BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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 Case No. 05-1102-TP-ORD

AT&T OHIO'S REQUEST FOR WAIVER

Introduction

AT&T Ohio[1] by its attorneys and pursuant to Ohio Admin. Code Section 4901-1-12(B)(2), hereby requests a waiver of Minimum Telephone Service Standard (MTSS) Rule 4901:1-5-10(B) ("Rule 10(B)" or "Service Termination Rule"), as modified by the Commission in its Entry dated May14, 2008.

On May14, 2008, the Commission granted companies a limited waiver of its original MTSS directive and ordered companies to revise their service termination practices for residence and small business accounts by requiring that deniable charges only include the tariffed rates for local exchange access lines, usage and all associated taxes and government mandated surcharges and further ordered that all other regulated local service rates be reclassified to a non-deniable status. The Entry maintained the effective date of June 1, 2008, but extended the enforcement date until January 1, 2009. The Commission further directed companies to file company-specific waiver requests of the modified requirement within 14 days of its Entry. Accordingly, based on the supporting information included in this filing, AT&T Ohio urges the Commission to

[1] The Ohio Bell Telephone Company uses the name AT&T Ohio.

reverse its limited waiver granted on May 14, 2008 and allow AT&T Ohio to continue under the present MTSS rule for service terminations, namely Rule 4901:1-5-17(A) and (C).[2]

AT&T Ohio is Unable to Comply With the Requirements of the Entry Without Taking Unreasonable and Costly Steps Not Commensurate With the Public Policy Objective of the Commission's Rules.

As a matter of course, the Commission is expected to act reasonably in exercising its policy-making function.[3] However, in adopting the new Service Termination Rule detailed in Case No. 05-1102-TP-ORD (even with the modifications affirmed in the Commission's May 14th Entry granting a limited waiver), the Commission is instituting a questionable public policy. While the Commission endeavored to provide additional protections for subscribers who are delinquent in paying their telephone bills, the change results in unreasonable and burdensome implementation requirements for AT&T Ohio. Public policy should not support such a result.

Moreover, the Commission has failed to justify this new requirement and has not sufficiently considered who it impacts, how much it costs, or the extent of the public benefit. The Commission commented that its revised Service Termination Rule was adopted to provide more flexibility in creating disconnection policies consistent with the marketplace forces. While this is a sound policy, the adopted rule has the opposite effect. The Commission's decision to impose this requirement in light of its technical, economic

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[2] AT&T Ohio, by filing this waiver request, does not waive its right to file an Application for Rehearing of the Commission's Entry dated May 14, 2008.

[3] See, 78 O. Jur. 3d Public Utilities §§ 51-52.

and policy shortcomings are both arbitrary and unreasonable. The Commission's new requirements amount to a "solution looking for a problem." AT&T Ohio requests that the Commission grant a waiver that would allow AT&T Ohio to continue to follow the current disconnection policy under the existing MTSS Rule 4901:1-5-17(A) and (C).

Number of customers impacted

A relatively low number of AT&T Ohio customers are disconnected for nonpayment in the current environment and are thereby affected by the proposed changes. AT&T Ohio estimates that less than 1% of its residential and business customers are disconnected in a given month.

However, very preliminary estimates of the programming work alone required to implement the changes could range between $1 million to $3 million depending on unforeseen complexity once the programming changes commence. Ultimately, through the upward pricing pressure these added costs give rise to, the cost for implementing such a change will have to be absorbed by all customers, including the majority who are responsible, reliable and timely paying customers.

Billing system changes required

The Commission erroneously believes that the changes ordered are simple and easily accomplished. Rather, implementing the new disconnection rule will in fact require a tremendous overhaul to AT&T Ohio's billing system.

The Company has reviewed many options, even those proffered by the Commission staff, but the conclusion is the same: there is no simple way to institute the modifications necessary to ensure compliance with the revised Service Termination Rule. It will require an extensive, costly and time consuming effort, and in no way offers the flexibility in the Company's service termination practices that the Commission believes its May 14th Entry provides.

The systems the Company utilizes to provide service to millions of residential and business customers involve the deployment and maintenance of carefully integrated systems that address a wide range of issues and needs such as ordering services, addressing customer service and billing issues, managing collections, and processing customer adjustments. Multiple computer systems are impacted by virtually any programming change. A software change that implicates more than one system cannot be characterized as simple. It would require a detailed formal systems review before any change could be made.

