 21, 2009, entry so as to ensure that lifeline customers continue to receive the full benefits of the lifeline program established in Rule 4901:1-4-06(B), O.A.C.

- (5) On March 2, 2009, Embarq filed a letter clarifying the company's procedures regarding the reestablishment of stand-alone BLES when a lifeline customer loses service for nonpayment. Embarq states that the company never sought a waiver of and will continue to abide by, all of the lifeline commitments for which no waiver was sought. Thus, the company reiterates, Embarq will provide its lifeline customers with all the protections of the lifeline rules such that consumers who are eligible for Embarq's lifeline program will be permitted to reconnect to lifeline service at the discounted lifeline rate and without paying a deposit or connection charge.
- (6) Having fully reviewed the arguments raised on rehearing, the Commission determines that rehearing should be denied. However, in response to OCC's concern, the Commission finds it appropriate to clarify that we only granted Embarq a waiver of the marketing and vertical features provisions of Rule 4901:1-4-06(B)(1)(c), O.A.C. All remaining lifeline commitments in Rule 4901:1-4-06(B), O.A.C., and in any related rules and orders continue to apply to Embarq.

It is, therefore,

ORDERED, That rehearing is denied and the January 21, 2009, entry clarified as set forth in finding 6. It is, further,

ORDERED, That copies of this entry on rehearing be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

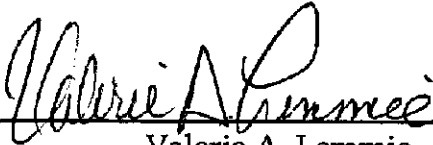


Alan R. Schriber, Chairman

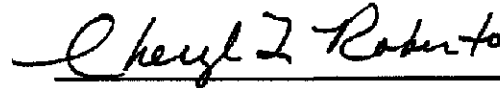


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