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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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| 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. 00-1265-TP-ORD<br>Case No. 05-1102-TP-ORD |

AT&T'S REPLY

**Introduction**

AT&T Ohio[1], AT&T Long Distance[2], AT&T Communications of Ohio, Inc., and TCG Ohio (the AT&T Entities"), by their attorneys and pursuant to Ohio Admin. Code Section 4901-1-12(B)(2), hereby submit their reply.

On March 20, 2008, the Ohio Telecom Association ("OTA") filed a request for a permanent waiver of Ohio Administrative Code Section 4901:1-5-10(B) ("Rule 10(B)" or the "Service Termination Rule"). Based on the prohibitive costs involved for all of its members in making the required billing system changes, combined with the potentially minute percentage of customers that would be affected by the Service Termination Rule change, the OTA requested authority to continue the existing rule, 4901:1-5-17(A), which is in effect until June 1, 2008 under the current schedule. The Office of the Consumers' Counsel ("OCC") filed a Memorandum Contra OTA's waiver request on April 7, 2008. OCC's memorandum does not withstand scrutiny and should be disregarded. The AT&T Entities, on their own behalf, now file this reply to OCC's memorandum.

[1] The Ohio Bell Telephone Company uses the name AT&T Ohio.
[2] SBC Long Distance, LLC uses the name AT&T Long Distance.

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AT&T has spent a significant amount of time analyzing the architectural changes that would need to be made to its well-established billing and collection system in order to implement Rule 10(B). It is important to note that these changes would need to be made for the exclusive regulatory mandate in Ohio. No other AT&T states require this disconnection process. While the Company may now finally understand how the rule can be implemented, it does not understand *why* it must be done in light of the unreasonable and unnecessary costs and the minimal number of customers that would be impacted by such change.

Further, in the highly competitive environment that the Company operates in, the changes Rule 10(B) introduces do not similarly impact our competitors, as this rule does not either apply or cause a change to the manner in which our competitors disconnect their customers. Up to this point all of the requirements and changes necessitated by the rules that have called for extensive billing changes could be instituted at the account level. But now the Company is forced to implement massive and complex modifications to the very foundation of a number of our systems as the transformation required by Rule 10 cannot be accommodated at the account level. As a result, the company will be required to support and maintain two separate and fundamentally different billing systems, a result that introduces additional cost to the business along with the potential for considerable error that could impact all customers while introducing a change that affects an extremely small portion of customers.

AT&T Ohio[3] estimates that it will incur nearly $2 million in expenses and approximately 28,000 man hours in implementing the Service Termination Rule. Regulations are, or perhaps better stated in this case were, a surrogate for competition. As our industry is experiencing significant and ever increasing levels of competition, significantly less amounts of regulations are appropriate. Given the level of competition that the Company is experiencing, it is unreasonable for the Commission to require that AT&T Ohio expend approximately $2 million to implement new regulations.

Moreover, there is a serious lack of justification for implementing such an extraordinary rule change. When considering that less than one-half of one percent of the Company's residential customers are disconnected each month, Rule 10(B) is unjust, unreasonable, and unwarranted. OCC's opposition to the OTA's waiver to maintain the status quo makes absolutely no sense.

**The Application of Rule 10(B) Does Not Make Sense And is Bad Public Policy**

The Company desires to keep its customers on the network. This rule change is not going to have a significant impact on those efforts. Again, less than one half of one percent of disconnected residential customers would be impacted. Further, the changes caused by MTSS Rule 10(B) in essence nullify the freedom that the Commission otherwise gave the Company for its business customers. Finally, not knowing whether all of the complexities such a system change generates would be seamless, there is good reason to believe that ultimately customers will be confused and in the long run--harmed.

[3] This is AT&T Ohio's anticipated cost. The costs for the other entities are not known at this time.

Moreover, the Service Termination Rule clearly runs contrary to Governor Strickland's executive order on "Common Sense Business Regulation" that provides clear guidelines: create a more efficient and effective regulatory environment. There is nothing *efficient* or *effective* about Rule 10(B). The Governor's philosophy of "Common Sense Business Regulation" throughout his executive order requires agencies to review and consolidate existing rules and processes. See Executive Order 2008-04S, *Implementing Common Sense Business Regulation*. After such a review, state agencies must, among other things, amend or rescind rules that are unnecessary, ineffective, or needlessly burdensome, that unnecessarily impede economic growth, or that have had unintended negative consequences.

Undoubtedly, the Service Termination Rule meets all of those restrictions. Common sense should dictate and OTA's request for the Commission to waiver the rule should be granted.

