

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

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**AT&T OHIO'S APPLICATION FOR REHEARING**

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**Introduction**

AT&T Ohio<sup>1</sup> by its attorneys hereby files this Application for Rehearing of the Commission's Entry dated May 14, 2008, which granted a limited waiver of Minimum Telephone Service Standard (MTSS) Rule 4901:1-5-10(B) ("Rule 10(B)" or the "Service Termination Rule").

AT&T Ohio seeks rehearing because in the increasingly and highly competitive environment in which it operates, it is unjust and unreasonable to require AT&T Ohio to incur expenses caused by regulatory rules that should be – at a minimum – decreasing or even eliminated. In addition, as companies have been operating under MTSS Rule 4901:1-5-17(A) and (C) (hereinafter referred to as "Rule 17"), given the costs to implement the new rule, and recognizing the Commission has previously rejected similar service termination rule changes on several occasions over the past 12 years<sup>2</sup>, surely the Commission cannot find it to be contrary to the public interest to allow AT&T Ohio to maintain the use of Rule 17. This is especially true as Rule 17 has neither generated

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<sup>1</sup> The Ohio Bell Telephone Company uses the name AT&T Ohio.

<sup>2</sup> See the discussion of the history of the changing policy on disconnection in AT&T Ohio's May 28th waiver request at page 9.

customer complaints nor is there supporting information that merits a modification to it or the implementation of Rule 10(B).

In its May 14<sup>th</sup> Entry, the Commission granted companies a limited waiver of its original MTSS directive and ordered them 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 as non-deniable. 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, AT&T Ohio filed a company-specific waiver request on May 28, 2008, urging the Commission to allow AT&T Ohio to continue to operate under Rule 17. The waiver request is still pending at the Commission.

The Commission's decision to impose this requirement in light of its technical, economic and policy shortcomings is both arbitrary and unreasonable. AT&T Ohio urges the Commission to allow AT&T Ohio to continue to follow the disconnection policy under Rule 17.

**The Requirements of the Entry are Unreasonable, Costly, and Not Commensurate With the Public Policy Objective of the Commission's Rules.**

In a competitive environment, the adopted rule, with 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 the rule. Other competitors, however, such as VoIP and

wireless providers, are not impacted.<sup>3</sup> 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.

The Commission concluded in its May 14<sup>th</sup> Entry that sufficient information had not been provided to support a blanket waiver to all companies of MTSS Rule 10(B). In addition, the Commission noted that the Service Termination Rule had been developed to provide companies more flexibility in creating their own disconnection policies, while providing protection to customers for their most basic phone service. The attempt by the Commission not only failed in providing companies more flexibility, but it requires the development of an onerous and costly process that benefits few customers at the expense of all other customers. Further, the Commission failed to justify the new requirement and did not sufficiently consider who it impacts, how much it costs, or the extent of the public benefit.

In its Entry, the Commission concluded that AT&T Ohio failed to file sufficient documentation to support its waiver request. This conclusion is unreasonable based on the fact that AT&T Ohio conveyed a variety of supporting documentation to Staff during its meeting with them on April 17, 2008. More specifically, AT&T Ohio provided information on the estimated number of customers impacted by the service termination rule change, the estimated cost to implement the rule change, and detailed information on AT&T's process for instituting systems changes of this magnitude. In fact, the

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<sup>3</sup> Indeed, intermodal competitors, such as wireless and VoIP, not only are driving LECs' access line losses, but are also free of nearly all Commission rules.

discussion on the change management process was conducted by an AT&T Information Technology (IT) subject matter expert who participated in the meeting via conference bridge. He detailed the complex processes that must be followed whenever a billing system change is planned and implemented, and described the various systems impacted by the changes required by the new service termination rule. Clearly, AT&T Ohio provided documentation sufficient to support its company specific request for a waiver.

### **Customers impacted**

AT&T Ohio provided documentation to the Staff and with its waiver request that a low number of its customers are disconnected for nonpayment in the current environment and thereby affected by the proposed changes. Less than 1% of AT&T Ohio's residential and business customers are disconnected in a given month. The Commission needs to consider the fact that few customers are impacted by its ruling as compared to the extremely significant technical, economic and policy shortcomings it presents.

