

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Implementation of the)
Federal Communications Commission's) Case No. 03-2040-TP-COI
Triennial Review Regarding Local Circuit)
Switching in the Mass Market.)

ENTRY

The Commission finds:

- (1) On October 2, 2003, the Commission issued an entry in this docket for the purpose of commencing an analysis of the Federal Communications Commission's (FCC's) presumption that, on a national basis, competitors are impaired without access to local circuit switching when serving mass market customers.

In order to assist the Commission in its analysis, all non-incumbent local exchange companies (non-ILEC)¹ were required to respond to a list of questions which were attached as Appendix A to the Commission's Entry of October 2, 2003. In addition, all incumbent local exchange companies (ILECs) electing to challenge the FCC's national finding of impairment were required to respond to the list of questions attached as Appendix B to the Commission's Entry of October 2, 2003. Responses to the appendices were to be submitted both electronically and in hard copy to the Chief of Telecommunications Division of the Utilities Department on or before October 31, 2003.

- (2) At this time, the Commission determines that a number of non-ILECs have failed to submit any information in response to the Commission's Entry of October 2, 2003. Specifically, the companies identified in Appendix A of this entry reported Ohio intrastate revenue for 2002 but failed to submit any response to the Commission's Entry of October 2, 2003.²

¹ These included all competitive local exchange companies (CLECs), interexchange companies, and ILECs relative to any granted edge-out authority or out-of-territory authority.

² The Commission recognizes that among those companies that failed to respond to the Commission's October 2, 2003 Entry are companies that reported zero revenue for 2002. Although the Commission is

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As recently noted in the Commission's Entry of November 5, 2003, in Case No. 03-2041-TP-COI, all companies, pursuant to Sections 4903.02 and 4903.03, Revised Code, are required to provide information requested by the Commission. If the information is not provided, the responsible company officials will be subject to an enforcement action pursuant to Sections 4903.25 and 4903.99, Revised Code, which create a felony offense for a knowing violation of Section 4903.03, Revised Code. Additionally, Commission orders are enforceable, including financial sanctions, pursuant to Sections 4905.54, 4905.56, and 4905.99, Revised Code.

Prior to the Commission taking further action against the nonresponsive companies identified in Appendix A, the Commission will extend one last opportunity for the denoted companies to submit the responses to the questions in Appendix A of the Commission's Entry of October 2, 2003. All responses should not be formally docketed but, instead, should be submitted in hard copy to the Chief of the Telecommunications Division of the Utilities Department on or before November 21, 2003. Consistent with the standardized protective order issued in this docket, all telephone companies submitting data to the Commission staff must conspicuously identify all information requiring confidential treatment.

If the appropriate submission is not made, the Commission will direct the State of Ohio, Attorney General to take the appropriate action against the delinquent companies.

- (3) The Commission notes that there are some public utilities for which, although responding to the Commission's request for information, the responses provided were either incomplete or submitted in a format other than that directed by the Commission. These companies, including but not limited to those identified in Appendix B, are directed to work cooperatively with the Commission staff for the purpose of satisfactorily finalizing the requisite data submissions on or before November 21, 2003.
- (4) In regard to the submissions of AT&T Communications of Ohio, Inc., Choice One Communications of Ohio Inc., and

dismayed by the unresponsiveness of these companies, at this point in time in this proceeding, the Commission is directing its attention to those non-ILECs operating in Ohio that reported revenue.

Comcast Phone of Ohio LLC, the Commission notes that the companies objected to certain questions included in the Commission's Entry of October 2, 2003, and, therefore, did not provide responses to these questions. The Commission reiterates that the requested information is necessary at this time for the purpose of conducting the analysis provided for pursuant to the *Triennial Review Order* in CC Docket No. 01-338. Therefore, the objections raised by the companies are rejected at this time. The companies are directed to provide completed responses to the Commission staff, on or before November 21, 2003.

- (5) On October 31, 2003, ICG Communications, Inc. (ICG) and The Glandorf Telephone Company (Glandorf) each filed a motion for extension of time with respect to the Commission's directive that company data responses be filed on or before October 31, 2003. The Commission notes that Glandorf submitted its data responses to the Commission staff on November 4, 2003. ICG is directed to submit its data responses on or before November 21, 2003.
- (6) The Commission, in its Entry of October 28, 2003, directed that the SBC Ohio batch hot cut collaborative should complete its activities by mid-December 2003, and file a joint status report on or before January 6, 2004. The Commission now clarifies that the joint status report should clearly delineate the components of the batch hot cut process for which there is agreement and those issues which remain in dispute and require Commission resolution. With respect to the issues which remain in dispute, SBC Ohio and the intervening parties, in their joint status report, should specify for each issue identified whether the Commission review can occur via a paper hearing or whether a formal evidentiary hearing is necessary.

