

7/E

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED

APR 25 1994

DOCKETING DIVISION  
PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter Of The Application Of The )  
Ohio Bell Telephone Company For Approval )  
Of An Alternative Form Of Regulation. )

CASE NO. 93-487-TP-ALT

In The Matter Of The Complaint Of The )  
Office Of Consumers' Counsel, )

Complainant, )

v. )

Ohio Bell Telephone Company, )

Respondent, )

Relative To The Alleged Unjust And )  
Unreasonable Rates And Charges. )

CASE NO. 93-576-TP-CSS


**MOTION TO INTERVENE**

The Ohio Public Communications Association hereby moves the Public Utilities Commission of Ohio to grant its intervention in that portion of the above-captioned case identified as Case No. 93-576-TP-CSS pursuant to Ohio Revised Code § 4903.221 and Ohio Administrative Code § 4901-01-11. The basis for this Motion to Intervene is set forth in the attached Memorandum in Support.

Respectfully submitted,

OF COUNSEL:

HAHN LOESER & PARKS

  
Janine L. Migden, Trial Attorney  
Maureen R. Grady  
Randy J. Hart  
431 E. Broad Street, Suite 200  
Columbus, Ohio 43215  
(614) 221-0240  
Counsel for the OPCA

## MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

### INTRODUCTION

The Ohio Public Communications Association ("OPCA" or "Association") is a non-profit trade association organized and existing under the laws of the State of Ohio. The OPCA's membership consists primarily of private, non-Local Exchange Company payphone providers as well as providers of Alternative Operator Services. Thirty-four (34) payphone service providers representing over 4000 service customers comprise the OPCA, and each of the 34 service providers operate at least partially in Ohio Bell's service territory. The goal of the Association is to improve the competitive environment of telecommunications in the State of Ohio.

On March 23, 1993, Ohio Bell filed its Notice of Intent for an Application for an Alternative Regulation Plan. On June 30, 1993, Ohio Bell filed its application for approval of an alternative form of regulation. In its Application, Ohio Bell asks the Public Utilities Commission of Ohio ("PUCO" or "Commission") for permission to operate under the alternative regulation scheme proposed in Ohio Revised Code §§ 4927.

Thereafter, the OPCA applied for, and was granted, intervention in that portion of this proceeding known as Ohio Bell's Alternative Regulation Proceeding, Case No. 93-487-TP-ALT. The OPCA now seeks intervention in the remainder of this proceeding to wit, the Complaint proceeding instituted by the Office of Consumers' Counsel, known as Case No. 93-576-TP-CSS.

### STANDING TO INTERVENE

OPCA seeks intervention in this proceeding pursuant to Ohio Revised Code § 4903.221, which states in part:

Any ... person who may be adversely affected by a public utilities commission proceeding may intervene in such a proceeding provided: ... that such other person files a motion to intervene with the commission.

This statute goes on to state that:

The commission, in ruling upon applications to intervene in its own proceedings, shall consider the following criteria:

- (1) The nature and extent of the intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings;
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

Ohio Revised Code § 4903.221(B).

As payphone operators and customers of Ohio Bell, OPCA has substantial business interests in the rates charged by Ohio Bell, interests which may be adversely affected by this proceeding in that the Consumers' Counsel complaint addresses, *inter alia*, rate issues. The intervenors' legal position is directly related to the merits of the proceeding, i.e., the conditions and rates that private payphone operators, as customers of Ohio Bell, must pay for telephone services. This position is fully articulated in the OPCA's Motion to Intervene previously filed in Case No. 93-487-TP-ALT, a case in which the Commission has already granted the OPCA intervention.

Due to its prior intervention in the Alternative Regulation portion of this proceeding, the instant intervention, if granted, will not unduly prolong or delay the proceeding because the issues that the OPCA seeks to raise in this proceeding are virtually identical to those which it plans to raise in the portion of Ohio Bell's alternative regulation proceeding to


which it has already been granted intervention. The OPCA does not foresee any additional discovery or other procedural issues emanating from its intervention in this proceeding.

WHEREFORE, for the reasons articulated above and contained in the OPCA's Motion to Intervene in Case No. 93-487-TP-ALT, the OPCA respectfully requests that the Commission grant its motion to intervene in this Case No. 93-576-TP-CSS.

Respectfully submitted,

OF COUNSEL:

HAHN LOESER & PARKS

  
Janine L. Migden, Trial Attorney  
Maureen R. Grady  
Randy J. Hart  
431 E. Broad Street, Suite 200  
Columbus, Ohio 43215  
(614) 221-0240

COUNSEL FOR THE OHIO  
PUBLIC COMMUNICATIONS  
ASSOCIATION

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion to Intervene and Memorandum in Support has been served by first class mail, postage prepaid, or hand delivered to the following parties of record this 25th day of March, 1994.

  
\_\_\_\_\_  
Janine L. Migden

**PARTIES OF RECORD**

JON KELLY  
Ohio Bell Telephone Company  
45 Erieview Plaza  
Cleveland, OH 44114

WILLIAM M. ONDREY GRUBER  
City of Cleveland  
Room 106 City Hall  
601 Lakeside Avenue  
Cleveland, OH 44114

ROBIN P. CHARLESTON  
AT&T Communications of Ohio  
227 West Monroe Street  
Chicago, IL 60606

DAVID C. BERGMANN  
Associate Consumers' Counsel  
Office of the Consumers' Counsel  
77 South High Street  
Columbus, OH 43266-0550

SALLY W. BLOOMFIELD  
Bricker & Eckler  
100 South Third Street  
Columbus, OH 43215

ROBERT HEGLER  
Swidler & Berlin  
3000 K Street, NW  
Washington, DC 20007

JOSEPH P. MEISSNER  
Director of Urban Development  
1223 West Sixth Street  
Cleveland, OH 44113

JAMES E. ARMSTRONG  
General Attorney  
Department of the Army  
901 North Stuart Street  
Arlington, VA 22203-1837

JUDITH B. SANDERS  
Bell Royer & Sanders  
33 South Grant Avenue  
Columbus, OH 43215-3927

JUDITH M. TROUP  
AT&T Communications of Ohio  
65 East State Street  
Columbus, OH 43215

KERRY BRUCE  
Utility Rate Coordinator

GENA M. DOYSCHER  
Enhanced Telemanagement, Inc.

City of Toledo  
One Government Center  
Toledo, OH 43604

730 Second Avenue  
Minneapolis, MN 55402

**WILLIAM S. NEWCOMB JR.**  
Vorys, Sater, Seymour & Pease  
52 East Gay Street  
P.O. Box 1008  
Columbus, OH 43216-1008

**JOSEPH PATCHEN**  
Carlile Patchen & Murphy  
366 East Broad Street  
Columbus, OH 43215

**DENNIS K. MUNCY**  
Meyer, Capel, Hirschfeld, Muncy,  
Jahn & Aldeen  
306 West Church Street  
P.O. Box 6750  
Champaign, IL 61826-6750

**RHONDA MCCLEAREN**  
Sprint Communications Company  
8140 Ward Parkway  
P.O. Box 8417  
Kansas City, MO 64114-0417

**JODIE DONOVAN**  
Teleport Communications Group, Inc.  
One Teleport Drive  
Staten Island, NY 10311

**MARK H. LONGENECKER JR.**  
Frost & Jacobs  
2500 PNC Center  
201 East Fifth Street  
Cincinnati, OH 45202

g:\atty\jlm\rhart\interven.css