

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Adoption of Rules for)	
the Telecommunications Relay Service)	
Assessment Pursuant to Section 4905.84)	Case No. 08-815-TP-ORD
Revised Code, as Enacted by House Bill)	
562.)	

INITIAL COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY LLC

On July 19, 2008, the PUCO issued an Entry inviting interested persons to comment on a proposal developed by Commission Staff for implementing Section 4905.84 of the Ohio Revised Code. The Staff proposal establishes the methodology by which the Commission will determine the Ohio telecommunications relay service (“TRS”) fund assessment amount and the procedures by which service providers will be assessed. CBT hereby comments on the Staff proposal. Overall, CBT recommends that the Ohio TRS funding process mirror the federal TRS process as closely as possible. Eliminating disparities between the federal and state programs where possible will simplify the cost recovery process and minimize the administrative burden on all parties. CBT’s comments will follow the organization of the proposed rule.

4901:1-6-24(B) – Providers Required to Contribute to the Fund

The statute clearly indicates that all providers that are required under federal law to provide their customers with access to TRS must contribute to the Ohio TRS fund. Under the Federal Communications Commission’s (“FCC”) rules, all telecommunications service providers and all interconnected voice over Internet protocol (“interconnected VoIP”) providers are required to offer access to TRS. This Commission need not define “providers of advanced services or internet protocol-enable services” or any other service providers required to be assessed under the Ohio statute. Instead, the Ohio rules should simply reference the FCC’s rules

that specify who is required to offer access to TRS. Subpart F of Part 64 of Title 47 of the Code of Federal Regulations establishes the federal TRS rules. Within these rules 47 C.F.R. §64.601 includes definitions, including a definition of “interconnected VoIP service” (47 C.F.R. §64.601(a)(9)) and specifies that all TRS regulations and requirements applicable to common carriers are also applicable to interconnected VoIP providers (47 C.F.R. §64.601(b)). The federal rules regarding the provision of TRS service are set forth in 47 C.F.R. §64.603. CBT recommends that the Commission reference these federal TRS rules and forgo attempting to develop its own definitions for TRS purposes since the Ohio statute requires the Commission to mirror federal law in establishing the providers to be assessed.

4901:1-6-24(C)—Schedule for Assessment

This rule should clearly establish the schedule so that providers will know for what period they are being assessed and when the payments are due. Since the federal TRS funding period runs from July 1 through June 30, which also corresponds to the state’s fiscal year, CBT recommends that the assessment period coincide with the federal TRS funding year. Furthermore, the Commission’s contract with the Ohio TRS provider is on a state fiscal year basis. CBT will address its recommendations for the actual schedule in its comments on § 4901:1-6-24(E), below.

4901:1-6-24(D)—Competitively Neutral Assessment Allocation

Revised Code § 4905.84(C) requires that the assessment be allocated among the service providers using a competitively neutral formula based upon retail intrastate customer access lines or their equivalent. The Staff’s proposal does not satisfy this requirement because of the disparate sources of access line data that it would use to determine the assessment for different classes of companies and the possibility that the data would be from different time periods for

different types of contributors. CBT recommends that the Commission allocate the assessment based on the Ohio voice-grade equivalent lines, wireless subscribers and interconnected VoIP subscribers that the service providers report on their FCC Form 477. Providers file the Form 477 semiannually on September 1 and March 1 reporting lines and subscribers as of June 30 and December 31, respectively.

Currently, ILECs, CLECs, and wireless providers must file the FCC Form 477 on which they report total voice-grade equivalent lines and wireless subscribers. Wireline and fixed wireless voice-grade equivalent lines/channels provided to end users are reported on Part II.A., line 1. Mobile voice telephony subscribers are reported on Part III.A., line 1. Beginning with the March 1, 2009 FCC Form 477, interconnected VoIP providers are required to file and report the number of end-user and resale subscribers they have in individual states.

ILECs and CLECs are already required under §4901:1-7-27 of the Commission's rules to file a copy of their FCC Form 477 with the Commission. In order to allocate the TRS assessment in a competitively neutral manner, the Commission should now require CMRS and interconnected VoIP providers to file a copy of their FCC Form 477 as well or at a minimum file with the Commission a certified statement indicating the number of wireless subscribers and interconnected VoIP subscribers that they report on their March FCC Form 477.

The Commission should clarify that the liability for the assessment applies only to providers that had assessable lines or subscribers on December 31 of the preceding calendar year. A new provider that begins operating after December 31 should not be assessed (i.e., should not be liable for contributing) for the upcoming funding year. In the case of a merger or acquisition, the successor company should be responsible for paying the assessment based on any lines or subscribers that the acquired company had in service at year end.