SBC Ohio and intervenor prefiled direct testimony relative to the disputed hot cut issues should be filed on or before January 27, 2004.

- (7) In regard to the batch hot cut process for Cincinnati Bell Telephone Company (Cincinnati Bell), based on arguments raised by Cincinnati Bell and the intervening parties, the Commission concludes that the analysis of Cincinnati Bell's

batch hot cut process should be consolidated with the Commission's analysis of Cincinnati Bell's mass market.

- (8) As discussed in its Entry of October 2, 2003, the Commission stated that it was to perform its mass market analysis for SBC Ohio and Cincinnati Bell in a two-phase process. The first phase of this analysis is dedicated to defining the requisite markets in Ohio. The Commission stated that, at a later point in time, it would consider the application of triggers defined by the FCC and the issues of economic and technical impairment.³

In order to assist parties for the purpose of planning, the Commission establishes the following schedule with respect to the impairment phases for both SBC Ohio and Cincinnati Bell:

- (a) Cincinnati Bell testimony relative to the impairment analysis in the mass market(s) and testimony regarding the appropriateness of a batch hot cut process in the Cincinnati Bell service area-February 3, 2004.⁴
- (b) Intervenor testimony relative to Cincinnati Bell's impairment analysis in the mass market(s) and testimony regarding the appropriateness of a batch hot cut process in the Cincinnati Bell service area-February 26, 2004.
- (c) A hearing relative to Cincinnati Bell's impairment analysis in the determined market(s) and testimony regarding the appropriateness of a batch cut process in the Cincinnati Bell service area shall be tentatively scheduled for the week of March 15, 2004.
- (d) SBC Ohio testimony relative to the impairment analysis in the determined market(s)- February 10, 2004.

³ In its Entry of October 28, 2003, the Commission established a schedule with respect to the definition of the market phase.

⁴ The Commission notes that, at the time of the impairment analysis phase of the proceeding, the Commission will bifurcate its review of Cincinnati Bell and SBC Ohio. This procedural matter will be further discussed in a subsequent entry.

- (e) Intervenor testimony relative to SBC Ohio's impairment analysis in the determined market(s)- March 9, 2004.
- (f) A hearing relative to SBC Ohio's impairment analysis in the determined market(s) shall be tentatively scheduled for the week of March 29, 2004.

The Commission notes that intervenors may depose SBC Ohio and Cincinnati Bell witnesses for the purpose of developing direct testimony. SBC Ohio and Cincinnati Bell may also depose intervenors' witnesses prior to the scheduled hearing.

- (9) On October 28, 2003, Revolution Communications Company, LLC dba 1-800-4-A-PHONE (Revolution) docketed a late-filed motion to intervene in this proceeding. Revolution states that it has a real and substantial interest in this proceeding because the outcome will impact its ability to offer competitive services in Ohio. Although Revolution acknowledges that motions to intervene were to be filed by October 24, 2003, the company explains that this deadline was missed due to inadvertence and the fact that its attention was focused on complying with the data requested by the Commission.
- (10) The Commission finds that the motion to intervene is reasonable and should be granted.

It is, therefore,


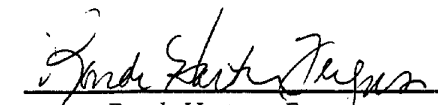
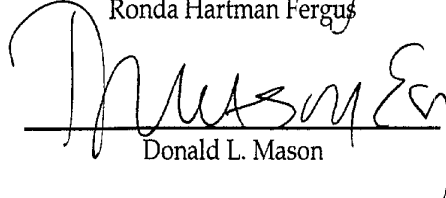
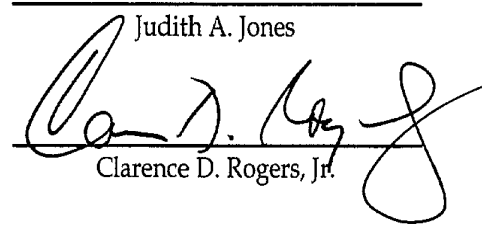
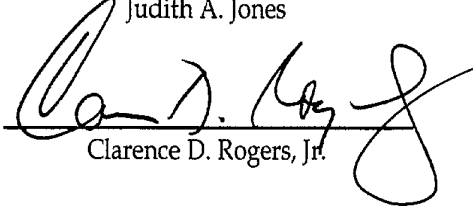
ORDERED, That the public utilities discussed in Findings (2), (3), and (5) comply with the directives and time frames specified in this entry. It is, further,

ORDERED, That SBC Ohio, Cincinnati Bell, and all intervenors comply with the procedural schedule identified in Findings (6) and (8) of this entry. It is, further,

ORDERED, That the motion to intervene is granted pursuant to Finding (10). It is, further,

ORDERED, That a copy of this entry be served upon all local telephone companies certified to operate in the state of Ohio (including those with pending applications), all interexchange telephone companies competitive access providers, the Ohio Consumers' Counsel, and all parties and interested persons of record.

