

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Amendment of the)	
Minimum Telephone Service Standards)	Case No. 00-1265-TP-ORD
As Set Forth in Chapter 4901:1-5 of the)	Case No. 05-1102-TP-ORD
Ohio Administrative Code)	

**MEMORANDUM OF THE OHIO TELECOM ASSOCIATION IN OPPOSITION
TO THE APPLICATION FOR REHEARING OF THE OFFICE OF THE OHIO
CONSUMERS' COUNSEL, AND IN RESPONSE TO THE APPLICATION FOR
REHEARING OF AT&T OHIO**

THE OHIO TELECOM ASSOCIATION, for and on behalf of its members ("OTA"), hereby submits its Memorandum in Opposition to the Application For Rehearing of The Office of the Ohio Consumers' Counsel ("OCC's Application"), and in response to the Application For Rehearing of AT&T Ohio ("AT&T's Application"), both filed June 13, 2008. Both Applications were filed in response to Commission's Entry of May 14, 2008 in this matter (the "May 14 Entry"). The May 14 Entry denied waivers of Rule 4901:1-5-10(B) (the "Service Termination Rule") sought by AT&T and by OTA, but granted a limited waiver of the Service Termination Rule and deferred enforcement of the Service Termination Rule until January 1, 2009.

OCC's Application

OCC's Application misinterprets both the problems of the Service Termination Rule and efforts of the May 14 Entry to resolve them. Significantly, OCC's Application focuses on residence and business multi-line *accounts* without regard for the associated regulated *services*. OCC's requests, if granted, would essentially negate the impact of the limited waiver and would require carriers' billing systems to distinguish between

lines on an account for disconnection purposes as the Service Termination Rule originally required.

However, as OTA noted in its Application filed March 20, 2008 (the “March 20 Application”), the problems actually arise in distinguishing the services within a carrier’s IT systems between the primary and additional lines:

[T]he IT costs to separate optional features and services from the primary line for disconnection purposes are significant. Most Companies would have to change a number of systems in order to accomplish this. From a collections system standpoint, for instance, a company would have to set up a complete new process to separate local exchange service associated with the primary line only from all other regulated services. However, these changes to the collections/payment systems would impact other major systems such as accounting and billing.

March 20 Application at 3.

OCC’s Application also suggests that the current rule governing this subject, the former Rule 4901:1-5-17(A) (the “Existing Rule”), has expired. As a result, OCC contends residential and small business customers who do not pay their bills in full are covered by no regulation. OCC Application at 6. In this regard, OTA supports OCC’s request for clarification, and asks the Commission to concur that the Existing Rule remains in effect. In the March 20 Application, the OTA expected that the Existing Rule would, by Commission order, remain effective – in fact, member companies are continuing to apply the Existing Rule. No member can afford to lose customers and instead must work with them to retain their service. Again, the Commission should clarify this conclusion if necessary.

OCC’s Application also opposes the extension of time granted by the Entry. OCC Application at 8. The OTA suggests that clarification concerning continuity of the Existing Rule should resolve that concern. In any case, the extension is reasonable and

necessary to allow program changes associated with the Service Termination Rule.

Finally, OCC's application errs in several assumptions:

1. The limited waiver applies to multi-line residential accounts that have at least one line consisting of basic service bundled with other services. OCC Application at 6.

OTA suggests that the limited waiver must in fact apply to all customers with multi-line accounts, whether they subscribe to stand-alone or bundled services, because many companies cannot distinguish secondary lines from the primary line for collection purposes without major, costly systems changes. Accordingly, OTA members will apply the limited waiver to customers subscribing to multi-line stand alone service accounts as well as to multi-line accounts with bundled services.

2. The limited waiver will expire when Rule 10(B) enforcement regarding multi-line residential and small business accounts begins on January 1, 2009. OCC Application at 7-8.

In fact, the limited waiver should continue until otherwise ordered. Again, the limited waiver exists so that the companies would not need to bear the expense associated with treating multi-line customers differently than single line customers. That expense will continue to exist, and hence the limited waiver will remain necessary, after January 1, 2009.

3. A multi-line residential customer will retain service on each line for which the customer has submitted payment sufficient to cover the ILEC's standalone basic service rate. OCC Application at 9-10.

This assumption is incorrect. Again, the intent of the limited waiver exists to treat multi-line customers the same as single line customers, because many companies cannot distinguish secondary lines from the primary line within their systems. Accordingly, the limited waiver must operate to require a single line customer to submit payment

sufficient to cover the ILECs standalone basic service rate, and to require a multi-line customer to submit payment sufficient to cover the *sum* of all multi-line standalone basic service rates.

AT&T's Application

OTA fully supports the Application for Rehearing filed by AT&T Ohio. While OTA did not seek rehearing in its own right, that election should not be construed as concurrence in all of the May 14 Entry; rather, business decisions made by the member companies determined that most could devote no further resources and expense to this cause.¹ Nonetheless, OTA maintains that any prudent business decision should be made for the common good. As AT&T correctly asserts, re-engineering an IT system to accommodate a small percentage of customers who make partial payments is not a prudent business decision.