Further, preparing for any change to AT&T Ohio's systems require a systematic approach to development and testing in order to maintain both efficiency and quality. Any effort to minimize the standard development processes or reduce the development and test intervals can compromise the overall integrity of system changes, which ultimately will adversely impact AT&T Ohio's customers when these systems do not work properly.

Considering the specific requirements of the limited waiver, the infrastructure of AT&T Ohio's billing system will still have to be significantly expanded in order to add the necessary override programming logic to ensure that deniable charges for residential accounts and small business accounts with three lines or less are calculated in accordance with the Commission's Entry. This is a huge, but necessary, undertaking as the limited waiver requires special and unique billing treatments for only these residential accounts and small business accounts. Business accounts with four lines or more are not impacted by the limited waiver and thus will continue to be handled as they are today.

In addition, the limited waiver requires a change or reclassification to the deniability indicator for all other regulated local services other than local exchange access lines and usage. And again, this change only impacts residential accounts and small business accounts with three lines or less. In other words, deniable charges for business accounts with more than three lines will continue to be calculated utilizing the current methodology, while a completely separate billing and collection process will need to be developed for residential and small business accounts. Obviously, these changes do not provide the Company any real flexibility, rather they create an enormous task with considerable expense.

Each product offered by AT&T Ohio is assigned a unique product code called a Universal Service Order Code ("USOC"). Each USOC is marked as deniable or non-deniable. This drives the calculation of deniable charges in the current environment. Since each USOC can only be assigned one deniability indicator, an alternate means of calculating deniable charges must be developed in order to comply with the new rule. This also means that the table in the billing system which lists each USOC and its deniability indicator will have to be modified as well. Given that over 6,000 USOCs exist, with the vast majority of these USOCs being for other than local exchange access lines and usage, the task of ensuring that all downstream applications impacted by the changing USOC deniability indicator are properly understood and processed is enormous.

As further discussed below, the partial payment allocation sub-system will need to be modified – again. It was modified at significant time and expense in 1997 as required by the Commission relative to Case No. 95-790-TP-COI ("the 790 Case"), and again in 2001, as a result of revisions to the MTSS rules in Case No. 00-1265-TP-ORD. And today, here we are again, having to incur expense and expend resources one more time to modify the same systems as before to comply with another change that the Commission is instituting. Similar to AT&T Ohio's previous comment in its Reply to the Office of the Consumers' Counsel, the limited waiver continues to impose unnecessary costs, costs that many of our competitors do not have to incur.

Additional modification to the ordering systems will be required to uniquely identify services/features that are deniable versus non-deniable. The order negotiation system will also have to be changed to provide the new information during the order negotiation process. Testing and verification will be required prior to implementation. Flow-through between systems that need to exchange or accept data will have to be tested and verified to ensure accurate results and accurate billing. Overall, the number of impacted systems/tables is in excess of 25. The effort to modify, test and verify the changes to those systems/tables as well as ensure that the resulting billing is accurate is significant.

Inconsistent application of BLES

A great deal of work will need to be done to ensure the correct allocation of deniable charges with respect to packages, that is assuming packages are subject to the limited waiver in addition to stand-alone access lines, a matter that needs clarification should the Commission not grant the waiver AT&T Ohio is seeking in this filing. The May 14th Entry indicates that the limited waiver was adopted in order to address industry concerns with implementing the new policy on "stand-alone BLES accounts that consist of two or three BLES lines." The Commission thus modified the rule as follows: "The ILEC must continue to provide the stand-alone BLES portion of a delinquent customer's BLES multi-line account, so long as the customer tenders payment sufficient to cover the ILEC's rate for each BLES line, plus taxes and government mandated fees associated with BLES." Entry at p. 11. AT&T Ohio seeks clarification as to the intent of that language.

