

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
The Ohio Bell Telephone Company d/b/a	)	
AT&T Ohio for Approval of an Alternative	)	Case No. 09-74-TP-BLS
Form of Regulation of Basic Local Exchange	)	
Service and Other Tier 1 Services Pursuant to	)	
Chapter 4901:1-4, Ohio Administrative Code.	)	

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**MOTION TO INTERVENE  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where the Public Utilities Commission of Ohio ("PUCO" or "Commission") will consider allowing for increases in consumers' basic telephone service rates.<sup>1</sup> OCC files on behalf of the residential customers of The Ohio Bell Telephone Company d/b/a AT&T Ohio ("AT&T Ohio" or "Company"). The attached Memorandum in Support sets forth the reasons the PUCO should grant OCC's motion.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

/s/ Terry L. Etter

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Terry L. Etter, Counsel of Record  
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Assistant Consumers' Counsel

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<sup>1</sup> See R.C. Chapter 4911; R.C. 4903.221; Ohio Adm. Code 4901-1-11; Ohio Adm. Code 4901:1-4-09(D).

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**MEMORANDUM IN SUPPORT**

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This case involves an application for the PUCO to consider the reasonableness and lawfulness of giving AT&T Ohio the ability to increase the rates charged customers for basic local exchange service (“basic service”) and basic Caller ID in the Bloomingburg, Washington Court House and Whitehouse exchanges.<sup>2</sup> Under an application for alternative regulation (“alt. reg.”) for the Company’s Tier 1 Core services filed on January 30, 2009,<sup>3</sup> AT&T Ohio’s customers could be subjected to annual rate increases of up to \$1.75 (basic service and basic Caller ID) per month.<sup>4</sup> OCC has authority under law to represent the interests of AT&T Ohio’s residential customers, pursuant to R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio’s residential consumers may be “adversely affected” by this case, especially if the consumers were unrepresented in a proceeding that would give AT&T Ohio the

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<sup>2</sup> See Ohio Adm. Code 4901:1-6-04(A)(1)(a). Basic service is defined in R.C. 4927.01(A) and Ohio Adm. Code 4901:1-6-01(B).

<sup>3</sup> The Application was filed pursuant to Ohio Adm. Code 4901:1-4-09.

<sup>4</sup> See Ohio Adm. Code 4901:1-4-11(A).

authority to raise the rates it charges customers for basic service. Thus, OCC satisfies this element of the intervention standard in R.C. 4903.221.

R.C. 4903.221(B) requires the Commission to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing AT&T Ohio's residential consumers in order to ensure that alt. reg. for AT&T Ohio's Tier 1 Core offerings does not result in unreasonable or unlawful rate increases that would harm AT&T Ohio's residential customers. This interest is different from that of any other party and especially different than that of AT&T Ohio, whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for consumers will include advancing the position that residential consumers' rates should be "just and reasonable," pursuant to R.C. 4905.22 and R.C. 4927.02(A)(2), among other statutes. OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceeding. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the residential utility consumer advocate, OCC has a very real and substantial interest in this case where AT&T Ohio is seeking the ability to raise the rates the Company charges customers of basic service.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission shall consider the "extent to which the person's interest is represented by existing parties." While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio's residential utility consumers. That interest is different from, and not represented by, any other entity in Ohio. In addition, OCC has been granted intervention in all the other basic service alt. reg. cases that have been filed at the PUCO, as well as every elective alt. reg. case filed to date at the PUCO in which OCC has sought intervention.

Moreover, the Supreme Court of Ohio confirmed OCC's right to intervene in PUCO proceedings, in ruling on an appeal in which OCC claimed the PUCO erred by

denying its intervention. The Court found that the PUCO abused its discretion in denying OCC's intervention and that OCC should have been granted intervention.<sup>5</sup>

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential consumers, the Commission should grant OCC's Motion to Intervene.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

/s/ Terry L. Etter

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<sup>5</sup> See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20 (2006).

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Motion to Intervene by the Office of the Ohio Consumers' Counsel was provided electronically to the persons listed below this 3<sup>rd</sup> day of February 2009.

/s/ Terry L. Etter

Terry L. Etter

Assistant Consumers' Counsel

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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**2/3/2009 3:59:30 PM**

**in**

**Case No(s). 09-0074-TP-BLS**

Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Mrs. Mary V. Edwards on behalf of Etter, Terry L. and Office of the Ohio Consumers' Counsel