BEFORE THE

PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Investigation Relative to the Establishment of Local Exchange Competition and Other Competitive Issues.	)))	Case No. 95-845-TP-COI ✓
And		
In the Matters of the Following Local Exchange Carriers to Amend Their Tariffs to Include An IntraLATA Toll Presubscription Service Offering:	))))	
Germantown Independent Telephone Company	)	Case No. 96-1200-TP-UNC ✓
Ottoville Mutual Telephone Company	)	Case No. 96-1295-TP-ATA ✓
Telephone Service Company	)	Case No. 96-1312-TP-ATA ✓
Sherwood Mutual Telephone Association, Inc.	)	Case No. 96-1313-TP-ATA ✓
The Nova Telephone Company	)	Case No. 96-1314-TP-ATA ✓
The Arthur Mutual Telephone Company	)	Case No. 96-1315-TP-ATA ✓
Ayersville Telephone Company	)	Case No. 96-1316-TP-ATA ✓
Doylestown Telephone Company	)	Case No. 96-1321-TP-ATA ✓
Middle Point Home Telephone Company	)	Case No. 96-1323-TP-ATA ✓
Columbus Grove Telephone Company	)	Case No. 96-1327-TP-ATA ✓
Conneaut Telephone Company	)	Case No. 96-1330-TP-ATA ✓
McClure Telephone Company	)	Case No. 96-1333-TP-ATA ✓
Sycamore Telephone Company	)	Case No. 96-1334-TP-ATA ✓
Minford Telephone Company	)	Case No. 96-1335-TP-ATA ✓
Vaughnsville Telephone Company, Inc.	)	Case No. 96-1337-TP-ATA ✓
Ft. Jennings Telephone Company	)	Case No. 96-1343-TP-ATA ✓
Glandorf Telephone Company, Inc.	)	Case No. 96-1344-TP-ATA ✓
The Farmers Mutual Telephone Company	)	Case No. 96-1345-TP-ATA ✓
ALLTEL Ohio, Inc.	)	Case No. 96-1351-TP-ATA ✓
Western Reserve Telephone Company	)	Case No. 96-1352-TP-ATA ✓
Chillicothe Telephone Company	)	Case No. 96-1355-TP-ATA
New Knoxville Telephone Company	)	Case No. 96-1361-TP-ATA
Ridgeville Telephone Company	)	Case No. 96-1362-TP-ATA
Arcadia Telephone Company	)	Case No. 96-1395-TP-ATA
Little Miami Communications Corporation	)	Case No. 96-1397-TP-ATA
Vanlue Telephone Company	)	Case No. 96-1398-TP-ATA
Oakwood Telephone Company	)	Case No. 96-1399-TP-ATA
Wabash Mutual Telephone Company	)	Case No. 96-1401-TP-ATA

FINDING AND ORDER

The Commission finds:

(1) Section 251(b)(3) of the Telecommunications Act of 1996 requires all local exchange carriers (LECs) to implement dialing parity. On June 12, 1996, the Commission, in Case No. 95-845-TP-COI *In the Matter of the Investigation Relative to the Establishment of Local Exchange Competition and Other Competitive Issues* (Local Service Guidelines), ordered LECs to implement intraLATA toll presubscription by June 12, 1997. By the February 20, 1997 entry on rehearing, the implementation deadline was extended to August 8, 1997.

(2) The above captioned UNC and ATA cases were initiated by each of the LECs to add intraLATA toll presubscription to their service offerings pursuant to the Commission's requirements in the local service guidelines.

The local service guidelines, at X.F., state that the incremental costs directly associated with the implementation of intraLATA toll presubscription shall be borne by providers of telephone exchange service and telephone toll service through a Commission-approved switched access per minute of use (MOU) charge applied to all originating intraLATA switched access minutes generated on intraLATA presubscribed lines.

(3) The Commission approved the intraLATA presubscription tariffs in each of the above captioned UNC and ATA cases. In each of those cases, the Commission also approved a tariffed mechanism for the recovery of the incremental costs associated with the implementation of intraLATA toll presubscription over a 36-month time frame. However, none of the approved tariffs contained an approved MOU rate for the actual recovery of costs. Instead, the Commission ordered the above captioned LECs to track actual implementation costs and MOUs for 12 months from the date of intraLATA toll presubscription implementation. The LECs were further ordered to file a proposed MOU rate for cost recovery no later than 12 months and 15 days after the date of implementation. The orders stated that the proposed MOU rate would become effective on the 31st day after filing, unless otherwise acted upon by the Commission.

(4) To further discuss the development of the appropriate MOU rate for cost recovery, the Commission ordered the Staff to convene a workshop where all parties of interest should meet to discuss the intraLATA toll cost recovery rate. The Commission encouraged parties to reach agreement rather than pursuing a litigation approach for such a short-term recovery mechanism.

The Staff held the workshop on March 17, 1998. Advance notices of this open workshop were sent to all LECs and all IXCs certified (or seeking certification) in the state of Ohio.

