

**BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Commission's Review )  
of Chapter 4901:1-7, of the Ohio Administrative )  
Code, Local Exchange Carrier-to-Carrier )  
Rules. )**

**Case No. 12-922-TP-ORD**

**INITIAL COMMENTS OF THE  
OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

Pursuant to the March 21, 2012 Entry, the Ohio Cable Telecommunications Association (the "Association" or the "OCTA") submits these initial comments. The OCTA, a trade association of cable telecommunication operators located throughout Ohio, appreciates the opportunity to provide input into these amended rules. Some of the Association's members offer, or may in the future offer, regulated telephone service or utilize the services of regulated telephone providers. Some of the OCTA members utilize pole attachment and conduit occupancy services offered by regulated telephone companies. Therefore, the Association, on behalf of its members, is an interested person and offers these Initial Comments. Additionally, the fact that the OCTA has not commented on each and every rule does not necessarily reflect its endorsement of any of the proposed amendments to the rules.

**NOTE:** The OCTA has marked its revisions **to show changes to the currently existing carrier-to-carrier rules rather than showing changes to the Staff's recommendations.** The recommended revisions of the OCTA (which in some cases also adopts the Staff recommendations) are shown by double strikethrough for deletions and underlined boldface for added language.

## I. Comments on Specific Rules

### A. Rule 4901:1-7-01 Definitions

The OCTA recommends revising the definition of "Local exchange carrier (LEC)" to make the definition consistent with the revisions made to the definition of "Facilities-based CLEC". In this regard, the OCTA recommends the following for the definition of "Local exchange carrier (LEC)":

"Local exchange carrier" (LEC) means any facilities-based and nonfacilities-based ILEC and CLEC that provides ~~basic local exchange services~~ telephone exchange service or exchange access services to the public on a common carrier basis. Such term does not include an entity insofar as such entity is engaged in the provision of a commercial mobile radio service (CMRS) under 47 U.S.C. 332(c), as effective in paragraph (A) of rule 4901:1-7-02 of the Administrative Code, except to the extent that the federal communications commission finds that such service should be included in the definition of such term.

### B. Rule 4901:1-7-05 Rural carrier suspensions and modifications.

The provisions of this rule are not consistent with the rural exemption as provided in 47 U.S.C. 251(f)(2). As written, the rule provides that the commission will "consider" certain factors. However, Section 251(f)(2) specifies the only factors that the commission may consider when evaluating a rural carrier's request for relief under Section 251(f)(2). Thus, the OCTA recommends that subsection 4901:1-7-05(D) be revised as follows for consistency with the Telecommunications Act of 1996:

- ~~In determining whether a suspension or modification is warranted, the~~ The commission may grant such an application only if the commission determines such suspension or modification and its duration: will consider the following:
- (1) ~~Is the proposed suspension or modification necessary in order:~~
    - (a) To avoid a significant adverse economic impact on users of telecommunications services generally;
    - (b) To avoid imposing a requirement that is unduly economically burdensome; or
    - (c) To avoid imposing a requirement that is technically infeasible; and
  - (2) ~~Is consistent the proposed suspension or modification consistent~~ with the public interest, convenience, and necessity.

**C. Rule 4901:1-7-06 Interconnection.**

In Subsections (A)(1), (2), and (3), the Staff has utilized the phrase “regardless of the network technology underlying the interconnection”. The OCTA recommends that in subsection (A)(1)(2) and (3) this phrase be revised as follows: **"regardless of the network technology used to serve the Customer or end user."** This language is consistent with the current status of jurisdiction granted by the Federal Communications Commission (FCC) to state commissions with respect to current carrier to carrier network interconnection and will not impede the commission's exercise of authority in the future.

While the Staff did not recommend changes to subsection (4) of this rule, for purposes of clarification, the OCTA would recommend the following revisions:

(4) Each incumbent local exchange carrier (ILEC) shall provide, for the facilities and equipment of any requesting telephone company, interconnection with the ILEC's network, for the transmission and routing of telephone exchange traffic, exchange access traffic, or both. ~~Also, a~~ **A** telephone company requesting interconnection **to an ILEC's network** solely for the purpose of originating or terminating its interexchange traffic, not for the provision of telephone exchange service and exchange access to others, ~~on an ILEC's network~~ is not entitled to receive interconnection pursuant to 47 U.S.C. 251(c)(2), as effective in paragraph (A) of rule 4901:1-7-02 of the Administrative Code.

