

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

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**Reply Comments of tw telecom of ohio llc**

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**Introduction**

The Public Utilities Commission of Ohio (“Commission”) issued for comment its Staff’s proposed revisions to its local exchange carrier-to-carrier rules, Ohio Administrative Code (“O.A.C.”) Chapter 4901:1-7, in its Entry of March 21, 2012. Initial comments were filed by: HyperCube Telecom, LLC (“HyerperCube”); Ohio Cable Telecommunications Association (“OCTA”); Ohio Telecom Association (“OTA”); The AT&T Entities (“AT&T”); Cincinnati Bell Telephone Company (“CBT”) and MCI metro Access Transmission Services LLC d/b/a Verizon Access Transmission Services and MCI Communications Services, Inc. d/b/a Verizon Business Services (together, “Verizon”).

**tw telecom of ohio** (“TWTC”) submits the following comments in reply to initial comments filed by the various parties.

**Reply Comments**

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

The duties and obligations imposed on all telecommunications and local exchange carriers by Section 251(a) and (b) of the Telecommunications Act of 1996 (“the Act”) are technologically neutral. Beyond this, the obligation imposed on ILECs by Section 251(c) of the

Act to interconnect their networks with other carriers contains the only technological limitation of “feasibility.” The Act concerns itself far more with the type of traffic which must be exchanged, rather than how it must be exchanged, the “how” being limited only by the term “feasible.” So it is not only logical, but *required* by both federal and Ohio law<sup>1</sup> that the Commission’s rule governing the principles of interconnection make clear that the duty of telephone companies to interconnect their networks with other telephone companies for the exchange of telecommunications traffic exists irrespective of the network technology underlying the interconnection of those networks. Limited only by “feasibility”, the law requires nothing less.

The Staff’s proposed inclusion of the phrase “regardless of the network technology” at various points within this rule have attracted the objections and suggested changes of several commenters, specifically, AT&T (at pp. 1-3), CBT (at pp. 2-4), the OTA (at p. 3), Verizon at pp. 4-5 and OCTA at p. 3. The Commission should reject these comments and instead adopt the proposal of the Staff. The arguments against the Staff’s proposed language only serve to create artificial barriers to the most efficient means of network interconnection which can only serve to inflate costs and degrade service quality for consumers. The resistance of some carriers to directly exchange IP-based telecommunications traffic, and instead force the needless conversion of such traffic to TDM-based protocol no longer has a rational basis in policy or economics.

Carriers have the right to IP-to-IP interconnection under Section 251(c)(2) of the Act for the transmission and routing of facilities-based Voice over Internet Protocol (“VoIP”) services where those services are telecommunications services,<sup>2</sup> telephone exchange services,<sup>3</sup> and/or

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<sup>1</sup> Ohio Revised Code Section (“R.C.”) 4927.04, far from serving as a barrier to the Staff’s proposed language, instead requires the Commission to act consistent with Section 251 of the Act.

<sup>2</sup> See 47 U.S.C. § 153(46) (defining “telecommunications service”).

<sup>3</sup> See *Id.* § 153(47) (defining “telephone exchange service”).

exchange access services<sup>4</sup> under the Act. The Staff's proposed language does not in any way "prejudge" the nature of traffic to be exchanged, but rather only makes clear that qualifying traffic must be exchanged irrespective of how that traffic is transmitted by a carrier.

The Commission has recognized the pernicious effects of artificially multiplying interconnection points based on the type of traffic being exchanged by carriers when it argued for a more expansive definition of "telecommunication traffic" before the FCC in the *USF/ICC Transformation* dockets.<sup>5</sup> The Staff's proposal here does nothing to expand the current state of the law, as it is very clearly couched in terms of "telecommunications" traffic. But the same principles of logic that apply against the artificial multiplication of interconnection agreements based on the type of traffic exchanged, applies more forcefully to the artificial manipulation of traffic for the sake of fitting a particular type of transmission technology.

Accordingly, the Commission should reject the comments of those parties arguing against Staff's proposed inclusion of language requiring interconnection "regardless of network technology underlying the interconnection." The Staff's position is based squarely on both the law and sound policy.

#### **Rule 4901:1-7-28 Request for Expedited Ruling in a Carrier-To-Carrier Complaint**

TWTC supports the Comments of both HyperCube (at pp. 2-3) and the OCTA (at p. 8) concerning the Staff's proposed elimination of Rule 4901:1-7-28. TWTC was one of the original CLECs arguing the need for this rule in the context of the old carrier-to-carrier guidelines. See,

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<sup>4</sup> See *Id.* § 153(16) (defining "exchange access" service).

<sup>5</sup> See pp. 63-64 of the comments submitted on behalf of the Public Utilities Commission of Ohio in *The Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service,, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208.

Case No. 95-845-TP-COI (*Entry on Rehearing* dated November 7, 1996 at pp. 135-138) 1996 Ohio PUC LEXIS 778 at pp. 34-35. Over the years, TWTC has been required to rely upon this rule for the resolution of problems stemming from its inability to receive a prompt resolution of disputes with ILECs over interconnection agreement terms and conditions. These issues invariably directly impact the provision of service to customers. The inability to receive a prompt hearing from the Commission presents a huge problem for CLECs that are still at the mercy of ILECs for facilities and functionalities necessary for retail services. The number of carrier-to-carrier complaints may have diminished over time as competition has matured, but the time-sensitive nature of carrier-to-carrier disputes remains as critical as ever.

The Staff points to difficulties with the compressed timelines reflected in the rule as its impetus for deleting the rule. In light of the continuing need for the rule, TWTC believes that the OCTA's proposed relaxed timelines are a reasonable compromise and should be adopted by the Commission, as opposed to its wholesale elimination.

### **Conclusion**

TWTC requests that the Commission adopt the changes to the Staff's recommendations to Chapter 4901:1-7 consistent with the reply comments set forth above.

Respectfully submitted on behalf of  
**tw telecom of ohio llc**



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## **CERTIFICATE OF SERVICE**

The undersigned hereby acknowledges that a copy of the foregoing was served by either electronic mail or by regular U.S. Mail this 27<sup>th</sup> day of April 2012.



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Summary: Reply Comments electronically filed by Teresa Orahood on behalf of tw telecom of ohio llc