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BEFORE

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THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

In the Matter of the Amendment of the  
Minimum Telephone Service Standards  
As Set Forth in Chapter 4901:1-5  
of the Ohio Administrative Code. )

Case No. 00-1265-TP-ORD

In the Matter of the Commission's Review  
of Chapters 4901:1-17 (Establishment  
of Credit for Residential Utility Services)  
and 4901:1-18 (Disconnection of Natural  
Gas or Electric Service to Residential  
Customers) of the Ohio Administrative  
Code. )

Case No. 03-888-AU-ORD

In the Matter of the Commission Ordered  
Investigation into the Forwarding of the  
Calling Party's Number Via SS7 or Other  
Future Signaling Technologies. )

Case No. 93-540-TP-COI

In the Matter of the Commission's  
Investigation into the Detariffing of the  
Of the Installation and Maintenance of  
Simple and Complex Inside Wire. )

Case No. 86-927-TP-COI

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APPLICATION FOR WAIVER  
OF

UNITED TELEPHONE COMPANY OF OHIO d/b/a EMBARQ

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Pursuant to Ohio Administrative Code ("OAC") Rule 4901:1-4-01(E), United Telephone Company of Ohio d/b/a Embarq ("Embarq") respectfully seeks a waiver of specific rules and regulations contained in several of the Commission's orders and entries.

Embarq's waiver requests are designed to achieve greater parity between Embarq and its competitors and to reduce the considerable expense of complying with the unduly burdensome, unnecessary, and outdated requirements of the Minimum Telephone Service

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Standards (“MTSS”). In the robustly competitive telecommunications market, MTSS compliance places regulated incumbent providers such as Embarq at tremendous competitive disadvantage to competitors such as wireless carriers, cable telephony, broadband over power line, and VoIP providers, who offer comparable services that are less regulated or even unregulated.

#### 4901:1-5-7 Consumer Safeguards

The Commission recognized in the current MTSS case<sup>1</sup> that telecommunications providers need to disclose only the cost of basic local exchange service (“BLES”) to the customer where BLES is available from the LEC. Given that the Commission has already determined that BLES disclosure is an adequate consumer safeguard, Embarq sees no reason to continue attempting to disclose the most economical services based on the customer’s stated needs now. Accordingly, Embarq requests a waiver of Rule 7(C)(2). Embarq has long contended that this requirement is subjective and has been inconsistently interpreted by the Commission Staff during audits of Embarq’s call centers. With the impending change to the rule and its subjective and inconsistent application, Embarq requests immediate relief from the requirements of this rule.

#### Rule 7(C)(2)(d)

The average service installation charge of all Embarq installations is approximately \$20. When this nominal charge is spread over 3 months, the resulting

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<sup>1</sup> *In the Matter of the Review of the Commission’s Minimum Telephone Service Standards Found in Chapter 4901:1-5 of the Ohio Administrative Code*, Case No. 05-1102-TP-ORD, Opinion and Order, February 7, 2007, at 38.

amount is less than \$7 per month. Customers that cannot afford \$20 for installation are likely eligible for Lifeline/Link-Up, which waives the installation charges entirely. When this requirement was added in 2001, the Commission summarily dismissed industry recommendations that the rule be eliminated, only offered if the charges were \$60 or greater, or only provided upon customer request.<sup>2</sup> The Commission noted that “the deferred payment arrangement allowed under the rule provides an opportunity for helping low-income subscribers to overcome that impediment.” The Commission went on to state that “it was incumbent upon the party seeking a change in the rule to demonstrate that the harm caused by the rule’s application outweighs the benefit which it provides towards achieving universal service.” The Commission provided no evidence that the deferred payment plan would in fact promote universal service. There are programs, such as Lifeline and Link-Up, that are specifically designed to promote universal service and are supported by industry and end user customers through the universal service fund. The company should not be required to offer the option to spread installation charges to every customer, regardless of financial need, if the intended purpose is to assist the low-income subscriber in gaining access to the network. The company queries every customer to determine if the customer qualifies for Lifeline; that constitutes adequate customer assistance. This requirement is not imposed on Embarq’s competitors, such as wireless and cable companies.

