

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Ohio)
Bell Telephone Company dba AT&T Ohio)
for Approval of an Alternative Form of)
Regulation of Basic Local Exchange Service) Case No. 09-74-TP-BLS
and Other Tier 1 Services Pursuant to)
Chapter 4901:1-4, Ohio Administrative)
Code.)

FINDING AND ORDER

The Commission finds:

- (1) Section 4927.03(A)(1), Revised Code, authorizes alternative regulation of basic local exchange service (BLES) offered by incumbent local exchange companies (ILECs) in those telephone exchanges where the Commission determines that alternative regulation is in the public interest. To qualify for alternative regulation, an ILEC must be subject to competition or customers must have reasonably available alternatives. In addition, the Commission must establish that there are no barriers to market entry. The Commission is authorized by Section 4927.03(D), Revised Code, to adopt rules to carry out the statutory intent.

On March 7, 2006, the Commission, pursuant to Case No. 05-1305-TP-ORD (05-1305), *In the Matter of the Implementation of H.B. 218 Concerning Alternative Regulation of Basic Local Exchange Service of Incumbent Local Exchange Telephone Companies*, established rules for the alternative regulation of BLES. These rules were subjected to the legislative rule review process and became effective on August 7, 2006. Consistent with these rules, ILECs with an approved elective alternative regulation plan can apply for pricing flexibility of BLES and other Tier 1 services. Applications for alternative regulation of BLES and basic Caller ID will be approved provided the applicant satisfies one of the competitive market tests identified in Rule 4901-1-4-10, Ohio Administrative Code (O.A.C.), in a given exchange. Pursuant to Rule 4901:1-4-09(G), O.A.C., an ILEC's application for BLES alternative regulation will become effective on the one hundred and twenty-first day after the

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filing of the application unless the application is suspended by the Commission.

- (2) On January 30, 2009, AT&T Ohio (AT&T) filed a BLES application pursuant to Section 4927.03, Revised Code, and Rule 4901:1-4-09, O.A.C. Pursuant to its application, AT&T seeks approval of an alternative form of regulation of BLES and other Tier 1 services pursuant to Rule 4901:1-4-10(C)(4), O.A.C., in the following exchanges: Bloomingburg, Washington Court House, and Whitehouse. Also on January 30, 2009, AT&T filed a motion for a protective order.
- (3) By attorney examiner's entry issued February 17, 2009, the Office of the Ohio Consumers' Counsel's (OCC) February 3, 2009, motion to intervene was granted and AT&T's motion for protective treatment, filed simultaneously with its January 30, 2009, application, was approved.
- (4) No objections were filed concerning AT&T's January 30, 2009, application.
- (5) Rule 4901:1-4-10(C)(4), O.A.C., provides that an applicant seeking BLES authority must demonstrate that in each requested telephone exchange area at least 15 percent of total residential access lines have been lost since 2002, as reflected in the applicant's annual report filed with the Commission in 2003, reflecting data for 2002. In addition, each applicant seeking BLES authority must indicate the presence of at least five unaffiliated facilities-based alternative providers serving the residential market.

AT&T's application offers the following access line losses as evidence that the company has met the first prong of Rule 4901:1-4-10(C)(4), O.A.C.: Bloomingburg 15.30 percent, Washington Court House 19.55 percent, and Whitehouse 15.50 percent. The Commission determines that AT&T has substantiated its residential access line losses in these three exchanges as delineated in Attachment A.

Regarding the second prong of Rule 4901:1-4-10(C)(4), O.A.C., AT&T indicates the providers set forth in Attachment A as unaffiliated facilities-based alternative providers serving the residential market in the involved exchanges: Bloomingburg-seven providers, Washington Court House-twelve providers,

and Whitehouse-six providers. The Commission determines that AT&T has substantiated its list of unaffiliated facilities-based alternative providers serving the residential market in these three exchanges as delineated in Attachment A.

