

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review)
of Chapter 4901:1-7, of the Ohio) Case No. 12-922-TP-ORD
Administrative Code, Local Exchange)
Carrier-to-Carrier Rules.)

ENTRY ON REHEARING

The Commission finds:

- (1) In a finding and order issued on October 31, 2012, the Commission adopted amended Rules 4901:1-7-01 through 4901:1-7-27, Ohio Administrative Code (O.A.C.), and directed that the amended rules be filed with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission.
- (2) Pursuant to Section 4903.10, Revised Code, any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission, within 30 days of the entry of the order upon the Commission's journal.
- (3) On November 30, 2012, the AT&T Entities¹ and the Ohio Telecom Association (OTA) (collectively, rehearing applicants) filed applications for rehearing arguing that several aspects of the October 31, 2012, finding and order and accompanying rules adopted in this matter are unreasonable and unlawful and must be corrected on rehearing. Specifically, rehearing applicants express concern with the inclusion of the phrase "regardless of the network technology underlying the interconnection" in adopted Rule 4901:1-7-06(A)(1) and (A)(2) and in Rule 4901:1-7-12(A)(1)(a), O.A.C. Rehearing applicants claim that such far-reaching language prejudices a wide variety of issues, including issues involving internet protocol (IP) interconnection, that are pending before the Federal Communications Commission (FCC) and is, thus, premature.

¹ For purposes of this case, the AT&T Entities include The Ohio Bell Telephone Company d/b/a AT&T Ohio, AT&T Corp., TCG Ohio, Inc., SBC Long Distance, LLC d/b/a AT&T Long Distance, and New Cingular Wireless PCS LLC.

By adopting rules that arguably can be read as expanding current, legacy interconnection obligations to include such matters as IP-to-IP interconnection, rehearing applicants assert that the Commission has established requirements that exceed federal law and federal regulations, as presently constituted, in violation of both Sections 4927.16(A) and 4905.042, Revised Code. Rehearing applicants point out that nothing prevents the Commission from amending its rules, as necessary, once the FCC addresses these issues in a final order. At a minimum, rehearing applicants submit, the Commission should clarify that nothing in the adopted rules was intended to extend the Commission's authority or the rights and duties of carriers, over traffic that is not subject to Section 251 of the Telecommunications Act.

- (4) Memoranda opposing the applications for rehearing were filed by tw telecom of ohio llc and by The Ohio Cable Telecommunications Association (OCTA).²
- (5) The Commission finds that the applications for rehearing filed by the AT&T Entities and the OTA raise no new arguments not fully considered and addressed by the Commission in the October 31, 2012, finding and order. Therefore, these applications for rehearing are denied. As stated in the October 31, 2012, finding and order, the purpose for including the phrase "regardless of the network underlying the interconnection" in Rule 4901:1-7-06 and "regardless of network technology utilized...to transport or terminate that traffic" in Rule 4901:1-7-12 was to afford the Commission flexibility to accommodate the evolving nature of interconnection arrangements recognizing the FCC's ongoing investigations of these issues. The adopted language is technology neutral, consistent with the FCC's statements on this point,³ and, contrary to rehearing applicants' arguments, does not single out or attempt to apply Section 251 interconnection obligations to IP-to-IP interconnection for traffic not subject to Section 251 (i.e., that is our rules only

² The OCTA memorandum contra was filed on behalf of the following members of the association: Armstrong Cable Service, Buckeye CableSystem, Clear Picture, Inc., Cox Communications, Inc., G.L.W. Broadband, Inc., Massillon Cable TV, Inc., Suddenlink, and Time Warner Cable.

³ See *Connect America fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 18014(2011), at paragraphs 1342, 1344, 1352, 1381, and 1382.

address telecommunications traffic and applies to no other form of traffic). By way of example only, since IP interconnection is the current focus of FCC investigation, the Commission did acknowledge in the finding and order that inclusion of this language was intended to provide the Commission flexibility to accommodate IP interconnection standards should we maintain such a role in the future. However, the language, as modified in the adopted rule, applies to any technology that the FCC determines is subject to Section 251 interconnection requirements and does not focus on one technology alone.

Moreover, the Commission is keenly aware of the statutory restrictions placed on the Commission's authority within the Ohio Revised Code. Regarding network interconnection obligations, such arguments are at best premature and would only be relevant and ripe at a point at which the Commission actually applied network interconnection obligations that "exceed or are inconsistent with or prohibited by federal law, including federal regulations" as set forth in Section 4927.16(A), Revised Code. As for advanced services and IP-enabled service, this argument would only be relevant at such point in time as the Commission exercised jurisdiction in a manner "prohibited by or inconsistent with Commission jurisdiction under federal law, including federal regulations," as set forth in Sections 4905.042 and 4927.03, Revised Code. Insofar as the language of the adopted rules do not specify advanced services or IP-enabled services directly and neither rehearing applicant is arguing that the Commission has applied the interconnection obligations of Section 251 through the adopted rules in a prohibited manner in violation of the Ohio Revised Code, rehearing is denied.

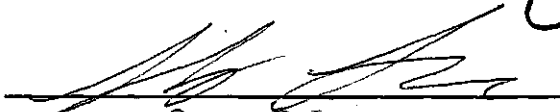
It is, therefore,


ORDERED, That the applications for rehearing filed by the AT&T Entities and the OTA are denied in accordance with finding (5). It is, further,

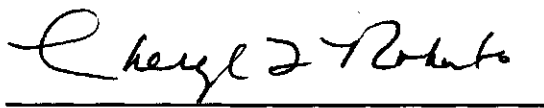
ORDERED, That a copy of this entry on rehearing be served upon all parties of record in this case.


THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Smithler, Chairman


Steven D. Lesser

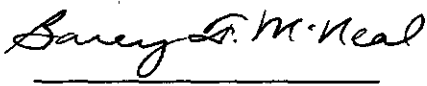

Andre T. Porter


Cheryl L. Roberto


Lynn Slaby

JRJ/vrm

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Barcy F. McNeal
Secretary