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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of AT&T Ohio )  
To Increase the Rate Associated with the ) Case No. 06-1353-TP-SLF  
Business Late Payment Charge. )

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AT&T OHIO'S RESPONSE

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Introduction

AT&T Ohio<sup>1</sup>, by its attorneys, responds to the "complaint, arguments, and objectives" (sic) filed on January 16, 2007 by Mr. Kenneth W. Hall in the captioned case. In this case, Mr. Hall is continuing the attack on AT&T Ohio's reasonable business late payment charge ("LPC") policies that he began in Case No. 06-326-TP-CSS. Here, Mr. Hall opposes the Company's proposed \$1.00 increase to its LPC for business customers. AT&T Ohio has demonstrated that the proposed increase from \$10.00 to \$11.00 is reasonable and should be approved.

Background

The Company's existing tariffed LPC was set at \$10.00 or 1.5%, whichever is greater, effective on June 11, 2003 in Case No. 03-965-TP-SLF. In that case, the Commission specifically found that the proposal was not unjust or unreasonable. The Company's current LPC policy, as reflected in its approved tariff language, is to charge the greater of \$10.00 or an amount that equals 1.5% of all unpaid charges that are past due on accounts with at least \$10.00 past due, with certain specified exceptions. AT&T Ohio, Tariff P.U.C.O. No. 20, Part 2, Section 2, para.

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2.10.<sup>2</sup> The Company has proposed to increase that \$10.00 charge by \$1.00, to \$11.00.

AT&T Ohio operates under a plan of alternative regulation that qualifies the Company for treatment under the competitive retail service rules. *See* Ohio Admin. Code § 4901:1-6-02(A). Those rules provide as follows with regard to "non-specific" service charges:

Nonspecific service charges (e.g., late payment and returned check charges) are charges that are avoidable and under the control of the customer. ILEC nonspecific service charges are capped at existing rates, unless changed through an SLF case. The commission will apply a reasonableness standard to telephone companies' nonspecific service charges. Nonspecific service charges may be introduced or increased through a sixty-day self-complaint (SLF).

Ohio Admin. Code § 4901:1-6-22(A). AT&T Ohio filed its SLF case pursuant to that rule.

#### AT&T Ohio Has Properly Justified Its Proposed Charge

In its amended Exhibit C filed on January 8, 2007, AT&T Ohio has demonstrated the reasonableness of its proposed \$1 increase. AT&T Ohio explained that it has reviewed its LPC and has found that the current \$10 or 1.5% LPC charge does not allow AT&T Ohio to recover its costs. AT&T is moving to standardize all of its operating companies' LPC charges at the rates proposed here. The proposed \$1.00 increase will not affect any other terms and conditions of the LPC.

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<sup>1</sup> The Ohio Bell Telephone Company uses the name AT&T Ohio.

<sup>2</sup> There are certain exceptions to the application of the LPC specified in the tariff that would not change under this application.

An LPC serves two purposes. First, it helps to recover the cost for the activities related to the collection and handling of late payments. Second, the charge provides some incentive for customers to pay their bill on time. LPCs are clearly incidental to providing telephone service. They do not constitute a stand-alone service, and they do not impact the provisioning of telephone service. As the Commission's rule states, customers choose whether or not to pay by the required date and have the opportunity to avoid the late payment charge.<sup>3</sup> All customers have the ability to employ a number of options, such as making timely payment in full, making a partial payment, or making and adhering to alternate payment arrangements, to ensure that their bills are not subject to an LPC. The LPC is clearly an avoidable charge. LPCs are a normal course of business, no matter what the size of the business, as explained in the next section.

#### AT&T Ohio's Proposed Charge Is In Line With Other Such Charges In General Commerce and In the Telecommunications Industry

When comparing AT&T Ohio's LPC to other LPCs that business customers may experience, AT&T Ohio's LPC is among the lowest, both at its current level and at its proposed increased level. Typically, businesses are faced with monthly bills for business loans, lease payments, vehicle loans, credit card accounts, shipping bills, taxes, and utility bills for electric, gas, water, and telephone service. The vendors of each of these goods or services generally apply additional charges for payments that are made late. A review of late payment charges in place in general commerce shows that AT&T Ohio's charge is much less than what may be charged for

