

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Petition of AT&T Ohio for)	
Order Confirming Relinquishment of Eligible)	Case No. 17-1948-TP-UNC
Telecommunications Carrier Designation in)	
Specified Areas and Request For Waiver.)	

**MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

This case is about whether low-income Ohioans may lose their provider of the basic local telephone service known as Lifeline. AT&T Ohio is asking the Public Utilities Commission of Ohio (“PUCO”) for authority to stop providing Lifeline service in those areas of Ohio where it is not receiving money from the Federal Communications Commission’s Connect America Fund II (“CAF II”) to provide broadband.¹ The request affects low-income consumers in 118 of AT&T Ohio’s 192 exchanges.² The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene in this case on behalf of residential customers.³ The reasons why the PUCO should grant OCC’s Motion are further set forth in the attached Memorandum in Support.

¹ See Petition (September 7, 2017) at 1.

² See *id.*, Exhibit A.

³ See R.C. Chapter 4911; R.C. 4903.221; Ohio Adm. Code 4901-1-11.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

Lifeline is a telephone assistance program that makes basic local telephone service more affordable for income-eligible families across Ohio.⁴ Lifeline helps low-income Ohioans get and maintain telephone service through discounts on monthly bills and installation charges. AT&T Ohio has asked the PUCO for authority to stop providing Lifeline in some areas of Ohio.⁵

AT&T Ohio's application notes that it is participating in the CAF II program, which is enabling AT&T Ohio to bring broadband to high cost, primarily rural, areas in Ohio.⁶ AT&T Ohio notes that a condition of its participation in this program requires it to retain its Eligible Telecommunications Carrier ("ETC") designation in certain census blocks for which it is eligible to receive CAF II funding.⁷ AT&T Ohio is seeking to relinquish its ETC designation for all the remaining areas in which it currently is

⁴ See <http://www.puco.ohio.gov/be-informed/consumer-topics/lifeline-telephone-assistance-program-help-with-paying-your-telephone-bill/#sthash.vmR94oaj.dpbs>.

⁵ See Petition at 1.

⁶ *Id.*

⁷ *Id.*

designated an ETC.⁸ OCC has authority under law to represent the interests of AT&T Ohio's residential customers, under R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio's residential customers may be "adversely affected," especially if they were unrepresented in a proceeding where their provider of Lifeline telephone service is seeking authority to stop providing the service. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective 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 proceeding;
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is making sure that Ohioans should have access to adequate telephone service at affordable rates. This interest is different from that of any other party and especially different from that of AT&T Ohio, whose advocacy includes the financial interest of stockholders.

⁸ *Id.*

Second, OCC's advocacy for residential customers will include advancing the position that low-income customers should not lose their telephone service without having access to an adequate substitute. OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, which is the authority with regulatory control over eligible telecommunications carriers of Lifeline service in Ohio.⁹

Third, OCC's intervention will not unduly prolong or delay the proceeding. OCC, with its longstanding expertise and experience in PUCO proceedings and matters regarding utility rates, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). Specifically, to intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case where the PUCO is considering allowing AT&T Ohio to stop providing Lifeline service to low-income customers in some areas.

⁹ See R.C. 4927.04(D); Ohio Adm. Code 4901:1-6-09(A).

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider the “extent to which the person’s interest is represented by existing parties.” While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio’s residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio confirmed OCC’s right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC’s interventions and that OCC should have been granted intervention in both proceedings.¹⁰

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio’s residential customers, the PUCO should grant OCC’s Motion to Intervene.

¹⁰ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20 (2006).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to Intervene was served on the persons stated below via electronic transmission this 8th day of November 2017.

/s/ Terry L. Etter

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Summary: Motion Motion to Intervene by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Etter, Terry Mr.