

BEFORE


THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Ordered)
Investigation of an Elective Alternative) Case No. 00-1532-TP-COI
Regulatory Framework for Incumbent)
Local Exchange Companies.)

ENTRY

The Commission finds:

- (1) On July 28, 2008, United Telephone Company of Ohio dba Embarq (Embarq, company) filed an application seeking a waiver from the current rule that restricts the purchase of vertical features by Embarq lifeline customers under Rule 4901:1-4-06(B)(1)(c), Ohio Administrative Code (O.A.C.). Embarq claims that it seeks this waiver in order to fully respond to the desires of its lifeline customers so as to provide the most economical service package to these customers to meet their needs. Embarq submits that the Commission granted a similar waiver to AT&T Ohio for a trial period and conditioned the waiver on certain data collection requirements [*In the Matter of the Application of AT&T Ohio for Approval of an Alternative Form of Regulation*, Entry issued April 25, 2007, Case No. 02-3069-TP-ALT (02-3069)]. Embarq is seeking, through this application, a full and unconditional waiver of the vertical features restriction by lifeline customers. In all other respects, the current lifeline requirements would remain in effect.
- (2) In support of its application, Embarq submits that neither the Federal Communications Commission (FCC) nor any other state in which Embarq operates restricts lifeline customers from purchasing vertical features. Further, Embarq claims, under the then current service termination rule set forth in Rule 4901:1-5-10, O.A.C., granting the company's waiver request would not create any additional jeopardy for lifeline customers with features or packages to be disconnected from the network than lifeline customers without vertical features or packages. Embarq asserts that many lifeline customers would benefit from optional features and would want to receive the benefits of a bundled service offering, but are either ineligible or unwilling to sign a statement indicating that the features

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included in a bundled offering are necessary for medical or safety reasons. Embarq also notes that the current lifeline restriction established when telephone companies recovered lifeline revenues through Ohio's gross receipts tax credit is no longer necessary as none of the costs of lifeline benefits today are recovered from the state. Finally, Embarq submits that the company's lifeline advisory board has been advised of this waiver request and the members have not objected to the waiver request. Therefore, Embarq urges the Commission to waive the vertical feature restriction and allow lifeline customers to purchase the features they need in a manner similar to other residential customers.

- (3) Letters in support of Embarq's waiver have been docketed by Richland County Children Services, Henry County Senior Center in Northwest Ohio, The Rehab Center, American Red Cross of Knox County, Ohio District 5 Area Agency on Aging, Inc., Interchurch Social Services of Knox County, Inc., Mental Health America of Knox County, Bradfield Community Association, and United Way of Knox County.
- (4) On August 15, 2008, the Office of the Ohio Consumers' Counsel (OCC) filed a memorandum contra Embarq's request for a full and unconditional waiver of Rule 4901:1-4-06(B)(1)(c), O.A.C. *OCC claims that unrestricted marketing of vertical services and bundles to lifeline customers will put those customers' local service at risk, particularly given the proposed changes to the Commission's service termination provisions set forth in Rule 4901:1-5-10(B), O.A.C.* Accordingly, OCC urges the Commission to deny Embarq's application. In the alternative, however, should the Commission consider the application, OCC encourages the Commission to apply the same conditions on Embarq's waiver as were placed on AT&T Ohio's waiver.
- (5) In support of its memorandum contra, OCC argues that if lifeline customers are permitted to subscribe to bundles, they will lose a fundamental protection the Commission put in place against increases in rates for basic local exchange service (BLES) through both the elective alternative regulation rules (Rule 4901:1-4-06(C)(3)(a)(ii), O.A.C.) and basic local exchange service rules (Rule 4901:1-4-11(D), O.A.C.). Further, OCC points out that Embarq's arguments in favor of an unconditional waiver are similar to arguments made by AT&T

Ohio which the Commission did not find compelling enough in order to grant an unconditional waiver of the rule. OCC also claims that Embarq offers several misleading arguments in support of the waiver application. For instance, OCC, a member of Embarq's lifeline advisory board, states that the advisory board was informed about the filing of the waiver request in an electronic mail message which did not ask the board members their opinion on the filing nor was the waiver discussed at any advisory board meeting. Further, in seeking a full and unconditional waiver, OCC presumes that Embarq is also seeking permission to apply the lifeline discount to more than one access line per household and to avoid grandfathering customers who were on Embarq's lifeline program at the time the company was granted elective alternative regulation. For the foregoing reasons, OCC urges the Commission to deny Embarq's request for a full and unconditional waiver from Rule 4901:1-4-06(B)(1)(c), O.A.C.

- (6) Embarq filed a reply to OCC's memorandum contra on August 25, 2008. In its reply, Embarq asserts that the company has demonstrated good cause in support of its application and disputes OCC's contention that the company has made inaccurate statements in support of the application. OCC's concerns regarding the increased risk of lifeline customers being disconnected are, according to Embarq, unfounded. Embarq notes that if a lifeline customer determines that his or her bill has become unaffordable because of vertical features or bundles, the lifeline customer need only contact Embarq to return to basic local exchange service and to drop those services without charge. In Embarq's view, OCC fails to give lifeline customers sufficient credit for the customers' ability to manage their own affairs.

