

FILE

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BEFORE

2008 MAR 19 PM 4: 34 THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO In the Matter of the Application of Doylestown)
 Telephone Company for a Waiver of Edge-Out) Case No. 08-0117-TP-WVR
 Access Rate Reduction Requirements)

REPLY COMMENTS OF UNITED TELEPHONE COMPANY OF OHIO DBA
EMBARQ TO INITIAL COMMENTS OF THE OFFICE OF THE OHIO
CONSUMERS' COUNSEL

The Office of the Ohio Consumers' Counsel ("OCC") has filed a Motion to Intervene and Initial Comments ("OCC Comments") herein. OCC supports Doylestown's Waiver Application with speculation and irrelevancies.

First, OCC notes that Embarq previously objected to an application to edge-out by Ayersville Telephone Company.¹ But the fact that the Commission did not agree with Embarq in connection with the Ayersville application is irrelevant because there was then no Commission rule that required Ayersville to cap its access charges in the edge-out territory. This case is completely different because now there is a rule requiring a cap.

OCC then goes on to discuss the relationship of Embarq's local rates with those of Doylestown.² OCC argues that Doylestown's rates are an even smaller proportion of Embarq's than Embarq argued. But that actually supports Embarq's position that Doylestown can charge lower rates because the local rates are being subsidized by Doylestown's unfairly high access charges.

¹ OCC Comments at 3.

² Id at 5, 6.

OCC also complains that Embarq's local rates were set more than 25 years ago.³ What OCC conveniently fails to mention is that this means, in real dollars, Embarq's local rates have fallen significantly over time. Notwithstanding that Embarq's local rates have decreased in real dollars over time, OCC suggests that Embarq should lower its rates in the edge-out territories.⁴

To support that argument, OCC claims that Embarq has no need for rates as high as they are in the edge-out territories because Embarq is earning a healthy return on equity. But Embarq's overall rate of return is irrelevant. That return has nothing to do with whether the rates Embarq charges in a particular area are adequate to cover Embarq's costs there.

OCC next speculates that, if Doylestown had to adopt a different billing solution, Doylestown might simply terminate service in the edge-out territory and abandon its investment there.⁵ This issue is precisely the sort of factual question that Embarq suggests that the Commission must explore in connection with the waiver application.

OCC's speculation that Doylestown would abandon service in the edge-out territory results in OCC's claim that Embarq customers would then be without any competitive options.⁶ That claim is simply wrong. Embarq has identified four other competitors in the Marshallville exchange and six competitors in the Rittman Exchange currently providing service.⁷

³ Id at 6.

⁴ Id at 9.

⁵ Id at 9.

⁶ Id.

⁷ These competitors have ported-in numbers in the Marshallville and Rittman exchanges.

Table 1

Marshallville

OCN	Name
6025	Verizon Wireless
6664	Sprint Spectrum LP
7836	Intermedia Communications Inc. – Verizon Business
849C	Heritage Telephone Company

Rittman

OCN	Name
2687	Sprint Communications Company L.P.
4863	Level 3 Communications
6025	Verizon Wireless
6300	ALLTEL mobile Communications
7836	Intermedia Communications Inc. – Verizon Business
849C	Heritage Telephone Company

Because OCC is so narrowly focused on the local rates Doylestown charges, OCC completely ignores the competitive unfairness that presently exists and ignores the Commission's rationale for instituting the cap on access charges for edge-out ILECs. Specifically, the Commission noted this inequity in its Order adopting the Carrier-to-Carrier Rules, including OAC 4901:1-7-14(D), for which Doylestown seeks a permanent waiver:

[T]he Commission finds that while the current access rate in a small ILEC's incumbent territory is designed to serve a particular purpose, the same circumstances do not exist when a small ILEC operates out-of-territory. The Commission believes that small ILECs choosing to operate outside of their service territory as the ILEC should not be allowed to unduly benefit from higher access rates than those small ILECs choosing to operate out of their service area as separate CLEC affiliates, or other certified CLECs operating in this area, which are all subject to the switched access cap rule.⁸

OCC's arguments in support of the waiver application are misguided and should be rejected.

⁸ Opinion and Order in Case No. 06-1344-TP-ORD, dated August 22, 2007 at 57 (emphasis added).

Respectfully submitted,



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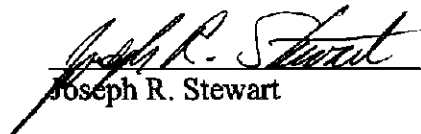
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CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing Reply Comments were e-mailed or served via first class mail, postage prepaid this 19th day of March 2008 to the persons listed below.



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