Basic local exchange service (BLES) is defined in Ohio Admin. Code 4901:1-5-01, as "end user access to, and usage of, telephone company-provided services that enable a customer, over **the primary line** serving the customer's premises, to originate or receive voice communications within a local service area, and that consist of the following…." (Emphasis added). Given that definition, no subscriber's account could possibly consist of two or three stand-alone BLES lines. A subscriber's account might consist of one stand-alone BLES line and one or two additional, stand-alone local exchange access lines. On the other hand, a customer might also subscribe to a package or bundle of services that includes one or more local exchange access lines. These, however, are not stand-alone lines: they are packaged lines. The Commission needs to clarify that the limited waiver applies when customers subscribe to packages or bundles with multiple lines as well as when customers subscribe to multiple, stand-alone local exchange access lines which are not part of a package or bundle.

Even if the limited waiver does apply to packages, a variety of separate billing subsystems, unique to the billing of packages, will also need to be modified. Today, the charges associated with a package are allocated as deniable or non-deniable based on the composition of the package, enabling an appropriate portion of the total price of a package to be considered deniable and an appropriate portion non-deniable. Because the price of a package is allocated in this manner, the charges associated with the exchange access line component of the package may not equal the tariffed rate for the exchange access line as required by the revised Service Termination Rule. In order to comply with the rule, the allocation methodology will need to be modified for accounts with three lines or less, while maintaining the existing algorithm for accounts with more than three lines. As with all of the other required modifications, a significant work effort will be required to effect this change and ensure compliance.

Finally, given the enormity of the required changes, and the controlled processes that must be followed to initiate any system changes, the limited waiver could not be implemented until at least 2009. AT&T Ohio already has system changes scheduled for the remainder of 2008.

Background and Nature of the Waiver Request

In order to put AT&T Ohio's waiver request in its proper context and to convey a thorough understanding of the Commission's revised Service Termination Rule, it is helpful to provide some historical background regarding the Commission's frequently changing policy on disconnection.

Historically, local service could be disconnected if bills for toll service went unpaid. In the 790 case the Commission decided that was no longer appropriate, and on June 12, 1996, it adopted a new policy that required local service and toll service to be treated separately for disconnection purposes. While the implementation of the new policy was complex and costly, it could have been worse had the Commission not wisely rejected the staff proposal which called for the separation of basic local exchange service from the disconnection of other types of service. The staff proposal would have prohibited local exchange carriers ("LECs") from disconnecting subscribers' basic local exchange service for nonpayment of LEC provided services other than local exchange service, from the nonpayment of toll service and from the nonpayment of unregulated service of any kind. This more egregious policy would have forced LECs to bear the costs of system upgrades that would have cost vastly more to implement and administer.

In fact, the Commission, in its own words, viewed the staff proposed “categorization and categorized regulatory treatment as unnecessary, and potentially very costly to the industry.”[4] Nothing has changed over the past 12 years that would now make that staff proposal more acceptable, less costly, and still in the public interest. That same perspective needs to be adopted with respect to the recently revised MTSS Service Termination Rule.

During the 2001/2002 review of 4901:1-6 of the Ohio Administrative Code, (“the Retail Service Rules”), the Commission attempted to modify the disconnection rule adopted in 1996 with respect to packages, and surprisingly, in its Second Entry on Rehearing dated 11-21-02 in Case No. 99-998-TP-COI (“the 998 case”), introduced a new, egregious provision (“The Service Package Rule”) that had not previously been contemplated nor addressed in the record, and which would have required monumental changes to the Company’s billing system and disconnection processes. It would also have required significant changes to disconnection notices. That provision was as follows:

> (4) If a service package contains both basic local exchange service, which may include other regulated services, and toll service and/or any non-regulated products or services, the disconnection procedures for non-payment or partial payment of the package rate shall be as follows: if the customer fails to submit timely payment for the entire package or bundle, whether by non-payment of my partial payment, the LEC may discontinue the provision of any regulated and non-regulated products or services, other than basic local exchange service, if payment is sufficient to cover basic local exchange service. The LEC may charge the customer for basic local exchange service at the tariffed rate for stand-alone basic service, or in the event a CLEC does not offer basic local exchange service on a stand-alone basis, at the price identified in the tariff for the basic local exchange service component of the package. In no event shall this charge exceed the price of the package or bundle of services. Further, if the customer loses services

[4] Case No. 95-790-TP-COI, Finding and Order, dated June 12, 1996, at page 15.