**The Cost of Implementing the Service Termination Rule Renders the Rule as Unjust and Unreasonable**

In this era of less regulation, companies should not be expending monetary resources on IT billing changes, especially changes that the Commission found unnecessary in previous reviews of this matter. The Commission has previously looked at proposals to establish a disconnection process for regulated local service in Case No. 95-790-TP-COI. In that case, the Commission rejected a proposal to establish a disconnection policy based on basic local exchange service similar to the requirements of Rule 10(B). In addition, in its Third Entry on Rehearing in Case No. 99-998-TP-COI, the

Commission rejected a disconnection policy for packages similar to Rule 10(B), opting instead to offer this option in addition to maintaining the status quo disconnection policy.

Through requiring the implementation of Rule 10(B), the Commission is attempting to implement a portion of the staff proposal that it rejected as **costly, burdensome and unnecessary** back in 1996. In 95-790, the Commission investigated then current disconnection practices related to the disconnection of basic local exchange service for the nonpayment of charges associated with services other than basic local exchange service. Ultimately, the Commission established a new disconnection policy. Prior to implementation of the policy established in 95-790, LECs were permitted to disconnect a subscriber's local service for the nonpayment of IXC toll charges. As part of its investigation, the Commission considered staff's disconnection proposal as well as a variety of comments from numerous entities. Staff recommended that, wherever technologically feasible to separate the disconnection of basic local exchange service from the disconnection of other types of service, LECs should be prohibited from disconnecting subscribers' basic local exchange service for nonpayment of unregulated service of any kind, the nonpayment of IXC-provided toll service, and the nonpayment of LEC-provided services other than basic local exchange service, including both toll and discretionary services.

The Commission did not adopt the staff proposal. Ultimately, it decided to prohibit local service providers from disconnecting local service (not just basic local exchange service) for nonpayment of charges unrelated to the provision of local exchange

service by an ILEC. Local exchange service being defined as "every regulated service provided by the local service provider other than toll service." LECs have operated under this policy since it was created in the June 12, 1996 Finding and Order in 95-790.

There has been no significant changes necessitating modification to this policy. In fact, many of the Commission's arguments for rejecting staff's proposal back in 1996 have merit today. The following excerpts from the Commission's Finding and Order, dated June 12, 1996, are provided for the Commission's consideration:

> Although today the Commission, as described in more detail below, has decided to prohibit local service providers from disconnecting local service for the nonpayment of toll charges, it sees no reason to encumber this policy by adopting some of the still more complicated aspects of the staff's proposal that we have not already discussed. Specifically, the staff proposal calls for separating various services into a set of distinct categories, each categorization having a significant impact on the manner in which billing, partial payment collection, temporary disconnection, permanent disconnection, and reconnection of the service may occur. The Commission views all this categorization and categorized regulatory treatment as **unnecessary, and potentially very costly to the industry**. Rather, the Commission's policy is much simpler. For purpose of local service disconnection, from now on there are only to be two categories of service: toll service (which includes toll service provided by the local service provider and toll service for which the local service provider bills and collects and for which it purchases the account receivable) and local service (which is defined as every regulated service provided by the local service provider other than toll service).
>
> ...The Commission sees no reason to distinguish between LEC-provided toll, IXC-provided toll, or between discretionary services on similar grounds. The Commission believes a much **simpler formula** will suffice. If a customer pays for local service, the customer's local service cannot be disconnected. If a customer does not pay for local service, it can be disconnected. Likewise, if a customer does not pay for toll service, the customer's access to toll service can be denied. Finding and Order, Page 15. (Emphasis added)

...Unquestionably, **many aspects of the staff proposal would prove quite costly to implement**, most notably the categorization of various services for purposes of

separate treatment as regards billing, partial payment collection... Finding and Order, Page 18.(Emphasis added)

**OTA's Request Should be Granted for Good Cause Shown**

OCC's standard of review arguments are baseless and unreasonable and should be dismissed. It was not possible to do the full analysis that has since been done when pleadings were exchanged during the rulemaking cycle. The fact that one other company questioned the rationale of Rule 10(B) in the rulemaking process does not negate OTA's current waiver request. The Commission has procedural rules to allow companies and interested parties to participate in a waiver request after the rules have been adopted, and especially before the rule is in effect. Exercising these rights after rules have been established is certainly permitted and expected and has been done numerous times in the past.

To the extent that the Commission is concerned about granting a blanket waiver to the industry, then AT&T submits this filing as its individual filing for waiver of the Service Termination Rule, incorporating by reference all of the arguments submitted by the OTA.

Conclusion

There is no rational basis upon which AT&T should expend such significant time and money to implement the Service Termination Rule. OCC's comments should be rejected and the Commission should approve the waiver as requested by OTA, or in the alternative, grant AT&T's individual filing for a waiver of the Service Termination Rule.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served via first class mail, postage prepaid, on the parties listed below on this 17th day of April, 2008.

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