Embarq also disputes OCC's contention that the company seeks more than the ability to market vertical services to lifeline customers. Nowhere did the company even refer to the one access line per household limitation or the grandfathering issue Embarq claims. Next, Embarq submits that its statement concerning the Embarq advisory board was accurate, namely, that the advisory board was advised and no one objected at the time the waiver was filed. Finally, Embarq claims that it is worth noting that neither the FCC nor the other 17 states in

which the company operates prohibits the sale of vertical services to lifeline customers.

- (7) After weighing carefully all of the comments filed in this case, the Commission determines that a waiver of Rule 4901:1-4-06(B)(1)(c), O.A.C., for a trial period, much like the waiver AT&T Ohio was granted in 02-3069, should be granted rather than a full and unconditional waiver as proposed by Embarq until such time as the Commission rules otherwise. As a result, during this trial period, lifeline customers will be permitted to purchase optional services, in addition to call-waiting, either individually or in a package from Embarq without having to certify that the optional service is necessary for medical or safety reasons. Additionally, Embarq will be permitted to market such services and packages to lifeline-eligible customers.
- (8) In granting this waiver on a conditional basis for a trial period, we continue to note that our overall interest with lifeline telephone service has always been to connect as many customers as possible to the telephone network and to keep those lifeline customers connected to the network once they have telephone service. The Commission remains concerned that direct marketing to lifeline customers could result in lifeline customers buying more expensive packages that provide a lot of extra features. This, in turn, could make these customers even more susceptible to disconnection for nonpayment. Moreover, we note that lifeline customers enrolling in packages will lose pricing protections afforded in alternative regulation, since packages are priced at market-based rates and can be increased at the company's discretion on 15-day's notice to customers.

That being said, however, the Commission also recognizes that the telecommunications marketplace has changed since the Commission first established the lifeline restrictions years ago. Today, many customers rely on features such as caller ID, three-way calling, and voicemail. We take note, in the letters of support, of the instances cited in which lifeline customers could benefit from caller ID and three-way calling, and discounted packages including these features. The Commission also acknowledges that packages of service have become common in the industry, and some packages can provide significant

costs savings to lifeline customers who need these features. We also understand that some customers might find confusing and intimidating the requirement to self-certify that optional features meet a medical or safety need, thus, resulting in otherwise eligible customers possibly forgoing lifeline assistance. Further, we note Embarq's commitment to work with lifeline customers to drop, without charge, those optional services and service packages that the lifeline customer finds unaffordable. Finally, the Commission takes comfort in the fact that our recently revised service termination rule will provide lifeline customers with a mechanism to reestablish stand-alone basic local exchange service with Embarq should a lifeline customer lose service for nonpayment. This requirement to reestablish service is conditioned upon the customer paying an amount sufficient to cover the tariffed rate for basic local exchange service, all associated taxes and government mandated surcharges, any applicable deposit and reconnection fees, and upon entering into a payment arrangement for all unpaid regulated charges.

Even more compelling, though, is the overwhelming support of the outreach and social service agencies who voiced their views in support of Embarq's waiver. Presumably, these social service agencies, which represent the very customers intended to benefit from lifeline telephone service, are in a good position to judge whether low-income customers need the protections our rules provide today. Their insight into this matter is valuable to us.

- (9) Thus, in balancing all of the aforementioned concerns, the Commission will grant the waiver on a trial period, on the condition that Embarq collects data as set forth in this entry, in order that the Commission can monitor whether its concern for customers falling off the network is valid. During the trial period, the Commission intends to monitor closely Embarq's lifeline statistics to ensure that, on balance, lifeline customer's benefit from granting this waiver. We direct our staff to meet with the company to work out the data specifics and format. Nevertheless, we expect the company to collect: (a) disconnection information for lifeline customers with BLES only compared to that for lifeline customers taking optional features, including the reasons for the disconnections tracked by category; (b) arrearage information for lifeline customers

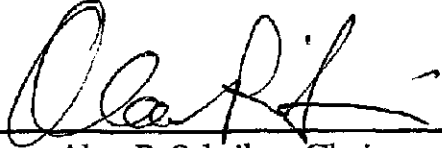
with BLES only compared to that for lifeline customers taking optional features; (c) the number of lifeline customers availing themselves of optional features versus the number of lifeline customers opting for BLES only; (d) the average bill for lifeline customers availing themselves of optional features who are disconnected; (e) the average number of vertical services and/or packages for lifeline customers availing themselves of optional features who are disconnected; and (f) lifeline enrollment data to gauge the growth of enrollment. Embarq is instructed to collect and provide such data on a monthly basis to the Commission staff and the Embarq lifeline advisory board. The Commission will review this data in the future, and determine the appropriateness of terminating or extending the waiver indefinitely.

It is, therefore,

ORDERED, That, in accordance with the above findings, Embarq is granted a waiver from the provisions of Rule 4901:1-4-06(B)(1)(c), O.A.C., until the Commission rules otherwise. It is, further,

ORDERED, That a copy of this entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



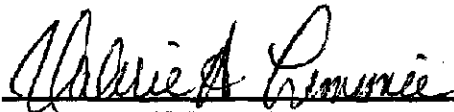
Alan R. Schriber, Chairman



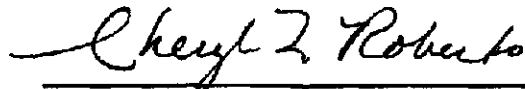
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