In the sixteen years since the Telecommunications Act of 1996 was first enacted, the manner in which the notification for negotiations for an interconnection agreement has evolved. For this reason, the OCTA would suggest that the first paragraph of Subsection (B) “Basic requirements for request for interconnection” be revised to provide the following and that the **remainder of Subsection (B) (paragraphs (1)-(6)) be deleted:**

A request for interconnection shall be in writing and shall detail the specifics of the request **and include the name(s), phone number(s), e-mail of the requesting carrier's contact person(s) for the negotiation process.** ~~A request for interconnection shall include at a minimum, as applicable, the following:~~

**D. Rule 4901:1-7-07 Establishment of interconnection agreements**

To ensure that the negotiation process is commenced promptly after a request for interconnection has been made, the OCTA recommends the following new language be added to Rule 4901:1-7-07(A)(1):

- (1) Any request for an interconnection arrangement pursuant to 47 U.S.C. 251 and 252, as effective in paragraph (A) of rule 4901:1-7-02 of the Administrative Code, must be submitted via facsimile, overnight mail, e-mail, or hand-delivery to the appropriate personnel or division within the providing telephone company's organization in charge of negotiating interconnection arrangements between telephone companies. **The telephone company receiving the request to negotiate shall, within two weeks, acknowledge receipt of such request and commence negotiations.** The requesting telephone company ~~must~~ **should** also notify simultaneously the chief of the telecommunications division of the utilities department of the commission.

To clarify and acknowledge that interconnection agreements may be accomplished in three different ways, the OCTA recommends the following revisions to subsection 4901:1-7-07(C)(3):

- (3) Subsequent interconnection agreements, whether adopted, ~~through negotiation~~ **negotiated** or **arbitrated**, shall be docketed as a new case within ten calendar days of signing.

In subsections 4901:1-7-07(D) (1) and (2), the reference to Title 47 U.S.C. 252 (e)(2)(a) should instead be to Title 47 U.S.C. 252 (e)(2)(**A**).

**E. 4901:1-7-08 Negotiation and mediation of 47 U.S.C. 252 interconnection agreements.**

The reference to “guidelines” in the opening paragraph to this rule should be revised to “rules” as these are commission rules and not guidelines.

**F. Rule 4901:1-7-12 Compensation for the transport and termination of non-access telecommunications traffic.**

The Staff proposed an amendment to Subsections (A)(1)(a) and (B)(2) that addresses compensation principles and traffic measurement and identification for transport and termination of telecommunications traffic. The Staff has recommended that these be applied “regardless of the network technology underlying the networks’ interconnection” and “regardless of the network technology utilized by the telephone company to transport or terminate the traffic”. For the same reasons expressed in Section (D) above, the OCTA recommends changing subsection (A)(1)(a) to read as follows:

**(1) Reciprocal compensation**

- (a) All telephone companies shall have the duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications traffic pursuant to 47 U.S.C. 251(b)(5), as effective in paragraph (A) of rule 4901:1-7-02 of the Administrative Code regardless of the network technology used to serve the Customer or end user.

And further recommends changing subsection (B)(2) to read as follows:

**(B) Traffic measurement and identification**

- (2) All telephone companies exchanging telecommunications traffic, where technically and economically feasible, as the provider of originating or transiting intrastate telecommunications traffic that is terminated on the network of another telephone company, shall comply with the signaling information delivery requirements outlined in 47 C.F.R. 64.1601(a), as effective in paragraph (A) of rule 4901:1-7-02 of the Administrative Code. This obligation is applicable to all telephone companies exchanging telecommunications traffic regardless of the network technology used to serve the Customer or end user.

To ensure consistency with FCC rule 51.703, the OCTA recommends revising subsection 4901:1-7-12(A)(2) to add an exception to the second sentence that addresses eligibility for LECs to assess and collect the full charges for transport and termination of Non-Access Telecommunication Traffic which is delivered to a called party’s premises via contractual or other arrangements with an

affiliated or unaffiliated interconnected VoIP service provider. Therefore, the total revisions to this subsection should be as follows:

(2) Eligibility

Telephone companies shall be entitled to compensation for the use of network facilities they own or obtain by leasing from an ILEC (i.e., through purchasing unbundled network elements) to provide transport and terminate **non-access** telecommunications traffic originated on the network facilities of other telephone companies. Nonfacilities-based, local exchange carriers (LECs) are not eligible for the transport and termination of **non-access** telecommunications traffic compensation, **provided, however, a LEC shall be entitled to assess and collect the full charges for the transport and termination of Non-Access Telecommunications Traffic (as this term is defined in 47 C.F.R. 51.701(b), as effective in paragraph (A) of rule 4901:1-7-02 of the Administrative Code), regardless of whether the local exchange carrier assessing the applicable charges itself delivers such traffic to the called party's premises or delivers the call to the called party's premises via contractual or other arrangements with an affiliated or unaffiliated provider of interconnected VoIP service, or a non-interconnected Voice over internet protocol service that does not itself seek to collect Non-Access Reciprocal Compensation charges for the transport and termination of that Non-Access Telecommunications Traffic. In no event may the total charges that a LEC may assess for such service to the called location exceed the applicable transport and termination rate.**

**G. Rule 4901:1-7-14 Compensation for intrastate access reciprocal compensation traffic and carrier-to-carrier tariff.**

The title of this rule has been amended by deleting the term “switched”; however, the term “switched access” is used in Subsections (B), (C), (D), and (F). To avoid any confusion or misunderstanding, the OCTA recommends that the word “switched” be re-inserted into the title of this rule.

