

**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 CINCINNATI BELL TELEPHONE COMPANY LLC IN
OPPOSITION TO APPLICATION FOR REHEARING BY THE OFFICE OF THE
OHIO CONSUMERS' COUNSEL, THE APPALACHIAN PEOPLE'S ACTION
COALITION, EDGEMONT NEIGHBORHOOD COALITION, EMPOWERMENT
CENTER OF GREATER CLEVELAND, CONSUMERS FOR FAIR UTILITY RATES,
CLEVELAND HOUSING NETWORK AND THE NEIGHBORHOOD
ENVIRONMENTAL COALITION**

Cincinnati Bell Telephone Company LLC ("CBT") hereby opposes the Application for Rehearing filed on December 5, 2008 by the Office of the Ohio Consumers' Counsel, the Appalachian People's Action Coalition, Edgemont Neighborhood Coalition, Empowerment Center of Greater Cleveland, Consumers for Fair Utility Rates, Cleveland Housing Network and The Neighborhood Environmental Coalition ("Consumer Groups"). The Consumer Groups contend that the Order is unreasonable and unlawful in several respects. None of these claims has merit and the Commission should deny the Application for Rehearing.

In order to merit rehearing, the Consumer Groups must demonstrate that the Order is "unreasonable or unlawful." The Commission has already fully considered all of the points made by the Consumer Groups in the Application for Rehearing and appropriately rejected them. The Consumer Groups have not advanced any new arguments why Rules 10(B) and 10(C) should not be adopted.

The Commission correctly recognized in its November 5, 2008 Finding and Order in this proceeding that the market for telephone service has changed “where ILECs are facing local exchange service competition from CLECs, wireless providers, and other unregulated providers of telecommunications services.”¹ Thus, in accordance with Revised Code § 4927.02, the Commission appropriately modified Rule 10(B).²

Rather than acknowledge that the market has changed, the Consumer Groups repeat the same arguments that have already been rejected, make unsubstantiated claims regarding Lifeline customers, and completely ignore the fundamental concept that customers are obligated to pay for the services they order and can choose services that fit their budgets.

The Consumer Groups correctly note that the Commission has a long standing goal of ensuring that customers retain telephone service. What they ignore, however, is that this policy assumes that customers will pay for service. Quite simply, customers who want telephone service must pay for it or make acceptable arrangements to do so. Rule 10(B) does not, and should not, change this fundamental concept.

As the Ohio Telecom Association noted in its September 5, 2008 Reply Comments, the only customers who will see any difference as a result of revised Rule 10(B) are those who make an unannounced partial payment. In CBT’s experience, this is an extremely small percentage of customers. Almost all of CBT’s customers who want to make partial payments contact the company, and generally, these customers establish payment arrangements.³ If customers find that they can no longer afford a service, the solution is simple. They can call their service

¹ Finding and Order, Nov. 6, 2008, at p. 6.

² Ohio Adm. Code 4901:1-5-10(B).

³ Whether or not customers want payments allocated first to regulated local services is debatable. For example, customers with wireless phones may prefer that this service be uninterrupted and would rather pay wireless charges before local regulated charges.

provider and discontinue the service. If they do this *before* their service is disconnected (for which they receive ample advance notice), they will not have to face reconnection charges.

Revised Rule 10(B) does not change this. Customers who take responsibility for paying their bills will not be impacted by Rule 10(B). Thus, the Consumer Group's objections are unwarranted, unfounded and must be rejected.

The Consumer Group's unsubstantiated claim that "consumers are more likely to be marketed - and pressured into buying - service packages that include unregulated services the consumers neither want nor need"⁴ is offensive. Setting aside the improper behavior implied by this statement,⁵ it simply ignores basic economics in a competitive market. Customers will choose providers whose services best fit their needs, and it is in the best interests of the providers to assure that customers purchase these services. To do otherwise, is not sustainable in the long run. Similarly, providers are incented to provide reasonable payment arrangements to retain customers. Otherwise, the customer and any associated revenue may be lost to a competitor. The Consumer Group's arguments ignore these market fundamentals.

Customers always have the option to purchase only an access line from the ILEC. If they do so, the disconnection rules are not changing - the customer must pay the total charges or face disconnection. On the other hand, new Rule 10(C)⁶ makes it easier for a customer whose service was disconnected to establish access line only service. Under the prior disconnection rules, a customer could be required to pay all outstanding regulated local service charges to establish an access line. Under the new rules, a customer only needs to pay the amount associated with the

⁴ Application for Rehearing, p. 5.

⁵ Telephone companies subject to elective alternative regulation may not market vertical features to Lifeline customers and cannot provide such services to new Lifeline customers unless the customer provides a certification that the feature is necessary for medical or safety reasons. Rule 4901:1-4-6(B)(1)(c). Existing Lifeline customers with optional vertical services may only retain them if they make no changes to their service.

⁶ Ohio Adm. Code 4901:1-5-10(C).

line to re-establish the line. Again the Consumer Group's concerns are unfounded and should be rejected.

It is not unreasonable to assume that a customer who has been disconnected from a bundled service for non-payment would explore other cheaper options for telephone service. There is no need to require ILECs to give a special notice that basic service is available. The Consumer Groups assume that ILECs would pressure consumers into buying higher-priced bundles, which makes no sense in a situation where the customer has already been disconnected for non-payment of that higher priced service. There is no economic incentive for an ILEC to provide service to a customer who cannot pay for it.

The Consumer Groups incorrectly assert that Lifeline customers need additional protections because of the disconnection rule change. In fact, the opposite is true. Lifeline customers already have payment arrangement options that are unique to them. Contrary to the Consumer Group's claim, the \$25.00 initial payment option is not limited to new service. This option also applies to Lifeline customers reconnecting service or Lifeline customers who call to establish payment arrangements on their current bills. Thus, Lifeline customers may have more flexibility in reconnecting service than other customers.

Lifeline customers with bundled services are the exception—ILECs under elective alternative regulation are prohibited from marketing non-basic services to Lifeline customers. These customers are well aware of the availability of standalone basic service, as they have to take special measures in order to obtain bundled services. It makes no sense to mandate that ILECs remind them of that option before they can be disconnected for non-payment.

Regarding bundles that contain non-regulated services, Lifeline customers who do have such services are no different than anyone else. They have the same obligation to pay for

service, and they have the same opportunity to discontinue services that they can no longer afford. There is no reason for Rule 10(C) to make any special provisions for Lifeline customers who are disconnected for nonpayment.

Finally, the Consumer Groups proposed rewrite of Rule 10(C) would waive reconnection fees for Lifeline customers. This is an attempt to rewrite the Lifeline rules that is outside the scope of this proceeding and must be rejected. The Commission should not make the changes proposed by the Consumer Groups to new Rules 10(B) and (C).

The rules are lawful and reasonable as written. The Commission should sustain the Order and deny the Application for Rehearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Application for Rehearing was served by first class United States Mail, postage prepaid, to the persons list below, on this 15th day of December 2008.

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Summary: Memorandum in Opposition to Application for Rehearing by the Office of the Consumers' Counsel, et al. electronically filed by Mr. Douglas E. Hart on behalf of CINCINNATI BELL TELEPHONE COMPANY