

**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
APPLICATION FOR REHEARING OF THE CONSUMER GROUPS**

THE OHIO TELECOM ASSOCIATION, for and on behalf of its members (“OTA”), hereby submits its Memorandum in Opposition to the Application for Rehearing filed December 5, 2008 by the Office of the Ohio Consumers’ Counsel and other consumer groups (“OCC’s Application”).¹ OCC’s Application seeks rehearing of the Commission’s November 5, 2008 Finding and Order in this docket (the “November 5 Order”), which adopted and approved a revised Rule 4901:1-5-10 (the “Revised Termination Rule”).

The Commission’s Revised Termination Rule was the result of numerous comments and reply comments in this docket.² OCC and the consumer groups participated fully and frequently in that process; indeed, in its August 22, 2008 Comments and its September 5, 2008 Reply comments, the OCC already voiced virtually all of the objections set forth in the OCC’s Application. As a result, OCC’s Application presents little if any new argument for the Commission’s consideration, and should be rejected for that reason alone.

Moreover, OCC’s Application yet again ignores the basic market forces and regulatory obligations that confront OTA members, and assumes yet again that local telephone companies seek to exploit customers or exclude them from services. In fact the opposite is true – telephone

¹ The groups seeking rehearing include the Office of The Ohio Consumers’ Counsel, The Appalachian Peoples Action Coalition, Edgemont Neighborhood Coalition, The Empowerment Center of Greater Cleveland, Consumers For Fair Utility Rates, Cleveland Housing Network and The Neighborhood Environmental Coalition.

² The Commission’s July 31, 2008 Entry proposed a Revised Termination Rule for comment. Initial Comments were filed August 22, 2008 by nine parties; reply comments were filed September 5, 2008 by five parties.

companies have every incentive to retain customers, and must abide by regulations (oftentimes inapplicable to others) that prevent the very results with which OCC's Application is concerned.

Thus, for example, the concern of OCC's Application with Lifeline customers³ is altogether misplaced. Service provided to Lifeline customers by incumbent telephone companies is extensively regulated, *see, e.g.*, Ohio Admin. Code §4901:1-4-06(B), and nothing in the Revised Termination Rule changes those obligations. This proceeding neither raises real Lifeline issues nor presents a forum for addressing them.

Furthermore, existing Lifeline rules do not apply to VoIP carriers, wireless carriers, or other unregulated competitors of the incumbent LECs. Consequently, OCC's Application merely highlights the regulatory disparity that incumbent LECs confront daily, and OCC's proposed revisions to the Revised Termination Rule would increase this disparity by requiring waiver of reconnection charges for all Lifeline customers. Furthermore, in the November 5 Order, the Commission properly balanced that issue, along with other concerns of the incumbent LECs, against those of OCC and the consumer groups; the Revised Termination Rule, in large measure, establishes an appropriate parity between LECs and their unregulated competitors in this circumstance. The Commission need not and should not revisit that result. Were it to do so, the Commission would simply compound problems already addressed, and displace the balance that incumbent LECs, at least, accept.

Likewise, the additional controls proposed by OCC's Application on top of the Revised Termination Rule⁴ merely confirm OCC's tone-deaf view of the market. Those additional regulations apparently seek to require regulated carriers to retain customers – an incentive that the market already provides with vigor. No additional rules are necessary to require customer retention.

³ OCC's Application at 8.

⁴ OCC's Application at 10.

Finally, OTA feels obliged to repeat a point made during the comment cycle of this proceeding: a service bundle is no more than that – a bundle of services that are offered as a package. If a customer subscribing to such a bundle finds that he or she cannot pay for all of the services, or concludes that he or she does not want to pay for all of the services, he or she can – with one phone call to the provider – drop those in jeopardy. Thus, any customer who wishes to avoid the disconnect problems cited by OCC's Application can do so with one simple phone call. As a result, OCC's Application should be rejected.

Conclusion

For all the foregoing reasons, the Ohio Telecom Association respectfully requests that the Commission overrule the Application for Rehearing of the Office of the Ohio Consumers' Counsel, The Appalachian Peoples Action Coalition, Edgemont Neighborhood Coalition, The Empowerment Center of Greater Cleveland, Consumers For Fair Utility Rates, Cleveland Housing Network and The Neighborhood Environmental Coalition.

Respectfully Submitted,

OHIO TELECOM ASSOCIATION

By: /s/ Thomas E. Lodge
Thomas E. Lodge (0015741)
Carolyn S. Flahive (0072404)

Thompson Hine LLP
41 South High Street, Suite 1700
Columbus, Ohio 43215-6101
Telephone (614) 469-3200
Fax (614) 469-3361

Its Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the forgoing has been served upon all parties listed below, by electronic service, this 15th day of December, 2008.

/s/ Thomas E. Lodge
Thomas E. Lodge (0015741)

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

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

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

William A. Adams
Bailey Cavalieri LLC
One Columbus
10 West Broad Street
Suite 2100
Columbus, OH 43215-3422
William.adams@baileycavalieri.com

Daniel R. Conway
Porter Wright Morris & Arthur LLP
41 South High Street
Columbus, OH 43215
dconway@porterwright.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

12/15/2008 2:26:05 PM

in

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

Summary: Memorandum Memorandum of the Ohio Telecom Association in Opposition to Application for Rehearing of the Consumer Groups electronically filed by Mr. Thomas E Lodge on behalf of Ohio Telecom Association