**H. Rule 4901:1-7-22 Customer migration**

The OCTA recommends a revision to subsection (D) of this rule based on Best Practice #70 approved by the North American Numbering Council. In this regard, the OCTA would recommend that Subsection (D) be removed in its entirety and replaced with the following new Subsection (D):

**(D) Telephone companies responding to a local service request shall follow industry standards, including timelines approved by the North American Numbering Council. Further, telephone companies responding to a request for a customer service record shall respond within 24 clock hours, excluding weekends and Old Service Provider holidays, unless otherwise negotiated between service providers.**

**I. Rule 4901:1-7-23 Rights-of-way, poles, ducts and conduit.**

In Subsection (B), the Staff has proposed amending the second sentence of this subsection to delete references to 47 C.F.R. Section 1.401 and 1.402. The Staff has proposed to leave in Section 1.403 regarding access. However, 47 C.F.R. Section 1.402 is the definitional section. The definitions of “Utility” and “Telecommunications Carrier” are both provided in 47 C.F.R. Section 1.1402 and are referenced in Section 47 C.F.R. Section 1.403.

The OCTA submits that the references to the definitional section (47 C.F.R. Section 1.1402) should be retained in the rule to give context to the duty to provide access.

**J. Rule 4901:1-7-27 Reporting requirements.**

The Staff has recommended that this rule be deleted. This rule provides that all local exchange carriers that report market information to the FCC must submit to the Staff the Ohio market information reports that match the format and content of FCC Form 477. The rule also provides that local exchange carrier market information that is reported on a semiannual basis with the FCC must also be filed with the PUCO.

The OCTA would suggest that complete removal of this rule is not compliant with the Commission’s obligations under O.R.C. Section 4905.14, which provides that the Commission “shall adopt rules that require such a telephone company [a telephone company that is a public utility subject to 4905.71] to also include in the annual report information required by the commission to calculate pole attachment and conduit occupancy rates”. O.R.C. 4905.14 (emphasis added). As a result, Rule 4901:1-7-27 should be retained and revised to read as follows:

#### 4901:1-7-27 Reporting requirements

**Any telephone company that is a public utility and subject to O.R.C. section 4905.71 shall file an annual report with the commission that includes the information contained in the FCC ARMIS Summary Report 43-01 for poles and conduit, but at a minimum, shall file an annual report that includes the following information. gross total plant investment, gross investment in poles and conduits, accumulated depreciation total plant and individually for poles and conduit, depreciation rate (separately for poles and conduit), net current deferred operating income taxes (poles, conduit and total plant), net non-current deferred operating income taxes (poles, conduit and total plant), equivalent number of poles, conduit system trench kilometers, conduit system duct kilometers, maintenance and rental expense separately for poles and conduit, general and administrative expense, operating taxes, and additional rental calculations.**

#### K. Rule 4901:1-7-28 Request for expedited relief in a carrier-to-carrier complaint.

The Staff has proposed deleting this rule because while in theory it may serve a purpose, its application, in actuality, is problematic due to the difficulty of engaging in discovery and preparing testimony within compressed hearing timeframes. Instead of eliminating the rule, the OCTA proposes that the timeframes be expanded to address the problems and to make the rule workable.

For example, in Subsection (C), the respondent should file the response to the request for expedited ruling within 14 calendar days instead of 7 after the filing of the complaint. In Subsection (D), the hearing should commence within 45 calendar days after the filing of the complaint and the attorney examiner could notify the parties if he or she determined that the complaint was not eligible for an expedited ruling within 14 days of the filing of the response. In Subsection (F), the attorney examiner could draft a written decision on the complaint and schedule the matter for Commission consideration within 60 days after the close of the hearing or after the last brief was filed.

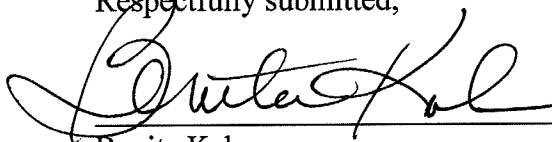
The OCTA believes that it is important to retain a vehicle for resolving disputes on an expedited basis. The OCTA submits that the rule should be amended and not deleted.



## II. Conclusion

For the reasons set forth above, the OCTA respectfully requests that the Commission adopt its position with respect to the amended rules specified in these Initial Comments.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Initial Comments of the Ohio Cable Telecommunications Association will be served on all parties of record who file initial comments in this case as soon as practical.



Benita Kahn

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Summary: Comments Initial Comments electronically filed by Benita Kahn on behalf of Ohio Cable Telecommunications Association