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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Establishment of)
Carrier-to-Carrier Rules.) Case No. 06-1344-TP-ORD

VERIZON MEMORANDUM CONTRA OCC MOTION TO STRIKE

On October 1, 2007, the Verizon companies¹ (collectively, "Verizon") filed a memorandum contra certain elements of the applications for rehearing from the Commission's August 22, 2007 order in the above-captioned rulemaking proceeding filed, respectively, by AT&T, One Communications, and the Small ILECs. On October 5, 2007, the Office of the Ohio Consumers' Counsel ("OCC") filed a motion to strike those portions of Verizon's memorandum contra relating to the argument in the AT&T application for rehearing in which AT&T asserts that the Commission erred in maintaining an "equal access scripting" requirement in adopted Rule 4901:1-17-03(F), Ohio Administrative Code ("OAC").² Verizon, pursuant to Rule 4901-1-12(B)(1), OAC, hereby submits its memorandum contra the OCC motion to strike.

In its motion to strike, OCC asserts that, although the Verizon filing is styled as a memorandum contra, the portions of the document OCC seeks to exclude actually support the AT&T position rather than oppose it. OCC reasons that because the Commission rule governing

¹ The Verizon companies include Verizon North Inc., MCImetro Access Transmission Services LLC d/b/a/ Verizon Access Transmission Services, MCI Communications Services, Inc. d/b/a Verizon Business Services, Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance and NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions.

² The OCC motion to strike was also directed at certain portions of the October 1, 2007 AT&T memorandum contra certain rehearing applications.

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applications for rehearing, Rule 4901-1-35, OAC, provides only for the filing of memoranda contra rehearing applications [*see* Rule 4901-1-35(B), OAC], and does not expressly authorize the filing of memoranda in support of the rehearing applications of other parties, the portions of the Verizon filing addressing the scripting issue cannot be considered by the Commission. Verizon disagrees.

Yes, Verizon agrees with AT&T that the equal access scripting requirement should be removed from the rule in view of the FCC's recent order eliminating equal access requirements for interLATA long distance for AT&T and Verizon.³ However, the authority relied on by OCC as the basis for its argument that the Commission cannot entertain memoranda supporting the rehearing applications of other parties does not, as OCC would have it, necessarily require that the Commission must strike the challenged portions of Verizon's filing. As a review of the entry cited by OCC will show quickly show [*see In the Matter of the Petition of Numerous Subscribers of the Middletown Exchange of Ameritech Ohio*, Case No. 98-357-TP-EX (Entry dated June 4, 2002)], the Commission, in that case, in fact, accepted an OCC memorandum in support of a rehearing application filed by the petitioners in that proceeding based on "the unique procedural circumstances presented" (*id.*, 4). Thus, at the very least, the Commission has indicated that it will consider whether to entertain memoranda filed under color of Rule 4901-1-35, OAC, on a case-by-case basis, and will not automatically strike a filing simply because it contains arguments that are consistent with or support the position advanced in a rehearing application filed by another party. Accordingly, leaving aside the factual question as to whether there are differences between the Verizon and AT&T positions, and focusing only on the Verizon arguments that are consistent with those made by AT&T, the Commission clearly has authority

³ See *Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services*, Report and Order and Memorandum Opinion and Order, WC Docket Nos. 02-112, 00-175, 06-120, August 31, 2007, at ¶117.

to consider whether there are factors present that support hearing what Verizon has to say with respect to this very important subject.

The central question to this inquiry is whether any party will be prejudiced if the Commission agrees to consider the portions of Verizon's filing that are the subject of OCC's motion to strike. Although not articulated by OCC, the reason that Rule 4901-1-35, OAC, does not expressly authorize the filing of memoranda supporting another party's rehearing application is to protect third parties that, otherwise, would have no opportunity to respond. However, in this instance, OCC has fully addressed the AT&T scripting argument in its October 1, 2007 memorandum contra AT&T's rehearing application (*see* OCC Memorandum Contra, 1-6),⁴ and, thus, will not be prejudiced if the Commission entertains the "me too" portions of the Verizon memorandum contra that are consistent with the AT&T argument that OCC has already addressed.

On the other hand, from Verizon's perspective, it is essential that the Commission understand that Verizon, which, as OCC points out, is one of the carriers that has been relieved from the scripting requirement in connection with interLATA long distance, supports the elimination of this requirement in connection with intraLATA long distance as well. Verizon's concern was that, if it were silent on the subject, the Commission might construe its silence as evidencing a lack of interest, and not extend the remedy requested by AT&T to other similarly situated carriers – or worse, count that silence against AT&T in ruling on this issue. OCC has, in no way, been disadvantaged by Verizon simply stating its agreement with the AT&T position on this matter on the public record. In consideration of these circumstances, the Commission should deny the OCC motion to strike.

⁴ As Verizon reads it, the OCC is argument is simply that the FCC was wrong.

Respectfully submitted,

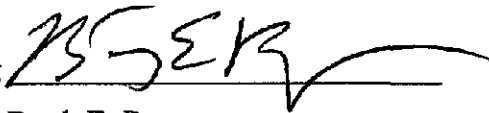
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SERVICES LLC D/B/A/ VERIZON ACCESS
TRANSMISSION SERVICES

MCI COMMUNICATIONS SERVICES, INC.
D/B/A VERIZON BUSINESS SERVICES

BELL ATLANTIC COMMUNICATIONS, INC.
D/B/A VERIZON LONG DISTANCE

NYNEX LONG DISTANCE COMPANY D/B/A
VERIZON ENTERPRISE SOLUTIONS

By: 

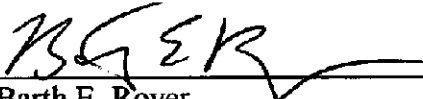
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CERTIFICATE OF SERVICE

I hereby certify that that a copy of the foregoing has been served upon the parties listed below by first-class U.S. mail, postage prepaid, this 12th day of October 2007.


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