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<sup>3</sup> Nonspecific service charges (e.g., late payment and returned check charges) are charges that are *avoidable and under the control of the customer*. Ohio Admin. Code § 4901:1-6-22(A).

late payments for other services. The LPCs reported on several national credit cards are as follows:<sup>4</sup>

AARP Visa Rebate Platinum - \$35

Delta SkyMiles/American Express - \$35

Diners Club North America/Citibank - \$30

Discover Rebate Platinum Card - \$39

MBNA MasterCard Personal Platinum - \$39

Value MilesSM Platinum Visa Card - \$39

There are other late payment charges in general commerce to examine for purposes of comparison. The Internal Revenue Service charges penalties and interest for late payments.<sup>5</sup> Under Ohio law, the late payment penalty generally applicable to real property tax payment is 10%. R. C. § 5705.62. The late payment penalty that generally applies to personal property tax payments is also 10%. R. C. § 5719.03(D). It is interesting to note that The Ohio State University has a two-tiered late payment charge applicable to student accounts. Accounts paid one to nine days late are assessed a \$100 late payment charge, while accounts paid ten or more days late are assessed a \$300 late payment charge.<sup>6</sup> For shipping, UPS has a late payment

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<sup>4</sup> Source: State of New York Banking Department's December 30, 2005 Credit Card Survey; <http://www.banking.state.ny.us/nyschome.htm>.

<sup>5</sup> From the IRS publication "It's Important to Pay Taxes in Full": "Penalties and interest apply to years in which money is owed. The interest charged on late payments changes quarterly. During the last several years the interest rate has ranged from a high of 9 percent to a low of 4 percent. The penalty for filing late is generally 5 percent per month, or part of a month, up to 25 percent of the amount of the tax shown due on the return. The penalty for paying late is 1/2 of 1 percent per month, up to 25 percent of the unpaid amount due."

Source: <http://www.irs.gov/businesses/small/article/0,,id=108330,00.html>

<sup>6</sup> <http://www.treasurer.ohio-state.edu/TreaAdmin/PDFs/feesdeposits5-5complete.pdf>, at p. 5

fee of 5% on two of its billing plans.<sup>7</sup> AT&T Ohio's current LPC of 1.5% or \$10.00, whichever is greater, for a business customer that has at least \$10.00 as a past due balance, compares favorably to these other charges in everyday commerce.

AT&T Ohio applied to modify its LPC for business customers in Case No. 03-965-TP-SLF. In its June 10, 2003 Finding and Order, the Commission applied a reasonableness standard to the amended application and held that it was not unjust or unreasonable. AT&T Ohio had not proposed to modify its LPC since that time until it filed this pending application.

Embarq, Windstream, and Verizon have all mirrored the AT&T Ohio LPC. Each of these carriers applied for and received Commission approval to institute a LPC after AT&T Ohio's application was approved by the Commission. Century Telephone Company charges a LPC at 1.5% of all unpaid balances, while Cincinnati Bell charges 1.5% or \$5.00, whichever is greater. Century's \$10.00 past due balance trigger is the same as AT&T Ohio's, while the past due balance trigger amount for Cincinnati Bell is \$25.00 of unpaid charges. AT&T ILECs in other states, Michigan and Illinois, have already instituted the LPC proposed here.

## Conclusion

The applicable rule provides that the Commission will "will apply a reasonableness standard to telephone companies' nonspecific service charges." It has already applied that standard and approved the Company's current business LPC. Based on the

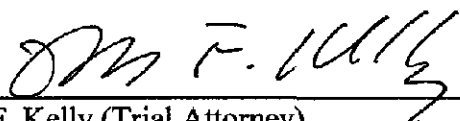
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<sup>7</sup> <http://www.ups.com/content/us/en/resources/pay/methods.html>

foregoing, AT&T Ohio's proposed \$1.00 increase to the minimum business late payment charge clearly meets the test of reasonableness. The Commission should approve the proposed tariff amendment.

Respectfully submitted,

AT&T OHIO

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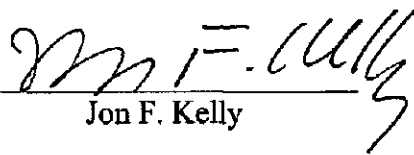
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Its Attorneys

# CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served on the following party by depositing it in the U. S. Mail, postage prepaid, this 30th day of January, 2007.

Kenneth W. Hall  
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Jon F. Kelly

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