(5) On September 17, 1998, United Telephone of Ohio and Sprint Communications Company L.P. (collectively, Sprint) filed motions to intervene and to suspend the intraLATA presubscription implementation cost recovery charges of all the LECs listed in the above captioned UNC and ATA cases. Sprint argued that the cost recovery charges filed in the above captioned cases may have violated Section X.F. of the Commission's Local Service Guidelines.

(6) Sprint believes that a number of the above captioned LECs calculated their cost recovery rates using only the switched intraLATA access minutes of the interexchange carriers (IXCs). Sprint claims that it calculated its cost recovery rate using the switched intraLATA access minutes of the IXCs and of itself, the local telephone exchange service provider. Sprint argues that its interpretation of how to calculate the cost recovery rate is supported by the language of the local service guidelines.

(7) On September 24, 1998, and October 5, 1998, MCI Telecommunications Corporation (MCI) and AT&T Communications of Ohio, Inc. (AT&T), respectively, filed motions to intervene and suspend the effective date of the intraLATA presubscription implementation charges proposed by the carriers in the above captioned UNC and ATA cases. In addition to raising the same concerns as Sprint, MCI and AT&T also allege that local service guideline X.F. generally follows the cost recovery mechanism established by stipulations in The Western Reserve Telephone Company (WRT) alternative regulation proceeding, Case No. 93-230-TP-ALT, and the Cincinnati Bell Telephone Company (CBT) alternative regulation proceeding, Case No. 93-432-TP-ALT. As a final matter, AT&T and MCI point out that GTE North

Incorporated used its own switched access minutes in calculating the presubscription implementation charge.

(8) On October 5, 1998, the LECs listed in the case caption of this Finding and Order filed memoranda contra the motions to intervene and to suspend filed by Sprint.

(9) Staff has reviewed the MOU cost recovery rates that have been filed and has recommended to the Commission that those rates be approved. It is our understanding that at least some of the above captioned LECs calculated their MOU rates using only the intraLATA switched access minutes of the IXCs. We find the exclusion of the LEC's intraLATA switched access MOUs in the calculation of the LECs cost recovery rate to be a reasonable interpretation of our local service guidelines.

(10) The Commission concurs with the Staff's recommendation and approves the intraLATA toll presubscription cost recovery MOU rates filed in the above captioned ATA and UNC cases.

(11) In the local service guidelines, we state:

> The incremental costs directly associated with the introduction of 1+ intraLATA dialing parity shall be borne by providers of telephone exchange service and telephone toll service. Costs shall be recovered through a Commission-approved switched access per minute of use charge applied to all originating intraLATA switched access minutes generated on lines that are presubscribed for intraLATA toll service. Recovery of these costs shall not include recovery of costs incurred for PIC changes during the initial 90-day no-charge period.

(12) It was our intent that the total costs caused by the implementation of intraLATA toll presubscription be shared by both the LECs and IXCs. By opening their intraLATA toll market to presubscription, the LECs are virtually guaranteed a significant loss in toll revenues as their customers presubscribe away from the LEC. Furthermore, we expressly prohibited the LECs from recovering the costs incurred for PIC changes during the initial 90-day no-charge periods. We believe this represents another significant revenue loss to the LECs. Converse to the costs of the LEC, the opening of the intraLATA toll market to the IXCs produces significant

opportunities for the IXC to access once unobtainable revenues.

(13) It is our opinion that the costs of implementing intraLATA toll presubscription are more equitably shared by assessing an MOU charge to the IXCs and requiring the LECs to absorb the lost revenues and PIC changes during the 90-day no-charge windows. This was our intent when we stated that the rate should be applied to all originating intraLATA switched access minutes generated on lines presubscribed for intraLATA toll service. We did not intend presubscribed to include customers of the LEC that had not acted to make a definitive presubscription selection. In approving the tariffs of the above captioned LECs, the Commission was careful to ensure that current customers of the LEC would retain their current dialing arrangements until the customer made a request to be presubscribed to another carrier. We do not consider customers that have always been with the LEC to be presubscribed.

(14) Additionally, it would be inappropriate to require the LEC to include its own intraLATA toll minutes in the calculation of the MOU rate for cost recovery. In our opinion, it is reasonable for the LECs to assume its share of the costs of creating a new market for the IXCs is covered by the loss in toll revenues and the 90-day no-charge PIC change windows.

(15) We find the statement by AT&T and MCI that the cost recovery mechanism in the WRT and CBT alternative regulation cases follow the local service guideline X.F. to be irrelevant. The introduction of intraLATA presubscription in these alternative regulation cases came about through the negotiated agreement of the parties to these proceedings. Furthermore, these cases were concluded long before the creation and implementation of the Commission's local service guidelines and the passage of the Telecommunications Act of 1996.

(16) Additionally, the AT&T and MCI claim that GTE used its own minutes in the calculation of its cost recovery charge is irrelevant. We are not stating that an ILEC is prohibited from using its own intraLATA switched access minutes of use in the calculation. We are simply clarifying that our intention was that an ILEC would not be required to use its own

intraLATA switched access MOUs in the calculation of the cost recovery charge.

