BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Chapters 4901:1-17 and 4901:1-18 and Rules 4901:1-5-07, 4901:1-10-22, 4901:1-13-11, 4901:1-15-17, 4901:1-21-14, and 4901:1-29-12 of the Ohio Administrative Code.	))))))	Case No. 08-723-AU-ORD

REPLY COMMENTS OF THE AT&T ENTITIES

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Introduction

The AT&T Entities ("AT&T")[1], by their attorneys, hereby file these reply comments in response to the Commission's Entry of June 25, 2008, which sought comments on Staff's proposed revisions to the Commission's general rules on the establishment of credit for residential utility services, among other matters. AT&T concurs with the Ohio Telecom Association ("OTA") which is filing reply comments on this date, but takes this opportunity to submit some company-specific information and additional suggestions for the Commission's consideration.

At a time when the competitive landscape in the state is calling for less regulation, the proposed revisions to the mandates in Ohio Administrative Code (O.A.C.) 4901:1-17 ("Chapter 17") would continue to impose additional, and some even more onerous requirements for the establishment of credit, over and above the current credit establishment rules as well as those already dictated by the Minimum Telephone Service Standards ("MTSS") for telecommunications providers. Further, the proposed revisions continue to maintain overlapping and sometimes conflicting requirements with the MTSS Chapter 5.

[1] The Ohio Bell Telephone Company d/b/a AT&T Ohio, AT&T Communications of Ohio, Inc., TCG Ohio, Inc., and SBC Long Distance, LLC d/b/a AT&T Long Distance.

In addition, the proposed revisions to Chapter 17 are inconsistent with the Governor's Executive Order requiring that the Commission must "[A]mend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, needlessly burdensome, that unnecessarily impede economic growth, or that have had unintended negative consequences."[2] The proposed revisions to Chapter 17 are burdensome, contradictory, and unnecessary. Further, such requirements are not applicable to other telecommunications providers and should not be imposed on only one class of carrier. The requirements are a vestige of the command-and-control regulation that was thought to be suitable for regulated monopolies. However, the telecommunications industry is far removed from that era as a result of competition and thus should have regulation relaxed. To the extent possible, telecommunications providers should be on a level playing field with one another. Therefore, AT&T urges the Commission to consider the initial and reply comments filed by OTA and AT&T in this case in light of the existing competitive environment and to modify the rules so as to fully exempt telecommunications providers from all provisions of Chapter 17.

Rule 2(D)

This rule requires that utilities establish and maintain written credit procedures for establishing and reestablishing credit with the utility. The last sentence is at issue here: "The utility shall make its current credit procedures available to applicants and customers upon request." OTA maintains that providing written credit procedures would be

[2] Office of the Governor, Press Releases, February 12, 2008- Governor Announces Common Sense Business Regulation Process and accompanying Executive Order 2008-04S, "Implementing Common Sense business Regulation." (available at http://www.governor.ohio.gov/Default.aspx?tabid=586)

extremely cumbersome while Columbia Gas notes the volume and complexity of the material and supports the intent of the provision requiring utilities to provide information on a utility's credit procedures, but recommends that a summary document be permissible as internal documents may be too lengthy and technical for customers. OTA at. p. 5; Columbia Gas at p. 7. AT&T supports both positions and in addition, interprets the rule to also allow the disclosure of the required information verbally. A service representative can readily provide the information over the phone during the call.

Rule 2(E)

Dominion Gas seeks specific directives regarding the Commission's guidelines for the use of electronic transactions and notices since the rule says "if consistent with the Commission requirements or guidelines." Dominion Gas at p. 1. AT&T disagrees with Dominion's proposal that the Commission develop specific guidelines regarding the use of electronic transactions and notices. AT&T maintains that it is sufficient for companies to rely on the existing law detailed in R.C. Chapter 1306, the Uniform Electronic Transactions Act, that mirrors the federal requirements.

Rule 3(A)

OCC argues that the five criteria set forth in the rule should be the exclusive means by which financial credit may be established. No additional information should be requested beyond what is permitted through those five provisions by the utility, according to OCC. OCC at p. 65. Based upon the purpose of the rules as well as the Governor's

Executive Order, “Implementing Common Sense Business Regulation,” AT&T believes OCC’s proposed changes are burdensome and unnecessary and do not represent “common sense.”