- (6) Upon a thorough review of the record in this proceeding, the Commission determines that, pursuant to Section 4927.03(A), Revised Code, AT&T has met its burden of proof for the three exchanges identified in Attachment A of this finding and order. Specifically, AT&T has demonstrated that the granting of the company's application for BLES and other Tier 1 service flexibility in the designated exchanges in Attachment A is in the public interest, that AT&T's BLES is subject to competition or that the company's customers have reasonably available alternatives, and that there are no barriers to entry with respect to BLES in those exchanges. Moreover, the Commission determines that AT&T's application is complete and meets the filing requirements of Rule 4901:1-4-09, O.A.C. As a final matter, the Commission finds that AT&T's proposed tariff modifications necessary to implement the pricing flexibility set forth in Rule 4901:1-4-09(A), O.A.C., are just and reasonable as to the three exchanges approved pursuant to this finding and order.

It is, therefore,

ORDERED, That AT&T's application for alternative regulation of BLES and other Tier 1 services is granted as discussed above. It is, further,

ORDERED, That, for the exchanges identified in Attachment A of this finding and order, AT&T is granted Tier 2 pricing flexibility for all Tier 1 noncore services and BLES and basic Caller ID will be subject to the pricing flexibility provided pursuant to Rule 4901:1-4-11, O.A.C. It is, further,

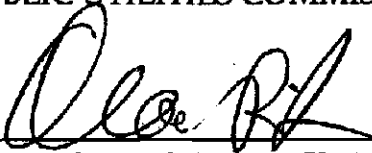
ORDERED, That, consistent with Rule 4901:1-4-11, O.A.C., AT&T shall provide customer notice to affected customers a minimum of 30 days prior to any increase in rates. It is, further,

ORDERED, That the proposed tariff revisions are approved as discussed above. AT&T is authorized to file complete copies of tariffs in final form consistent with this finding and order. AT&T shall file one copy in its TRF docket (or may make such filing electronically as directed in Case No. 06-900-AU-WVR), and one copy in this case docket. It is, further,

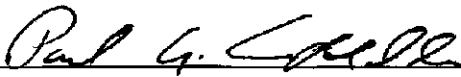
ORDERED, That, except as specifically provided for in this finding and order, nothing shall be binding upon the Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this finding and order be served upon all parties and interested persons of record.

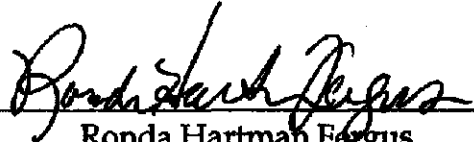
THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman



Paul A. Centolella



Ronda Hartman Fergus



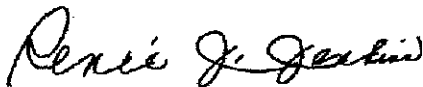
Cheryl L. Roberto

Valerie A. Lemmie

JML:ct

Entered in the Journal

APR 15 2009

Renee J. Jenkins
Secretary

AT&T Ohio
Case No. 09-74-TP-BLS
Test 4 Results

<u>Exchange Name</u>	<u>Test Used</u>	<u>% Access Lines Lost</u>	<u># of Unafflt. F.B. Alt. Providers</u>	<u>Names of Unaffiliated F.B. alt. providers</u>	<u>Test #4 Result</u>
				Budget Phone First Communications MCI / WorldCom Revolution Comm. Sage Telecom Time Warner/Sprint Com. Trinsic Comm.	
1 Bloomingburg	4	15.30%	7		Approved
				ACN Communication Budget Phone First Communications Lightyear Com. MCI / WorldCom Revolution Comm. Sage Telecom Time Warner/Sprint Com. Talk America (Cavalier) Trinsic Comm. Sprint/Nextel	
2 Washington Court House	4	19.55%	12	Verizon Wireless	Approved
				First Communications MCI / WorldCom Sage Teleocm Time Warner/Sprint Com. Trinsic Comm.	
3 Whitehouse	4	15.50%	6	Verizon Wireless	Approved