

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Cincinnati Bell Telephone Company LLC) Case No. 10-3108-TP-BLS
for a Commission Determination Pursuant)
to Section 4927.12(C)(3), Revised Code.)

ENTRY

The attorney examiner finds:

- (1) On December 22, 2010, Cincinnati Bell Telephone Company LLC (CBT) filed an application pursuant to Section 4927.12(C)(3), Revised Code. CBT states that it offers basic local exchange service (BLES) in the Bethel, Reily, Seven Mile, and Shandon exchanges. CBT requests a determination that the application demonstrates that two or more alternative providers offer, in each of four exchanges included in the application, competing service to the BLES offered by CBT in those exchange areas, regardless of the technology and facilities used by the alternative providers, the alternative providers' locations, and the extent of the alternative providers' service areas within the exchange areas. CBT submits that it has demonstrated that it meets the statutory criteria in each of the four exchanges included in the application and that the Commission should either issue an order granting the application or allow it to be granted under the automatic approval process specified in Section 4927.12(C)(3)(b), Revised Code.
- (2) On January 10, 2011, the office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene and a motion to deny CBT's application. In support of its motion to intervene, OCC states that it meets the criteria for intervention set forth in Section 4903.221, Revised Code. OCC also states that it meets the criteria for intervention promulgated in Rule 4901-1-11, Ohio Administrative Code (O.A.C.). Because CBT is seeking the ability to raise residential rates for basic service, OCC claims that it has a "real and substantial interest," as required by the rule. Moreover, OCC contends that it has grounds to intervene as the representative of Ohio's residential utility consumers.

- (3) OCC's motion for intervention is reasonable and should be granted.
- (4) In the motion to deny CBT's application, OCC points out that this is the second application filed under Section 4927.12(C)(3), Revised Code. In addition, OCC claims that this is the first application where the exchanges were not included in an alternative regulation application under the former Chapter 4901:1-4, O.A.C. Because of these unique circumstances, OCC urges the Commission to exercise close scrutiny of the application.
- (5) OCC contends that CBT's documentation to support the existence of other competitive providers is insufficient to meet the criteria of Section 4927.12(C)(3), Revised Code. OCC highlights that CBT reviewed publicly available information of alternative providers offering competing services in each exchange, including web sites and wireless licenses. Upon closer review, OCC criticizes the application for only providing screen shots of the providers' webpages. OCC argues that this information is insufficient to show that carriers are offering services in the four exchanges.
- (6) According to OCC, under former Chapter 4901:1-4, O.A.C., the Commission emphasized whether consumers consider the alternative services as substitutes for the incumbent local exchange carrier's basic service. OCC states that, under the prior rule, the Commission required applicants to provide information such as residential White Pages listings, residential Local Wholesale Complete access line data, and residential 9-1-1 data to show that competitive local exchange companies (CLECs) offer service to residential customers in the exchanges. In addition, OCC points out that the Commission considered the porting of telephone numbers by CLECs, wireless carriers, and other providers as an indication that providers offer alternative services in the exchange. OCC urges the Commission to require the same documentation under Section 4927.12(C)(3), Revised Code. Reviewing CBT's documents, OCC concludes that CBT has failed to show that consumers deem the alternative providers' services to be substitutes for CBT's basic service or that the services compete with CBT's basic service. Believing that CBT's application lacks sufficient

documentation, OCC recommends that the Commission deny the application.

- (7) In summary, OCC urges the Commission to deny CBT's application on the grounds that there is insufficient documentation concerning the existence of alternative providers, that there is no showing that consumers regard alternative providers' services as substitutes for CBT's basic service, and that CBT has not provided sufficient documentation of competition. In essence, OCC's motion to deny the application addresses whether CBT has met the requirements of Section 4927.12(C)(3)(b), Revised Code. This issue will ultimately be decided by the Commission.

It is, therefore,


ORDERED, That, in accordance with finding (3), OCC's motion to intervene is granted. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

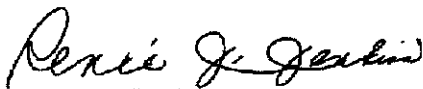
By:


L. Douglas Jennings
Attorney Examiner


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Entered in the Journal

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Renee J. Jenkins
Secretary