BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Investigation into Continuation of the Ohio Telecommunications Relay Service.	)))	Case No. 08-439-TP-COI

REPLY COMMENTS OF AT&T COMMUNICATIONS OF OHIO, INC.

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1. Introduction

AT&T Communications of Ohio, Inc. and its corporate affiliates ("AT&T"), by their attorneys, submit these reply comments. AT&T believes the other commenting parties, Sprint and Hamilton Telephone Company d/b/a Hamilton Telecommunications, have offered suggestions on the draft RFP that, with few exceptions, will make it a better document and that will also result in TRS that better serves the public interest in Ohio. AT&T supports all of the Sprint recommendations except one, dealing with the limitation on liability. AT&T also supports all of the Hamilton Telecommunications recommendations, and offers a brief reply comment on one, dealing with the performance bond requirement. Most importantly, though, AT&T supports Hamilton's call for the elimination of the in-state relay center requirement.

2. In-state Relay Center

AT&T supports the comments of Hamilton Telecommunications on the issue of a in-state relay center requirement. Hamilton correctly suggests that an out-of-state call processing solution should be solicited as part of the RFP. Hamilton, p. 1. The continued decline in call volumes, as explained by Hamilton, increases the cost of an in-

state center. The requirement for an in-state center is not consistent with the nationwide trend of declining usage.

Call volumes and minutes for traditional TRS are declining at over 20% year over year. Relay users are opting to use newer forms of relay such as Internet Relay, Video Relay, and Captioned Telephone. In addition, the FCC has under consideration a case involving internet relay numbering. When that order is adopted, it will likely result in even further declines in traditional TRS call volumes. It is expected that relay users will be able to obtain a 10-digit North American Numbering Plan number in order to have access to 911 services and to be able to receive inbound calls from voice users. These new services can be provided most economically and efficiently through regional call centers. In light of these developments, the requirement to establish a new in-state call center is clearly unwarranted. As call volumes are declining, eliminating the in-state requirement would allow companies to operate more efficiently by taking advantage of scale economies.

AT&T joins Hamilton is calling for the removal of the in-state TRS center requirement from the RFP. As AT&T stated in its initial comments, the public interest would be better served by eliminating this requirement.

3. Limitation on Liability

Sprint proposes adding language to the RFP that addresses the limitations on the provider's liability. Sprint, pp. 2-3. Such language may be appropriate as between

the State of Ohio (acting through the Commission) and the provider, but it need not extend to liability between the provider and third parties. This is because Ohio law provides a limitation on liability, as follows:

> A communications assistant or a telecommunications relay service provider is not subject to criminal prosecution and *is not liable in damages in any civil action* on account of the act of transliterating or the content of any communication transliterated, or any injury, death, or loss to person or property allegedly arising from the act of transliterating or the content of any communication transliterated, between the end users of a telecommunications relay service, except in cases of willful or wanton misconduct.

R. C. § 4931.35(C) (emphasis added). The Commission is likely without authority to expand or reduce that limitation on liability as between end users and the provider, and it should not attempt to do so here. Given this statutory limitation on liability, the language suggested by Sprint, if it is to be incorporated at all, should address only the liability as between the TRS provider and the State of Ohio (acting through the Commission).

4. Performance Bond

AT&T cited the favorable "self-insurance" provision in connection with the performance bond requirement in suggesting a similar option for the insurance requirement. AT&T, p. 5. However, AT&T did not comment on the proposed $1 million level of that bond. Hamilton suggests that the level of that bond should be reduced to the level of three months' worth of projected costs. Hamilton, p. 2. AT&T agrees with Hamilton's suggestion. The option to self-insure that reduced amount should be retained.

5. Conclusion

AT&T recommends that the Commission modify the draft RFP consistent with its initial comments and these reply comments. In so doing, the Commission will set the stage for vigorous and healthy competition for the award of the intrastate TRS contract in Ohio.

Respectfully submitted,

AT&T Communications of Ohio, Inc.
and its corporate affiliates

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on June 2, 2008, by first class mail, postage prepaid, on the following parties:

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/2/2008 10:59:15 AM

in

Case No(s). 08-0439-TP-COI

Summary: Reply Comments of AT&T Communications of Ohio, Inc. electronically filed by Jon F Kelly on behalf of AT&T Communications of Ohio, Inc.