Given the above rationale, Embarq requests a waiver from the requirement to offer a deferred payment plan for the minimal service installation charges.

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<sup>2</sup> *In the Matter of the Amendment of the Minimum Telephone Service Standards as Set Forth in Chapter 4901:1-5 of the Ohio Administrative Code*, Case No. 00-1265-TP-ORD, Finding and Order, May 29, 2001, at 61-63.

#### Rule 7(D)

In today's environment, customers are well acquainted with service packages and in fact may be ordering in response to a company promotion for a specific package. Embarq provides a welcome package for every new customer describing in great detail the services/features that the customer purchased. The information provided explains how each feature can be used and, if applicable, also provides information on how to disable the feature. There is no need to list each and every feature when providing information to the customer about a bundle and certainly no reason that Embarq should state that each feature may be purchased separately. This is another requirement imposed on an ILEC, but not a CLEC, since a CLEC does not have to offer stand-alone BLES or individual features. The CLEC, VoIP, wireless, and cable providers do not have this additional requirement that needlessly adds time to each and every discussion of a bundle. While this rule creates additional call handling time and increases expenses for an ILEC, its competitors are able to focus on just the important and relevant information that the customer actually wants and needs to know when applying for service. Accordingly, for the sake of competitive parity, Embarq requests a waiver of this onerous disclosure requirement.

#### Rule 7(E)

The Commission recognized in the current MTSS case<sup>3</sup> that it is only necessary to refrain from marketing services to a customer when calling in to report a service problem and/or to make payment arrangements. Furthermore, the Commission clarified that a

provider can inform the customer of “any of its available services or products that might prove helpful in resolving the specific concerns raised by the customer during the call.”<sup>4</sup>

In light of the Commission’s agreement that the existing rule is too restrictive and apparent acknowledgement that providers sell services that can solve service problems, Embarq requests an immediate waiver of the existing rule that it must first confirm that it has completely responded to the subscriber’s concerns before engaging in sales practices.

4901:1-5-14(A)      Residential Service Guarantors  
and 4901:1-17-03    Establishment of Credit for Residential Service

Embarq requests a waiver of the requirement to offer a guarantor in lieu of a deposit. Embarq requests a deposit on less than 1% of its customers. When the deposit requirement appears on the service representative’s computer screen, the customer is provided an option of a guarantor or other means to establish credit to satisfy the deposit requirement. Providing this option needlessly lengthens the call and tends to annoy the customer who would rather just pay the deposit and proceed to establish service. Of the customers who are offered a guarantor, only .01% (one in ten thousand) take that option; customers also rarely avail themselves of the other options of providing proof of ownership of real estate within the service territory. The rules are complex, convoluted, and impose significant administrative burdens on Embarq, yet very few customers are affected. Offering the option of a guarantor is yet another example of the regulatory

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<sup>3</sup> *In the Matter of the Review of the Commission’s Minimum Telephone Service Standards Found in Chapter 4901:1-5 of the Ohio Administrative Code*, Case No. 05-1102-TP-ORD, Opinion and Order, February 7, 2007, at 31.

<sup>4</sup> *In the Matter of the Review of the Commission’s Minimum Telephone Service Standards Found in Chapter 4901:1-5 of the Ohio Administrative Code*, Case No. 05-1102-TP-ORD, Opinion and Order, February 7, 2007, at 31.

disparity that disadvantages Embarq with respect to its unfettered competitors; therefore, Embarq requests a waiver of such requirement.

#### 4901:1-5-17 Denial or Disconnection of Local and Toll Service

##### Rule 17(K)(4)

Embarq requests a waiver of the requirement, as it is interpreted by Staff, to notify customers, who call to either make payment arrangements or request to pay their bill, of the amount to avoid disconnection of local service. There are many instances when customers will call and specifically request the total amount of their bill, so that they can make a payment over the phone. The service representative will respond to the customer's question, and the customer will then offer to make full payment. Staff has interpreted the rule to require that, if a deny notice has been issued, the customer must be told the individual amounts of the local, toll, and unregulated categories, even if the customer does not request these amounts. Staff's interpretation is unreasonable and certainly too regimented. Many customers are already upset from having received a deny notice which, by rule, specifically states exactly how much is owed for local, toll, and unregulated services. If the customer were to specifically ask for the amount needed to be paid to retain local service, of course the representative would respond appropriately; however it is not necessary to provide such detail on every call where the customer wants to make a payment. Embarq requests an immediate waiver of the requirement to orally convey the disaggregated charges.