Further, the customers who make partial payments are usually doing so after making payment arrangements and working with the respective companies. Applying a unilateral formula, to be mechanically applied by a billing system, is counterproductive. Rather, customers and their carriers need to communicate and reach mutually-satisfactory payment terms.

For these reasons, among those advanced by AT&T in its Application for Rehearing, AT&T's Application should be granted.

¹ Indeed, as is apparent from OTA's March 20 Application, the additional costs associated with reprogramming systems to implement the Service Termination Rule, even under a partial waiver, are substantial. The fact remains that any additional cost spent on a rule that is unnecessary and solves no specific problem is unwarranted.

Conclusion

For all the foregoing reasons, the OTA respectfully requests that the Commission (a) clarify its May 14 Entry as hereinabove described, (b) otherwise overrule OCC's Application for Rehearing and (c) grant AT&T's Application for Rehearing.

Respectfully Submitted,

OHIO TELECOM ASSOCIATION

By: /s/ Thomas E. Lodge

Thomas E. Lodge (0015741)

Carolyn S. Flahive (0072404)

Thompson Hine LLP
10 West Broad Street, Suite 700
Columbus, Ohio 43215-3435
Telephone (614) 469-3200
Fax (614) 469-3361

Its Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon all parties on the attached service list, by ordinary U.S. Mail, postage prepaid, this 23rd day of June, 2008.

/s/ Thomas E. Lodge

Thomas E. Lodge

SERVICE LIST
CASE No. 05-1102-TP-ORD

Duane W. Luckey
Assistant Attorney General
Chief, Public Utilities Section
180 East Broad Street, 9th Floor
Columbus, OH 43215
duane.luckey@puc.state.oh.us

Douglas E. Hart
Frost Brown Todd, LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, OH 45202

Joseph R. Stewart
United Telephone Company of Ohio
dba Embarq
50 West Broad Street, Suite 3600
Columbus, OH 43215-5918
joseph.r.stewart@embarq.com

Jouett K. Brenzel
Cincinnati Bell Telephone Company, LLC
221 East Fourth Street -103-1280
Cincinnati, OH 45202

Jon F. Kelly
Mary Ryan Fenlon
AT&T Ohio
150 East Gay Street, Room 4-A
Columbus, OH 43215
jk2961@sbcc.com

Thomas J. O'Brien
Sally W. Bloomfield
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215-4291
tobrien@bricker.com
sbloomfield@bricker.com

William S. Newcomb, Jr.
Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH 43216-1008
wsnewcomb@vssp.com
smhoward@vssp.com

David C. Bergmann
Terry L. Etter
Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215
bergmann@occ.state.oh.us
etter@occ.state.oh.us

Robert J. Triozzi
Harold A. Madorsky
City Hall, Room 106
601 Lakeside Avenue
Cleveland, OH 44114

Michael R. Smalz
Ohio State Legal Services Association
555 Buttles Avenue
Columbus, OH 43215

Ron Ridges
AARP Ohio
17 South High Street, Suite 800
Columbus, OH 43215

James E. Moan, Law Director
Counsel for Sylvania
4930 Holland-Sylvania Road
Sylvania, OH 43560

Brian J. Ballenger, Law Director
Counsel for Northwood
Ballenger & Moore
3401 Woodville Road, Suite C
Toledo, OH 43619

Joseph P. Meissner
Legal Aid Society of Cleveland
1223 West Sixth Street
Cleveland, OH 44113

Sheilah H. McAdams
Marsh & McAdams
204 West Wayne Street
Maumee, OH 43537

Paul S. Goldberg, Law Director
Phillip D. Wurster, Asst. Law Director
Counsel for Oregon
5330 Seaman Road
Oregon, OH 43616

Paul Skaff
Leatherman, Witzler, Dombey & Hart
353 Elm Street
Perrysburg, OH 43551

Peter D. Gwyn, Law Director
Counsel for Perrysburg
110 West Second Street
Perrysburg, OH 43551

Lance M. Keiffer
711 Adams Street, 2nd Floor
Toledo, OH 43624-1680

Richard Pfeiffer, Jr.
John C. Klein
109 N. Front Street
Columbus, OH 43215

Kerry Bruce, Senior Attorney
Leslie Kovacik, Senior Attorney
Counsel for Toledo
One Government Center, Suite 2250
Toledo, OH 43604

Ellis Jacobs
Edgemont Neighborhood
Advocates for Basic Legal Equality, Inc.
333 West First Street, Suite 500B
Dayton, OH 45402

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/23/2008 2:48:53 PM

in

Case No(s). 00-1265-TP-ORD, 05-1102-TP-ORD

Summary: Memorandum Memorandum of the Ohio Telecom Association in Opposition to the Application for Rehearing of the Office of the Ohio Consumers' Counsel, and in Response to the Application for Rehearing of AT&T Ohio electronically filed by Mr. Thomas E Lodge on behalf of Ohio Telecom Association