

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Cincinnati )  
Bell Telephone Company LLC for Waiver of )  
Certain Minimum Telephone Service ) Case No. 08-1197-TP-WVR  
Standards As Set Forth in Chapter 4901:1-5, )  
Ohio Administrative Code. )

FINDING AND ORDER

The Commission finds:

(1) On October 31, 2008, the applicant, Cincinnati Bell Telephone Company LLC (Cincinnati Bell or CBT), a local exchange company (LEC), filed an application by which it seeks a waiver of Rule 4901:1-5-03(B), Ohio Administrative Code (O.A.C.), which is the provision of the Commission's minimum telephone service standards (MTSS) that pertains to the manner in which LECs are to supply directories to their customers. Rule 4901:1-5-03(B), O.A.C., which will be referred to in this finding and order as MTSS Rule 3(B), reads:

(B) Local exchange companies (LECs) shall annually supply their customers with directory information through one of the following means:

(1) A printed directory(ies) that must include, at a minimum, all published telephone numbers in current use within the ILEC local calling area. Upon a customer's request, each LEC shall provide, free of charge, an applicable directory(ies) for all exchanges which are within the ILEC local calling area, including any exchanges that are within the local calling area as a result of extended area service. The printed directory shall be provided free of charge to customers. LECs may give customers the option to request an electronic directory, where available, but if they make this option available, LECs must, in this instance, provide the electronic directory at no charge.

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- (2) Free directory assistance for all published telephone numbers in current use within the ILEC local calling area. In addition, the LEC shall include on its web site the printed information required by paragraph (C) of Rule 4901:1-5-03 of the Administrative Code. An annual notice shall also inform customers that, in lieu of a printed directory, they will be provided free directory assistance for all telephone numbers in current use within their local calling area.

Thus, the rule provision from which CBT seeks a waiver currently requires that LECs supply their customers with directory information through one of two means: either through a printed directory, or through free directory assistance.

- (2) By way of background, CBT's waiver application in this case has followed upon the company's investigation into various "green" initiatives, by which it has sought to conserve energy and other natural resources. CBT claims that, in order to keep abreast of the latest in technology and customer service, it periodically reviews how customers actually use services and what changes they might like to see in the future. In this context, CBT has recently considered ways to improve the White Pages telephone directory. The company notes that the current system of providing customers with directory information, which consists of automatically delivering a printed directory to every individual customer location (with multiple copies to business customers), "annually consumes millions of pages of paper, gallons of ink, and the associated energy to create those materials, print the directories, and distribute them to customers" (CBT Waiver Application at 2). CBT believes that most customers seldom use the White Pages directory and that a sizeable and growing number of customers find the paper directory unnecessary. According to CBT, it does not make a lot of sense to print and distribute directories to customers who do not want or use them. Significant resources could be saved if, instead of automatically providing all customers with a printed directory with the option to request an electronic directory, customers were automatically provided access to an electronic directory with the option to request a paper directory.

- (3) In this case, CBT seeks to have the Commission authorize CBT to provide its customers with automatic access to an electronic directory with the option to request a paper directory. This practice is currently not an express option under the MTSS rules which, in contrast, contemplate that the company should automatically provide all customers with a printed directory with the option to request an electronic directory.

While the current rule allows a LEC to give customers the option to request an electronic directory in lieu of a printed directory, it requires the customer to affirmatively request an electronic directory first. Because of natural inertia, argues CBT, most customers will not take affirmative action to stop the delivery of a paper directory even if they do not want to receive it. Through its waiver application, CBT seeks to make an electronic directory the preferred option for delivering directory listings. Under CBT's proposal, no printed directories would be delivered automatically. Customers who do not really want or need a paper directory, says CBT, are unlikely to affirmatively request one. Instead, only those who want paper directories will request and receive them. In this way, customers will choose how they want their directory provided, while resource usage will be paired more efficiently with customer needs and desires. Unnecessary waste of paper, energy, and other resources that are consumed to produce, distribute, discard and/or recycle hundreds of thousands of books will be avoided (*Id.* at 3).