It is apparent from the citation above that the Commission's primary concern in its privacy order is the per line blocking charge and the potential for a customer to incur an additional service order charge for requesting blocking in the future. Embarq does not charge for adding per line blocking to a customer account. Accordingly, Embarq should not be required to notify customers during the initial call to establish or move service of the availability of per line and per call blocking. Most customers are familiar with the concept of caller ID blocking, and they receive information about the service in the directory and in the customer bill of rights. If a customer were to specifically ask about the service, of course the information would be provided. In fact, the company may on its own accord decide to inform customers about caller ID blocking during the call, in accordance with the customer's desires; however, that determination should be at the company's discretion and not dictated by regulation. Embarq requests immediate relief of this caller ID blocking requirement.

Embarq notes that the Inside Wire service was de-tariffed well over ten years ago. It is time for the Commission to treat these services as the deregulated services that they

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<sup>5</sup> 93-540-TP-COI, *In the Matter of the Commission Ordered Investigation into the Forwarding of the Calling Party's Number Via SS7 or Other Future Signaling Technologies*, Finding and Order, March 30, 1994.

<sup>6</sup> 86-927-TP-COI, *In the Matter of the Commission's Investigation into the Detariffing of the Installation and Maintenance of Simple and Complex Inside Wire*, Second Supplemental Finding and Order, March 29, 1995 and 86-927-TP-COI, *In the Matter of the Commission's Investigation into the Detariffing of the Installation and Maintenance of Simple and Complex Inside Wire*, Entry on Rehearing, November 23, 1994.

are. The Commission must be aware that inside wiring is competitive and that customers have many options to repair their wiring. Embarq has the impression that the Commission continues to exert this regulation out of misplaced concern that consumers remain detached and uninformed about their options to repair inside wire. After over ten years of educating consumers under Commission rules about their rights with inside wire, Embarq would suggest that Ohio's telecommunications customers have gotten the message. Ohio's consumers not only have extensive experience with regulated communications providers' inside wire maintenance agreements; they're also familiar with the non-regulated Cable Television Provider's inside wire maintenance agreements and those of wireless providers whose maintenance agreements include replacement handsets. As the Commission knows, much has changed in the telecommunications industry over the past ten years including the level of sophistication amongst the state's consumers. In today's competitive communications market, the Commission must recognize its duty to avoid imposing unnecessary regulatory requirements on those it regulates and providing competitive advantage to those entities it does not regulate. While Embarq does not object to notifying customers in writing about inside wire options and the NID in directories, the additional burden of a regulation to address these topics during customer calls is simply outdated and an unnecessary expense imposed on regulated communications providers. Embarq also believes it unreasonable for the Commission to impose a cooling-off period whereby a consumer can cancel a service for a deregulated product offering. As a deregulated service, Embarq submits that it alone should have the freedom to determine how long a customer has to cancel a service without penalties according to industry standards. Of the 18 states served by Embarq,

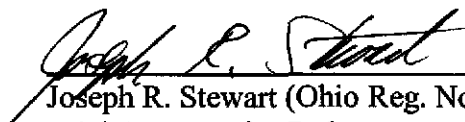


only Ohio imposes those requirements described above for a service that was deregulated over ten years ago.

Accordingly, Embarq requests that the Commission grant it a waiver from any requirement to make the mandated disclosures on inside wire and NIDs during customer calls. Additionally, Embarq requests the Commission grant it a waiver from the Commission's requirement for ten day cooling off period for inside wire.

For all the foregoing reasons, Embarq requests that the Commission grant the requested waivers.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the foregoing Application for Waiver was served via first class mail, postage prepaid, on the parties listed below on this 20<sup>th</sup> day of June, 2007.

  
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