The proposed changes by OCC would only serve to limit the effectiveness of the creditworthiness evaluation process. Additionally, they are not forward looking rules which would allow for changes to processes based upon newer technologies or other potentially customer friendly options for customers to establish credit. With the limited vision of the OCC, those who stand to lose are not only telecommunications companies with increased costs, but also the very customers the OCC is proposing to protect.

OTA and Columbus Southern Power object to the requirement that each of the five criteria must be discussed with the applicant at the time of the application. AT&T agrees as such a discussion would require a significant amount of potentially unnecessary time, protracting the length of the customer call, an undesirable outcome for both the customer and for the utilities. Reports from managers who routinely observe calls from applicants who call to establish service**,** indicate that many customers “check out” when the many required verbal disclosures are given and never hear a significant amount of the information conveyed at all. If companies were also required to provide a laundry list of options for establishing service, it would only serve to annoy customers and increase costs for companies like AT&T because of additional call handling time required. Also, such a requirement is not applicable to other telecommunications providers and should not be imposed on only one class of carrier. The Commission should not adopt this recommendation and should allow utilities the discretion to discuss the various methods for establishing creditworthiness based on the individual needs of the customer.

Rule 3(A)(1)

OTA at p. 6, CBT at p. 2, Ohio Edison at p. 6 and DP&L at p.6 all seek the elimination of the property ownership criteria. AT&T supports this position, noting that the requirement is burdensome, inadequate and somewhat duplicative of information provided by credit reporting agencies ("CRAs"). That is, the information provided by CRAs, as allowed by Rule 3(A)(2) in evaluating an applicant's creditworthiness, generally includes an evaluation of an applicant's financial responsibility with respect to any property the applicant owns. A requirement to consider only this one aspect as a demonstration of the applicant's overall financial responsibility could be misleading and provide an incomplete portrayal of an applicant's credit risk. For example, an applicant could make timely mortgage payments and/or property tax payments, but could be seriously delinquent in paying a number of other financial commitments (such as car payments) that would signify greater credit risk than considering the mortgage/property tax payments alone. Moreover, such a requirement is not applicable to other telecommunications providers and should not be imposed on only one class of carrier. The result would be anti-competitive. The Commission should eliminate the criteria from the rules entirely, or at the very least, exempt telecommunications carriers from this requirement.

Rule 3(A)(2)

OCC's attempt to emphasize the need for the utility to expound on all of the possible options with the customer by adding the word "again" should be rejected. OCC at p. 65. OCC seeks multiple disclosures of the same information exacerbating the concerns already detailed above.

Columbia Gas requests that the Commission reconsider the portion of the proposed rule that would require utilities to affirmatively advise applicants for service of their right to refuse to provide their social security number. Columbia Gas at pp. 9-11. AT&T supports the Columbia Gas position as well. In today's market, customers with concerns about providing their social security number are generally knowledgeable about their refusal rights if they have privacy concerns. It should be sufficient to ensure that providing a social security number not be essential to establishing credit and that alternatives that do not require a social security number be available to customers.

Rule 3(A)(3)

AT&T again seeks clarification that this division does not apply to telecommunications companies, as discussed in the PUCO's Workshop.

Rule 3(A)(4)

OCC seeks to add a statement indicating that cash deposits cannot be required of Lifeline, Link-Up or PIPP customers. OCC at p. 66. AT&T supports the reply comments of OTA on this issue. In addition, OCC included another onerous provision, one that in fact, was not even noted as an addition: “Customers shall be given the option to pay a cash deposit over a period of at least 3 months.” First and foremost, such a requirement defeats the purpose of utilizing a deposit as a means to establish creditworthiness. It dilutes the effectiveness of a deposit in mitigating credit risk and adds burdensome process changes for utilities. Secondly, the specific criteria governing the use and amounts of deposits are already explicitly addressed elsewhere. As such, Rule 3(A)(4) directs that a cash deposit be determined in accordance with the MTSS Rule 4901:1-5-05. This MTSS rule details the methodology for determining the amount of the cash deposit in instances when a deposit is deemed required. The MTSS rule also requires that the methodology for calculating deposit be uniformly applied and ensures that it is applied in a nondiscriminatory manner. OCC, however, clearly attempts to expand the scope of Rule 3(A)(4) by inserting a new criterion that is totally unrelated to the clear focus of the rule, is unsupported in any manner, and is simply an additional requirement to provide customers the option to pay a cash deposit over a period of at least three months.