- (4) Further explaining the rationale behind its proposed rule waiver application, CBT indicates:

In the modern information age, an annually printed telephone directory is somewhat of an anachronism. The book is out of date before it is even published because of changes to the subscriber listings between the date that the directory closes (usually in March) and the time the books are delivered to customers (usually in June). The book grows more and more dated as the year goes on. People have become increasingly accustomed to obtaining their information needs online nearly instantaneously. Customers already use internet search tools to locate telephone numbers. CBT believes that most customers use the printed White Pages directory infrequently, if at all. Customers are more likely to use

the Yellow Pages ... [than the White Pages] to find business listings.... With changes in technology and more widespread Internet access, many customers prefer having the telephone directory in an electronic form, which is not only up to date on a daily basis, but searchable (*Id.* at 3-4).

CBT points out that the online, electronic directory that it proposes to make the preferred option for delivering directory listings, in addition to being environmentally friendly, will also be superior to the printed book in several other ways: it will always be current as of the previous business day; it will be searchable electronically; it is less bulky and easier to carry around than the phone book and is accessible anywhere there is Internet access, even over cell phones and PDAs; and would allow the customer individual control over the print size of the listings.

- (5) Explaining, from an operational standpoint, its proposal to provide automatic access to an electronic directory with the option to request a paper directory, CBT states:

CBT believes it has come up with improved options to fit customers' needs with respect to directories. Later this fall, CBT will launch an electronic version of its White Pages directory that will be available free to anyone over the Internet. The directory will be updated daily, just like the directory assistance database, so that it is always current. The online directory would contain all of the Customer Guide information that is required to be included in the printed directory ... [under MTSS Rule 3(C)]....

CBT will conduct an extensive informational campaign for its customers to educate them on the availability of the electronic directory. CBT will use bill inserts and billing messages to promote its new, easy to use "green" edition of the directory. CBT will also send e-mail messages to its Internet service customers and text messages to its wireless affiliate's customers. Information will be posted on the Cincinnati Bell website and in retail stores. Customers will be made well aware of how to access and use the online electronic directory.

CBT believes that many customers will be pleased to have this new means of accessing directory listings.

Of course, CBT understands that certain customers will still want or need a paper directory, which would not be eliminated. CBT would continue to make printed directories available to any customer who requests one. The preferred method of distributing printed directories to those who request copies would be for the customer to visit a CBT retail store to pick one up. For those customers who cannot visit a retail store an alternative method of shipping or delivering the printed directories will be used to get the customer a book promptly upon request.

- (6) On January 6, 2009, the office of the Ohio Consumers' Counsel (OCC), through a pleading that also included OCC's comments on CBT's application, filed a motion to intervene in this proceeding. In its motion, OCC asserts that it is the state agency that represents Ohio's residential utility consumers and that it seeks intervention in order to ensure that CBT's residential customers receive all the protections of the MTSS, including with regard to the availability of the white pages directory. OCC adds that it satisfies the intervention standard in Section 4903.221, Revised Code, because Ohio's residential customers may be adversely affected by this case, especially if the consumers were unrepresented in a proceeding that would give CBT the authority to provide electronic directory information in lieu of a printed directory. OCC also asserts that its role as a residential utility consumer advocate complies with the standards set forth in Rule 49091-1-11(A), O.A.C., which require that a party must have a real and substantial interest in a proceeding to intervene.
- (7) OCC's motion to intervene is reasonable, and should be granted.
- (8) OCC's comments on CBT's waiver application in this case are summarized in this finding. CBT's proposal, says OCC, is based on a mere belief that customers do not want a white pages directory. CBT has produced no factual data to support its claim, argues OCC. Therefore, according to OCC, CBT has not stated good cause for a waiver and its application should be denied as not in the interest of Ohio consumers.

OCC additionally submits that, in order to review the need for CBT's proposal, the Commission should require CBT to conduct a two-year promotional campaign to inform customers of their current ability to "opt out" of receiving a printed directory, with an assessment of the campaign and stakeholder input at the end of the two-year period. OCC submits that, to protect consumers through a gradual transition, the Commission should, at a minimum, provide for CBT to defer the "opt in" aspect of its proposal, so that consumers continue to be provided directories automatically for at least two years into the future. During the transition period, says OCC, CBT should be providing notice and information to customers about the potential upcoming change regarding the distribution of directories and inviting public comment to the Commission and OCC.

Additionally, OCC points out that CBT's proposal does not address how new customers would be notified of the availability of printed directories, and does not specify (but should, according to OCC) that customers requesting a printed directory would not be charged for delivery of a printed directory to their homes. Finally, OCC submits that the Commission should ensure that the consumer protections found in the MTSS should be maintained with regard to all alternative methods by which the company provides directory information. For example, says OCC, any customer notice should state whether CBT will provide directory assistance over the telephone free of charge (OCC Comments at 2-3).