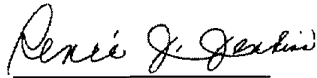
THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman
Ronda Hartman Fergus
Donald L. Mason
Judith A. Jones
Clarence D. Rogers, Jr.

JSA/vrm

Entered in the Journal

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Renee J. Jenkins
Secretary

Appendix A

Company Name

@ccess, LLC
3U Telecom Inc.
A.R.C. Networks, Inc.
ACC Long Distance of Ohio Corp.
Access One, Inc.
Access Point, Inc.
Affordable Voice Communications, Inc.
Akron Canton Communications, Inc.
Allegheny Coin Company, Inc.
Allegheny Communications Connect, Inc.
Alliance Group Services, Inc.
American Fiber Network, Inc.
American Long Lines, Inc.
American Phone Services Corporation
America's Digital Satellite Telephone, Inc.
Americatel Corporation
ATX Telecommunications Services, Ltd.
BAK Communications, LLC
Bell-Haun Systems, Inc.
BellSouth Long Distance, Inc.
Big Planet, Inc.
Bright Personal Communications Services, LLC
Broadview Networks, Inc.
Broadview NP Acquisition Corp.
Broadwing Communications, LLC
Brooks Fiber Communications of Ohio, Inc.
Budget Call Long Distance, Inc.
Budget Phone, Inc.
Buehner-Fry, Inc.
Business Telecom, Inc.
Cable & Wireless USA, Inc.
Call Processing, Inc.
Capsule Communications, Inc.
CAT Communications International, Inc.
CenturyTel Long Distance, Inc.
Ciera Network Systems, Inc.
Cimco Communications, Inc.
Cincinnati Bell Telecommunications Services, Inc.
Clear Rate Communications, Inc.
Coast International, Inc.
Coin Phones, Inc.
Combined Public Communications, Inc.
Comcast Communications, Inc.
Communication Options, Inc.
Communications Billing, Inc.
Comtech 21, LLC
Connect America Communications, Inc.
Covista, Inc.

CPM Communications, Inc.
CTC Communications Corp.
Custom Network Solutions, Inc.
Custom TeleConnect, Inc.
Dancris Telecom, L.L.C.
Data-Telecom Corporation
Dialaround Enterprises Inc.
Discount Dialtone, LLC
DTN Speednet Services, LLC
Easton Telecom Services, LLC
ECI Communications, Inc.
Eight 9 Line, LLC
Electric Lightwave, Inc.
eMeritus Communications, Inc.
Enhanced Communications Group, LLC
Enhanced Communications Network, Inc.
Evercom Systems, Inc.
EzTel Network Services, LLC
FairPoint Communications Solutions Corp.
FirstEnergy Telecommunications Corp.
Focal Communications Corporation of Ohio
FoxTel, Inc.
Frontier Communications of America
Gates Communications, Inc.
Global Crest Communications, Inc.
Global Crossing Local Service, Inc.
Global Crossing Telecommunications, Inc.
Global Crossing Telemanagement, Inc.
Go Solo Technologies, Inc.
Group Long Distance, Inc.
GTC Telecom, Inc.
Horizon Technology, Inc.
ICG Telecom Group, Inc.
IDT America Corp.
I-Link Communications, Inc.
Impact Network Solutions, Inc.
Integrated Communication Solutions, LLC
Intelcom, Inc.
Intellicall Operator Services, Inc.
Intermedia Communications, Inc.
Inter-Tel NetSolutions, Inc.
ITC^DeltaCom Communications, Inc.
JirehCom, Inc.
KDDI America, Inc.
Kiger Telephone & Telephony, LLC
KMC Telecom III LLC
KMC Telecom V, Inc.
KTNT Communications, Inc.
LCR Telecommunications, LLC
LD Exchange.com, Inc.
LDMI Telecommunications, Inc.
Least Cost Routing, Inc.