> included in the package due to non-payment or partial payment pursuant to this rule, the customer shall be entitled to add, change, or discontinue any regulated services provided according to the LEC's normal procedures for adding, changing, or discontinuing such service.
>
> (5) If a service package includes both basic local exchange service, which may include other regulated services, and toll service and/or any non-regulated services, a notice of disconnection for non-payment shall state the total amount due to avoid discontinuance of the package, as well as the total amount due to avoid discontinuance of the basic local exchange service component of the package.

Industry outcry was loud and clear. In addition to the enormous costs to implement and administer the new requirement, the new provision would also have had undesirable consequences that included different treatment for different customers depending on the services to which they subscribed. AT&T Ohio communicated the following issues, issues that are still very much the same today:

- The Service Package Rule would have required a whole new deniable/non-deniable classification scheme specific to packages. This new scheme would be in addition to the existing deniable/non-deniable scheme currently utilized.

- The mechanized denial process is not designed to turn off some regulated local services and not others…dialtone, with all of its discretionary services is either on or off. In other competitive industries, the Commission service termination policy makes absolutely no sense. Consider a loan service termination folly if required to implement such a rule in for instance the car loan industry. Consider a customer that fails to make full or timely payments on their car loan. Today, after unsuccessful collections activity, the car is likely to be repossessed, leaving the customer without any transportation service. Although, if required to follow the Commission's termination policies, the basic transportation element of the car would remain, such as the engine, tires and frame, while the optional car features, such as the satellite radio, air conditioning, and heater could be removed.

- Massive service order system modifications would be required to remove only discretionary services, if the customer pays the amount required to retain basic local service as specified in the new rule.

- Massive billing system changes would be required to classify customers subscribing to packages differently from customers who did not.

- The new rule would require parallel processes to accommodate the different service order, billing, credit and collections process for package vs. non-package customers, resulting in a highly inefficient operational mode.

- New Methods and Procedures and training material would have to be developed and implemented.

- The potential for increased customer confusion would be tremendous.

- Customers would be treated in a discriminatory manner.

- Disconnection notices would require a major overhaul.

- The new rule would increase the complexity of an already elaborate system for applying partial payments by creating a requirement to add a whole new payment scheme to the existing partial payment schemes.

The Commission acknowledged the industry-wide concerns and amended the rule, retaining the existing disconnection policy and providing an option to implement the Service Package Rules for those companies who could more readily deploy such a policy. That same perspective needs to be adopted with respect to the recently revised MTSS Service Termination Rule.

At issue here is the Commission's recent attempt at implementing similar variations to the disconnection process as those rejected on two occasions in the past. The Commission made these changes despite the fact that for the past 12 years the industry has continually and consistently expressed concerns with and objection to such modifications, given the prodigious billing system implementation and administration issues which remain unchanged over the years. AT&T Ohio is seeking this waiver recognizing the considerable Commission historical treatment on service termination matters and not because it simply disagrees with the rule as the May 14th Entry suggests.

Consequently, AT&T Ohio is requesting that the Commission grant a waiver that would allow AT&T Ohio to continue to utilize the current disconnection policy by way of current MTSS Rule 4901:1-5-17(A) and (C). Approving the waiver will surely not adversely affect the public interest. The existing rule has worked well over the past years and has provided the necessary degree of protection for regulated local services when issues arise in the disconnection of service for non-payment. There is simply no reason to require the implementation of complex and expensive changes to provide any additional protection for the relatively few delinquent payers.

Conclusion

In a competitive environment the adopted rule and its onerous requirements does not impact all competitors evenly, forcing unnecessary costs on only certain companies. As all LECs do not provide stand alone BLES, those that do, such as AT&T Ohio, are adversely affected by this rule. And, other competitors such as VoIP and wireless are not affected either. Through its alternative regulation of basic local exchange dockets, exchanges containing over 90% of AT&T Ohio's access lines have been declared competitive. Competition has cut deeply into the Company's exchange lines and usage, and yet the Company would still be saddled with these burdensome Service Termination requirements.

There is no rational basis upon which the Commission should require the implementation of complex and expensive changes to provide any additional protection for a very small number of delinquent customers. The current service termination policy has not generated complaints that would justify a need to make the most recent rule changes. Accordingly, AT&T Ohio's request to retain the current disconnection Rule 17(A) and (C) should be granted.

Respectfully submitted,

AT&T Ohio

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I hereby certify that a copy of the foregoing was served via first class mail, postage prepaid, on the parties listed below on this 28th day of May, 2008.

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