(17) Therefore, we clarify the understanding of Section X.F. of the local service guidelines to mean that the MOU rate for intraLATA toll implementation cost recovery does not need to be calculated using the intraLATA switched access minutes of the LEC. Furthermore, the charge need only be applied to the originating intraLATA switch access minutes generated on lines that are presubscribed for intraLATA toll service from a provider other than the customers original LEC.

(18) Since we have clarified our intent regarding the recovery of the implementation costs associated with intraLATA toll presubscription and since we are by this order approving the MOU rates for cost recovery filed by the above captioned LECs, there is no reason to suspend the tariffs or grant either the Sprint, AT&T, or MCI requests for intervention in these cases. Consequently, all outstanding motions filed by Sprint, AT&T, and MCI in the above captioned cases as denied.

It is, therefore,

ORDERED, That the intent of Section X.F. of the Commission's local service guidelines in Case No. 95-845-TP-COI is clarified as indicated herein. It is, further,

ORDERED, That, by this entry, the intraLATA toll presubscription implementation cost recovery MOU rates filed by the LECs in the above captioned UNC and ATA cases are approved. It is, further,

ORDERED, That in accordance with Findings (18) above, the Sprint, AT&T, and MCI motions for suspension and intervention in the above captioned cases are denied. It is, further,

ORDERED, That nothing in this entry shall be binding upon this Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That this entry does not constitute state action for the purpose of the antitrust laws. It is not our intent to insulate the applicants herein from the provisions of any state or federal law that prohibits the restraint of trade. It is, further,

ORDERED, That a copy of this entry be served upon United Telephone of Ohio, Sprint Communications Company L.P., MCI Telecommunications Corporation, AT&T

Communications of Ohio, Inc., the LECs and their respective counsel in the above captioned cases, and upon any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Craig A. Glazer, Chairman

Jolynn Barry Butler

Ronda Hartman Fergus

Judith A. Jones

Donald L. Mason

RSP:dj

Entered in the Journal
OCT 8 1998
A True Copy
Gary E. Vigorito
Secretary

SERVICE NOTICE

CASE NUMBER 96-1352-TP-ATA

CASE DESCRIPTION WESTERN RESERVE TELEPHONE COMPANY

DOCUMENT SIGNED ON October 8, 1998

DATE OF SERVICE 10-9-98

PERSONS SERVED

PARTIES OF RECORD

APPLICANT

WABASH MUTUAL TELEPHONE COMPANY
DONALD E. STACHLER, GEN. MAN.
6670 WABASH ROAD
CELINA, OH 45822

ATTORNEYS

GERALD A. COOPER
THOMPSON, HINE & FLORY
ONE COLUMBUS
10 W. BROAD STREET
COLUMBUS, OH 43215-3435

APPLICANT

WESTERN RESERVE TELEPHONE COMPANY
MR. DENNIS MERVIS, PRESIDENT
50 EXECUTIVE PARKWAY
HUDSON, OH 44236

KATHY E. HOBBS
ALLTEL OHIO, INC.
FIFTH THIRD CENTER
21 E. STATE ST.
COLUMBUS, OH 43215

INTERVENOR

AT&T COMMUNICATIONS OF OHIO, INC.
65 EAST STATE STREET
SUITE 1500
COLUMBUS, OH 43215

DAVID CHORZEMPA
AT&T CORP.
227 WEST MONROE STREET
13TH FLOOR
CHICAGO, IL 60606

INTERVENOR

MCI TELECOMMUNICATIONS CORPORATION
DARRELL S. TOWNSLEY
205 N. MICHIGAN AVE. SUITE 3700
CHICAGO, IL 60601

JUDITH B. SANDERS
BELL, ROYER & SANDERS CO., L.P.A.
33 SOUTH GRANT AVENUE
COLUMBUS, OH 43215-3927

MATTHEW H. BERNS
MCI TELECOMMUNICATIONS CORP.
205 NORTH MICHIGAN AVENUE
CHICAGO, IL 60601

INTERVENOR

SPRINT COMMUNICATIONS COMPANY L.P.
MARTHA JENKINS
8140 WARD PKW/MAIL STOP MOKCMP051
KANSAS CITY, MO 64114-2006

LEE LAURIDSEN
SENIOR ATTORNEY
SPRINT COMMUNICATIONS COMPANY L.P.
8140 WARD PKW/MAIL STOP MOKCMP051
KANSAS CITY, MO 64114-2006

INTERVENOR

UNITED TELEPHONE COMPANY OF OHIO
DBA SPRINT/GENE GRATZ
P.O. BOX 3555
MANSFIELD, OH 44907

JOSEPH R. STEWART
SPRINT
50 WEST BROAD STREET
SUITE 3600
COLUMBUS, OH 43215

INTERVENOR

WESTERN RESERVE TELEPHONE COMPANY
MR. DENNIS MERVIS, PRESIDENT
50 EXECUTIVE PARKWAY
HUDSON, OH 44236

THOMAS E. LODGE
THOMPSON, HINE AND FLORY
ONE COLUMBUS
10 WEST BROAD ST., SUITE 700
COLUMBUS, OH 43215-3435