- (9) Upon review, the Commission finds that CBT has adequately demonstrated sufficient reason for granting its waiver application and that, indeed, such application should be granted, so long as customers' interests are protected as regards obtaining information regarding the policy change contemplated by grant of the waiver, obtaining essential information regarding a telephone customer's rights and responsibilities, and as regards a customer's right and ability to go about requesting and obtaining free annual printed directories.

As mentioned above, one method by which CBT has proposed to distribute free printed directories to those who request copies would be to have the requesting customer visit a CBT retail store to pick one up. The Commission finds this to be an acceptable practice that would be specifically authorized under the waiver we grant today. However, it would also be acceptable to the

Commission, and the waiver we grant today shall be considered as authorizing CBT, if the company chooses to do so, to make free printed directories available not only in CBT retail stores, but also in other retail outlets or public venues that customers might likely visit on a more frequent basis, such as grocery stores, banks, or pharmacies. Also, CBT has pledged to deliver or ship the free directories to customers who wish to receive them in that way, rather than by picking up their copies by visiting a CBT retail store. The Commission understands this to mean that, as part of its waiver request, CBT has pledged that there would be no shipping or delivery charge associated with this optional way for customers to receive their free printed directories and finds that its grant of the waiver is contingent upon CBT fulfilling this pledge not to impose or apply any shipping or delivery charges. Additionally, we note that, for those customers who choose not to receive a printed directory, such customers will still have access to emergency telephone numbers and telephone numbers of utility companies through other sources such as the yellow pages and information services. Accordingly, we find that CBT's request for a waiver of MTSS Rule 3(B) is granted, subject to the following conditions:

- (A) The extensive informational campaign described in CBT's waiver application, by which the company will educate customers on the availability of the electronic directory, must include notice to customers that they will no longer automatically be provided annually with a printed directory and also provide clear and explicit directions that those customers who wish to obtain a free printed directory should follow in order to obtain one. The company must offer each customer who requests a directory the ability to choose between picking up a free directory by visiting a CBT retail store or, alternatively, receiving a directory that the company either ships or delivers to the customer without charge.
- (B) In addition, CBT must provide an annual customer notice to all of its customers that includes the following:
  - (i) An explanation to customers that they will no longer automatically be provided annually with a printed directory, although they may still request and obtain, free of

charge, a printed directory published by CBT for use during the year in which the request is made. The notice must also include explicit directions explaining all the means by which those customers who wish to obtain a free printed directory may request and obtain one.

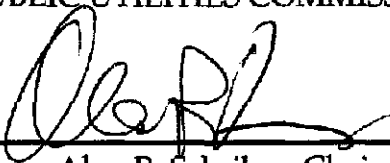
- (ii) A verbatim printing of the telephone customer rights and responsibilities as set forth in the Appendix to Rule 4901:1-5-03, O.A.C.
- (C) New CBT customers, at the time they initially enroll for telephone service from CBT, must be provided with all of the same information regarding CBT's methods of providing directory information as provided in the annual notice required under paragraph (B) of this finding.
- (D) CBT must deliver or ship the free printed directories to customers who wish to receive them in that way, rather than by picking up their copies by visiting a CBT retail store, and CBT must do so, when customers exercise this optional way of receiving the free printed directory, without imposing or applying any shipping or delivery charges.

It is, therefore,

ORDERED, That in accordance with the above findings, CBT's application for waiver for MTSS Rule 3(B), submitted in this case on October 31, 2008, is granted subject to all of the conditions set forth in Finding (9). It is, further,

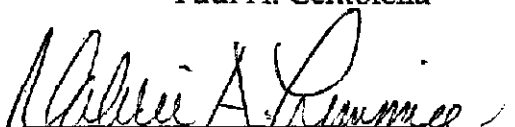
ORDERED, That a copy of this finding and order be served upon CBT, as well as all other parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
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Alan R. Schriber, Chairman

  
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Paul A. Centolella

  
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Ronda Hartman Fergus

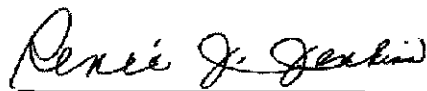
  
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Valerie A. Lemmie

  
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Cheryl L. Roberto

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Renee J. Jenkins  
Secretary