OCC fails to understand that the proposed rule requires the deposit to be calculated and determined in accordance with MTSS Rule 4901:1-5-05 and that nowhere in the MTSS is there any requirement to spread a deposit over a period of at least three months. At best, OCC’s comment is misplaced, belonging instead in a docket created to review the MTSS rules. And interestingly, OCC did not offer this suggestion in the most recent MTSS docket, where MTSS Rule 4901:1-5-05 was reviewed and revisions adopted effective January 1, 2008. At worst, OCC’s comments reveal their misunderstanding of the concept of a deposit. Webster's Dictionary defines a "deposit" as money given as a pledge or down payment. Accepting OCC's comment would gut the definition of a "deposit," essentially allowing customers to establish service without an adequate deposit as defined by the MTSS, and simply would not mitigate any potential credit risk. OCC's misplaced addition to the proposed rules should be rejected.

Rule 3(A)(5)

AT&T reasserts its position that this provision should not apply to telecommunications providers and concurs in OTA's request for affirmation that this provision not be mandatory for telecommunications providers. AT&T maintains that such a mandate is another example of inequitable regulation given that other telecommunications providers are not required to offer a guarantor option as a means to establish creditworthiness. If the Commission rules otherwise, AT&T recommends that the current guarantor process be retained. The process is sufficient and should not be changed. Requiring changes to the rule, when the process is used so infrequently, would result in a waste of time, money and other resources for the companies.

Rule 4

As indicated in its initial comments, AT&T believes the criteria for establishing and reestablishing credit should be one and the same. Thus, AT&T applauds OCC for reaching the same conclusion. However, AT&T disagrees with OCC's proposal to allow customers the option of determining how to meet the credit requirements of telecommunications companies, which includes the option of choosing a guarantor to reestablish creditworthiness. OCC at p. 71. Not only does this not meet the spirit of "common sense," it creates additional burdens on telecommunications carriers, including increased call handling time, to explain a variety of methods to establish service, and process changes to accommodate such a requirement as AT&T's systems are already programmed to establish and reestablish credit in the most economical, efficient, and customer-friendly manner.

Telecommunications carriers already face competitive challenges which require customer-friendly options while still ensuring the financial soundness of the company. There is no need for regulation that actually stifles a company's ability to reach solutions favorable to both itself and its customers.

As AT&T indicated in its initial comments, the requirement to allow a guarantor is an outdated, outmoded method of establishing credit. It is reminiscent of a time when customers lived near many relatives and could find someone who was willing to "co-sign" for them rather easily. Now, with the mobility of today's society, it does not make sense to continue to include this as a requirement. If a carrier should choose to offer a guarantor as an alternative, that option should be available to the carrier. Such flexibility would allow those carriers who provide service with demographics where such an option is a "common sense" approach, to offer it if they so choose, but it should not be a requirement imposed on all carriers.

Rule 5

AT&T does not agree with OCC's suggestion to add OCC contact information to the information that is provided to residential customers who request a copy of the credit rules. OCC at p. 73. OCC provided no rationale and it would be superfluous to include OCC's contact information there. The proposal should be rejected.

Rule 8

OCC does not believe that a customer should have to express dissatisfaction in order to be informed of the reason for the decision and other alternatives for establishing creditworthiness, and so, recommends that the rule be changed to require a number of explicit disclosures explaining the decision to all customers. OCC at p. 76. AT&T strongly disagrees with OCC's recommendation requiring additional disclosures including listing all of the criteria related to why a deposit was requested and how to contest the request for a deposit. As previously mentioned, this is another example of a burdensome requirement that does not meet the test of "common sense." Telecommunications customers sufficiently understand the common practice of merchants requesting information from credit reporting agencies in making creditworthiness decisions. Applicants are generally aware of whether they are a credit risk and often anticipate the need for a deposit or an advance payment. Requiring them to listen to a litany of information that they may not be interested in hearing would be a waste of their time and that of the utilities.

