

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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|---|---|------------------------|
| In the Matter of the Application of |) | |
| CenturyTel of Ohio, Inc. to Offer a New |) | Case No. 08-889-TP-UNC |
| Prepaid Services Bundle. |) | |

**MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of residential utility consumers, moves the Public Utilities Commission of Ohio ("Commission" or "PUCO") to grant OCC's intervention in the above-captioned proceeding where the PUCO will consider allowing CenturyTel of Ohio, Inc. ("CenturyTel") to offer customers a service bundle on a prepaid basis. This Motion is filed pursuant to R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11. The reasons for granting OCC's motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

/s/ Terry L. Etter
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MEMORANDUM IN SUPPORT

I. INTRODUCTION

On July 17, 2008, CenturyTel filed an Application seeking to offer a bundle of telephone services to certain residential customers on a prepaid basis. The service proposed by CenturyTel would not include access to directory assistance and operator services,¹ two elements of the statutory definition of basic local exchange service.² The Commission has determined these elements to be part of “the essential minimum level of telephone service available to Ohio consumers.”³ Although the service would be available to all residential customers, CenturyTel proposes to offer the service primarily to residential customers whose local exchange service has been disconnected for nonpayment, or who face difficulty in obtaining local service due to their credit history or the cost involved in establishing service.⁴

¹ See Application at 3.

² R.C. 4927.01(A)(1)(d). See also Ohio Adm. Code 4901:1-5-01(C)(4).

³ *In the Matter of the Application of NOW Communications, Inc. to Offer Resold Local Exchange and Intrastate Interexchange Services*, Case No. 98-1466-TP-ACE, *et al*, Opinion and Order (November 2, 2000) (“NOW Order”) at 58.

⁴ See Application at 1.

OCC is the state agency that represents Ohio's residential utility consumers. OCC is moving to intervene in this case to protect the interests of residential customers,⁵ especially those who may consider the proposed prepaid service to be their only viable option for telephone service. The Commission should grant OCC's Motion to Intervene so that OCC can fully participate in this proceeding and protect the interests of residential customers.

II. INTERVENTION

OCC moves to intervene under its legislative authority to represent the interests of the residential telephone customers in the state of Ohio, pursuant to R.C. Chapter 4911. OCC meets the standards for intervention found in Ohio's statutes and the PUCO's rules.

R.C. 4903.221 allows for intervention by persons who may be adversely affected by PUCO proceedings. Because CenturyTel is seeking the ability to provide to residential customers a prepaid service that does not include all the elements of the essential minimum level of telephone service in Ohio, the interests of residential telephone customers may be "adversely affected" by this case, especially if the consumers are unrepresented. Thus, OCC satisfies the intervention standard in R.C. 4903.221.

OCC also meets the criteria for intervention in R.C. 4903.221(B), which requires the PUCO, in ruling on motions to intervene, to consider the following:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;

⁵ The outcome of this case could affect residential customers beyond CenturyTel's service territory because other telephone companies in the state may file "me too" applications if the Commission approves CenturyTel's prepaid service.

(3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and

(4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest includes ensuring that CenturyTel's proposed service does not "have the effect of abrogating the essential minimum level of telephone service available to Ohio consumers."⁶ Therefore, it is essential that the interest of residential customers be represented.

Second, OCC's legal positions include that residential consumers' service should be "adequate," pursuant to R.C. 4905.22 and R.C. 4905.231, and that rates charged for residential consumers' service be "reasonable," pursuant to R.C. 4905.22, among other statutes. This legal position directly relates to the merits of the case.

Third, OCC's intervention will not unduly prolong or delay the proceeding, but should provide insights that will expedite the PUCO's effective treatment of the Application. OCC has longstanding expertise and experience in PUCO proceedings, and will contribute to the process of the case.

Fourth, OCC will significantly contribute to the full development and equitable resolution of the issues herein, based on its expertise in regulatory and telephone matters.

OCC also satisfies the intervention criteria in the PUCO's rules, which are subordinate to the Ohio Revised Code criteria that OCC satisfies. To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the residential utility consumer advocate, OCC has a real and substantial

⁶ NOW Order at 58.

interest in this case where the outcome could have an effect on the adequacy of service offered to residential customers.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC has already addressed, and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission shall consider the “extent to which the person’s interest is represented by existing parties.” While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion because OCC has been uniquely designated as the statutory representative of the interests of Ohio’s residential utility consumers.⁷ That interest is different from, and not represented by, any other entity in Ohio. In addition, OCC was granted intervention in the NOW Communications proceeding,⁸ which CenturyTel cites in its Application.⁹

Moreover, the Supreme Court of Ohio confirmed OCC’s right to intervene in PUCO proceedings, in ruling on an appeal in which OCC claimed the PUCO erred by

⁷ R.C. Chapter 4911.

⁸ Case No. 98-1466-TP-ACE, Entry (December 17, 1998) at 3. OCC has also been granted intervention in numerous other cases involving applications to provide residential prepaid local service. See, e.g., *In the Matter of the Application of LocalTel of America, Inc. to Provide Facilities Based Competitive Local Exchange and Competitive Interexchange Service*, Case No. 05-800-TP-ACE, Entry (September 16, 2005) at 2; *In the Matter of the Application of Phone Reconnect of America, Inc. to Register as a Local Exchange Carrier*, Case No. 99-524-TP-ACE, Entry (May 28, 1999); *In the Matter of the Application of Annox, Inc. for a Certificate of Public Convenience and Necessity to Provide Local Access Services*, Case No. 99-326-TP-ACE, Entry (April 16, 1999); *In the Matter of the Application of Telstar Telecom, L.L.C. for New Operating Authority as a Local Exchange Carrier*, Case No. 98-1480-TP-ACE, Entry (March 8, 1999); *In the Matter of the Application of Choctaw Communications, L.C. d/b/a Smoke Signal Communications for a Certificate of Public Convenience and Necessity to Provide Local Access Services*, Case No. 98-1248-TP-ACE, Entry (October 29, 1998).

⁹ Application at 1-2.

denying its intervention. The Court found that the PUCO abused its discretion in denying OCC's intervention and that OCC should have been granted intervention.¹⁰

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of residential consumers, the Commission should grant OCC's Motion to Intervene.

III. CONCLUSION

This proceeding can adversely affect residential customers in CenturyTel's service territory because the proposed prepaid service does not meet the essential minimum level of telephone service available to Ohio consumers. For the reasons stated above, the PUCO should grant OCC's Motion to Intervene on behalf of the residential customers who have an interest in the outcome of this case.

Respectfully submitted,

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CONSUMERS' COUNSEL

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¹⁰ *Ohio Consumers' Counsel v. Public Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Motion to Intervene by the Office of the Ohio Consumers' Counsel was provided by First Class United States Mail, postage prepaid, to the persons listed below this 4th day of August 2008.

/s/ Terry L. Etter
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Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Etter, Terry L Mr.