4901:1-6-24(E)—Provider Notification of Assessment

Based on estimates of the Ohio TRS costs for the upcoming funding year and the annual reconciliation required under paragraph (F) of the rules, the Commission should notify each service provider no later than May 20 of its annual assessment based upon the provider's proportionate share of the total retail intrastate access lines or their equivalent, as reported pursuant to paragraph (D) of the rules. If the Commission uses the FCC Form 477 as the basis for allocating the assessment, this would allow the Commission ample time to review all data provided on March 1 and determine the assessments by May 20.

As with the federal TRS assessment, service providers whose annual assessment is \$1,200 or greater should have the option of paying the assessment in one lump sum in July or paying in twelve equal monthly installments beginning in July. Installment payments should be due by the 20th day of each month. Providers with an annual assessment of less than \$1,200 should be required to make the full payment no later than July 20th.

4901:1-6-24(F)—Annual Reconciliation and Determination of Total Assessment

In order to ensure accountability of the Ohio TRS fund and to assure Ohio service providers and consumers that the TRS fund assessments are being administered in accordance with the statute, the Commission should issue an entry explaining the methodology used to estimate the upcoming funding year's costs and documenting its annual reconciliation as required by Revised Code § 4905.84(C).

The entry should thoroughly explain the methodology used to estimate the upcoming funding year's costs and provide the data upon which the forecast is based. This data provided should include at least: (1) the intrastate TRS minutes eligible for reimbursement for the prior funding year; (2) the total actual costs of providing TRS for the prior funding year; (3) the year-

to-date reimbursable minutes for the current funding year; (4) the year-to-date reimbursable costs for the current funding year; (5) the estimated reimbursable minutes for the upcoming funding year; (6) the per minute reimbursement rate(s) for the prior funding year, current funding year, and the upcoming funding year; (7) the total estimated costs for the upcoming funding year; (8) the total assessment collected from assessable service providers for the prior funding year; and (9) the total number of lines and subscribers upon which the upcoming funding year's assessment will be allocated among the assessable service providers, and the number of assessable service providers.

The entry should also review any deficiency in funding or excess funding that will result in an adjustment to the upcoming funding year's assessment. It should describe the time period over which the shortfall or surplus was calculated and present the data supporting this adjustment. Any such adjustment to recover a shortfall should be added to the total estimated costs for the upcoming funding year and any excess funds collected should be subtracted from the total estimated costs for the upcoming funding year prior to allocating the funding requirement among the assessable service providers.

This entry should be released at least 30 days prior to the date on which service providers are notified of their proportionate share of the assessment. Interested parties should have an opportunity to comment.

4901:1-6-24(G)—Customer Surcharge

The Staff proposal calls for LECs that choose to recover their assessment via a customer billing surcharge to file a tariff 30 days in advance. This surcharge should not require a 30-day advance tariff filing. Instead, CBT recommends that LECs be allowed to send a customer

notification 15 days in advance of implementation of a TRS surcharge or a change in the surcharge rate, and that the tariff be effective upon filing.

This recommended customer notice and tariff filing would provide service providers adequate time after receiving notification of their assessment to decide whether to recover some or all of their assessment via a customer surcharge and still allow them time to provide a customer notice 15 days in advance of the date the assessment would go into effect.

Interim Assessment Process for January through June 2009

To ensure that the Commission has a means of recovering the costs of the TRS program for the first six months of 2009, CBT proposes an interim assessment process as follows. In September, 2008, each CMRS provider should provide the Commission a copy of its September 2008 FCC Form 477 filing reporting Ohio subscribers as of June 30, 2008. Alternatively, a CMRS provider may file a certified statement indicating the number of subscribers it reported in Ohio on the September 2008 FCC Form 477. In September, 2008 each interconnected VoIP provider should file a certified statement reporting the number of end-user and resale subscribers it had in Ohio as of June 30, 2008. ILECs and CLECs are already required to file a copy of their FCC Form 477 with the Commission, so no additional provisions are necessary to obtain the access line data from these providers. The Commission would use the line and subscriber numbers reported by the assessable providers to allocate the total estimated costs of the TRS program for the period January 1, 2009 through June 30, 2009.

No later than November 1, 2008, the Commission should estimate the reimbursable costs of the TRS provider for January through June of 2009 and release an entry explaining the methodology used to estimate these costs. The entry should also report the total number of lines and subscribers upon which the assessment will be allocated and the number of assessable

service providers. No later than November 20, 2008, the Commission should notify each service provider of its assessment for the interim period.

Providers with an assessment of less than \$600 should be required to make the full payment by January 20, 2009. Providers with an assessment of \$600 or more should have the option of paying the entire assessment on January 20 or by making six monthly payments, which would be due by the 20th of each month from January through June 2009.

Conclusion

CBT urges the Commission to consider the foregoing comments and to adopt consistent rules.

Respectfully submitted,

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Summary: Comments electronically filed by Mr. Douglas E. Hart on behalf of CINCINNATI
BELL TELEPHONE COMPANY