Legacy Long Distance International, Inc.
Legent Communications Corporation
Lightyear Communications, Inc.
Long Distance Billing Services, Inc.
Long Distance Consolidated Billing Co.
Main Street Telephone Company
Matrix Telecom, Inc.
Max-Tel Communications, Inc.
Maxxis Communications, Inc.
MCI Telecommunications Corporation
McLeodUSA Telecommunications Services, Inc.
Metro Teleconnect Companies, Inc.
Metropolitan Fiber Systems of Cleveland, Inc.
Metropolitan Fiber Systems of Columbus, Inc.
Miko Telephone Communications, Inc.
Moving Bytes, Inc.
National Directory Assistance, LLC
Nationwide Communications, Inc.
NETEL, Inc.
NetLojix Telecom, Inc.
Network Communications International Corporation
Network Operator Services, Inc.
Network US, Inc.
New Access Communications LLC
Nexus Communications, Inc.
NobelTel, LLC
Norlight Telecommunications, Inc.
North American Telephone Network, L.L.C.
NOS Communications, Inc.
NOSVA Limited Partnership
NUI Telecom, Inc.
OCMC, Inc.
OHIOTELNET.COM, Inc.
Operator Communications, Inc.
Opex Communications, Inc.
Optical Telephone Corporation
PaeTec Communications, Inc.
Primo Communications, Inc.
Primus Telecommunications, Inc.
PromiseVision Technology, Inc.
ProNet Communications Incorporated
Quality One dba Columbus Grove Long Distance
QualStar Communications, Inc.
QuantumShift Communications, Inc.
Quick Tel, Inc.
Qwest Communications The Power of Connections
Qwest Interprise America, Inc.
QX Telecom LLC
Radiant Telecom, Inc.
RCN Telecom Services, Inc.
Reduced Rate Long Distance LLC
Ridley Telephone Company, LLC

Saturn Telecommunication Services, Inc.
ServiSense.com of Virginia, Inc.
Silv Communication, Inc.
SmartStop, Inc.
Spectrum LD (Superior Technologies, Inc.)
Startec Global Licensing Company
Stonebridge Telecom, LLC
Sycamore Telephone Company
TCG Ohio
TeleCents Communications, Inc.
Telecom EZ Corporation
Telecommunications Resources, Inc.
Teleconnect Long Distance Services & Systems Co.
Telemanagement Services, Inc.
Telepage Communication Systems, Inc.
Teligent Services, Inc.
Telliss, LLC
Time Warner AXS of Northeast Ohio, LP
Time Warner AXS of Western Ohio, LP
T-NETIX Telecommunications Services, Inc.
Total Call International, Inc.
Trans National Communications International, Inc.
TremCom International, Inc.
Twin City Capital, LLC
U.S. South Communications, Inc.
UKI Communications, Inc.
United Communications HUB, Inc.
United Systems Access Telecom, Inc.
Unity Communications, Inc.
Universal Access, Inc.
Universal Broadband Communications, Inc.
US Telecom, Inc.
USA Digital Communications, Inc.
Verizon Select Services, Inc.
VI-Telco
Wholesale Carrier Services, Inc.
Williams Communications, LLC
Winstar Communications, LLC
World Communications Satellite Systems, Inc.
Worldnet Communications, Inc.
X2Comm, Inc.
Zone Telecom, Inc.

Appendix B

The following companies had no spreadsheet attached at all, but all questions were answered in hard copy only and in a Q&A format:

1. **MCI**
2. **ACN**
3. **Alltel Communications, Inc**
4. **Sage**
5. **Talk America**
6. **Z-Tel**
7. **Midwest Comm. LLC**

The following companies provided partial spreadsheet submissions:

1. **Allegiance** – Response to the following questions were left blank on the spreadsheet: question # 15, 16, 35, 36, 38, 39, 41, 42, 44-51, and 55.
2. **Bullseye** – Only response to question # 27 was included in the spreadsheet.
3. **Broadwing** – all questions were answered in a Q&A format. Only questions 1 – 4 were answered on the spreadsheet.
4. **XO** – Responses to questions 27 and 32-55 were not submitted on the spreadsheet.
5. **NuVox** – Incomplete response (response to questions 4, 12, 14-17, 19, 20, 23, 24, 27, 28, 37-39, 43-50, 52-60 are not included). Responses are not in spreadsheet format.
6. **LMDI** – Incomplete response (response to questions #3, 4, 27, 28, 35-39, 43-47, 50 and 57 are not included).

The following companies provided spreadsheets with electronic submission problems:

1. **Buckeye Telesystem** – Provided PDF file of spreadsheet.
2. **Comcast** - Did not Provide Customer area counts.
3. **CoreComm** – Did not provide ILEC CLLI Codes.
4. **DSLNet** - Sent Adobe .pdf file of spreadsheet.
5. **Power-Finder West** - Sent Adobe .pdf file of spreadsheet.

6. **SBC Telecomm** - Listed N/A for most information, claimed "restricted access information" for the rest.
7. **Sprint** - No ILEC CLLI, customer numbers not broken out by location.
8. **Toledo Area Telecommunications Services** - PDF file of spreadsheet.