AT&T does not believe Rule 8(C) is necessary. If an applicant's credit worthiness is in question and a deposit is requested, the explanation and information provided to the customer in discussing the deposit will be more than sufficient to satisfy most customers. AT&T is acutely aware of and sensitive to customer concerns and needs and responds to them in a timely and efficient manner. There is no need for explicit disclosures.

OCC further recommends that Rule 8(D) be modified to require that the information that is required to be provided to a customer under provision Rule 8(C) should be provided within two business days rather than five. OCC at p. 77. This proposed change is unreasonable. Moreover, the Fair Credit Reporting Act § 615, which includes requirements on users of consumer reports [15 U.S.C. § 1681m], mandates that applicants and customers be notified of adverse action when the use of information from a credit report is part of the decision making process for determining the need for security. Rule 8(C) is duplicative of a requirement already in place for protecting customers. The Equal Credit Opportunity Act also includes a similar requirement to notify a customer of an adverse action in connection with establishing credit in whole or in part upon information from a consumer credit report. Adding a requirement to send a notice out within two business days as proposed by the OCC is simply unreasonable.

Payment Agents

OCC suggests the Commission should ensure that there are ample company-owned payment centers or agreements with authorized agents where customers can pay their bills. Further, OCC argues the cost for acceptance of payments should be absorbed by the utilities. Finally, OCC suggests that where the agent of the utility is authorized to accept payments through an electronic transaction via the telephone through checking and credit accounts, that the cost for accepting payment via alternate methods should also be absorbed by the utilities. OCC at pp. 58-59.

OCC's comments reflect its continued lack of understanding of the needs of consumers, the changing marketplace and the rule changes the Commission has adopted dating back to 2001. OCC's comments reach deep into the past, seeking not only to recreate a business office rule that the Commission rescinded in 2001, but also to modify the current requirement contained in O.A.C. 4901:1-5-07(C) relative to directing authorized payment agents not charge a fee in excess of two dollars or more. OCC seeks to reverse, without any support, a long-standing Commission directive on fees a payment agent can charge. Further, OCC's comments suggest that companies should absorb any consumer cost incurred when using alternative methods in paying a bill. OCC makes no effort to define the type of alternative methods it is considering, and presumably, OCC's unsupported suggestion could even include a customer's on-line banking fees. In fact, AT&T customers have a number of easy to use, bill payment options available to them at no additional charge. These include: payment by mail; on-line bill payment through AT&T eBill; credit or debit card payments by phone; and one-time, self service electronic payments by check, credit or debit card through the AT&T website. Clearly, OCC's comments relative to the utilities absorbing any cost incurred to make a payment are unsupported and misplaced. If any consideration of OCC's comments is given, it needs to be made in the context of the MTSS rules, rules that the Commission just recently reviewed and revised.

Due to the emergence of competition, AT&T made the decision years ago to transition from company-owned and operated bill payment centers to a contracted and vendor-managed network of payment locations made up of third-party agents. Today, Western Union is the vendor contracted by AT&T to provide agent management and walk-in bill payment services at the authorized agent locations in Ohio. Such an arrangement has greatly expanded the number of locations where customers can walk in and pay their AT&T bills. Throughout Ohio, Western Union has conveniently located 457 authorized payment agents. Further, through its contractual arrangement with Western Union, all customers utilizing AT&T's walk-in payment process are assessed a fee in compliance with the MTSS Rule 4901:1-5-07(C). Competition has been the driver behind the creation of convenient and easy to use payment locations. OCC has consistently failed to recognize competition and the benefits it brings to customers. The constraints OCC suggests placing on the authorized payment agent process are unreasonable and inequitable. Other telecommunications providers are not burdened with such requirements. Accordingly, OCC's flawed payment agent suggestions and should be rejected.

Conclusion

All of these rules are burdensome and unnecessary and contrary to the Governor's directive to reduce unnecessary and costly regulation. Telecommunications providers should no longer be subject to them because their non-regulated competitors are not. And, telecommunications providers should clearly be differentiated from other utilities. In the alternative, AT&T seeks approval of the modifications to the rules as set forth in Attachment 1 to its initial comments.

Respectfully submitted,

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