### **Cost**

In discussions with Staff, AT&T Ohio identified very preliminary estimates of the programming work alone required to implement the changes indicating that the cost could range between \$1 million to \$3 million depending on whether there are any unforeseen complexities once the programming changes begin. 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 of whom are responsible, reliable and timely paying customers. This is an unnecessary hardship imposed by the Service Termination Rule change. The Commission needs to recognize

the enormity of these figures. Considering the relatively few customers impacted, as discussed above, and the enormous resultant costs, the Commission should reconsider its Entry and allow AT&T Ohio to continue the service termination process under Rule 17.

**Significant billing system changes required**

Both during the discussions with Staff and again in its waiver request, AT&T Ohio provided detailed explanations as to the implementation process that is required for a project of this magnitude, as well as to the serious impact of the ruling on the various systems. The Commission seemingly recognized this fact in its Entry, but then created a new requirement for companies to “attempt to mitigate as best it can the circumstances of its waiver request to ensure the intent of the rule from which the waiver is sought would nonetheless be carried out to the greatest possible extent.” (May 14<sup>th</sup> Entry Page 10). The purpose and intent of this dictate is unclear and is not supported by any known legal requirement. It appears that the Commission is directing the companies to develop some sort of an alternate, band-aid solution that would effectuate an outcome that approaches, but does not fully produce, the outcome required by the Service Termination Rule. Further, potential alternatives set forth by Staff in meetings with AT&T Ohio and with other companies, which may be related to this unclear dictate and which Staff presumes are easily effectuated, appear to overlook certain FCC requirements and could raise compliance issues relative to CFR §64.2401 Truth in Billing Requirements for Common Carriers and thus, would not present a viable solution.

As stated in AT&T Ohio’s May 28<sup>th</sup> waiver, the information technology the Company utilizes to provide service to millions of residential and business customers involve the deployment and maintenance of numerous 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 requires 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 could compromise the overall integrity of system changes, which ultimately would 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 an immense, but necessary, undertaking as the limited waiver dictates that special and unique billing treatments for only these residential accounts and small business accounts be established. 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. Attempts to short-cut changes to the billing systems with band-aid applications attempting to capture the intent of the rule changes are dangerous. The Commission needs to reconsider the limited waiver and permit AT&T Ohio to continue the service termination policies under Rule 17.

The Commission stated its underlying intent for changing the Service Termination Rule was to allow residential and small business customers to avoid disconnection of BLES service as long as the customer paid the minimum amount for stand alone BLES. As documented in AT&T Ohio's May 28<sup>th</sup> waiver request, the partial payment allocation sub-system will need to be modified – again, this time for a service termination policy change that the Commission has previously reviewed and rightly rejected for the past 12 years.

Nothing has changed over the past 12 years that would make these proposals 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 10(B). Consequently, AT&T Ohio is requesting that the Commission grant rehearing to allow AT&T Ohio to continue to utilize the current disconnection policy by way of Rule 17. 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 costly changes to provide any additional protection for the relatively few delinquent payers.

Finally, the Commission's May 14<sup>th</sup> Entry recognized the need to grant additional time to implement the changes to the Service Termination Rule and established January 1, 2009 as the first date the new Service Termination Rule would be enforced. As mentioned in AT&T Ohio's May 28<sup>th</sup> waiver request, given the extent of the required changes, and the extensive, controlled processes that must be followed to initiate any

system changes, should the Commission maintain its limited waiver directives, AT&T Ohio could not complete the necessary billing system changes until mid-year 2009 at the earliest. The extensive work effort needed to implement the changes coupled with the fact that AT&T Ohio already has a full slate of system changes scheduled for the remainder of 2008 precludes completion by January 1, 2009. Therefore, in the alternative, and only if its May 28<sup>th</sup> waiver request is denied, AT&T Ohio seeks sufficient, additional time until July 1, 2009 to implement the necessary billing system changes.<sup>4</sup>

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<sup>4</sup> In Case No. 08-117-TP-WVR, Entry May 28, 2008, the Commission granted Doylestown an extension of time for 18 months. This request is not out of line with that recent ruling.



## **Conclusion**

In an increasingly competitive environment, 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. Rule 17's 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 should be granted or in the alternative, additional time to implement the necessary billing changes should be allowed.

Respectfully submitted,

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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 13th day of June, 2008.

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