

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Ohio )  
Bell Telephone Company dba AT&T Ohio )  
for Approval of an Alternative Form of )  
Regulation of Basic Local Exchange Service ) Case No. 08-1281-TP-BLS  
and Other Tier 1 Services Pursuant to )  
Chapter 4901:1-4, Ohio Administrative )  
Code. )

FINDING AND ORDER

The Commission finds:

- (1) Section 4927.03(A)(1), Revised Code, authorizes alternative regulation of basic local exchange service (BLES) offered by incumbent local exchange companies (ILECs) in those telephone exchanges where the Commission determines that alternative regulation is in the public interest. To qualify for alternative regulation, an ILEC must be subject to competition or customers must have reasonably available alternatives. In addition, the Commission must establish that there are no barriers to market entry. The Commission is authorized by Section 4927.03(D), Revised Code, to adopt rules to carry out the statutory intent.

On March 7, 2006, the Commission, pursuant to Case No. 05-1305-TP-ORD (05-1305), *In the Matter of the Implementation of H.B. 218 Concerning Alternative Regulation of Basic Local Exchange Service of Incumbent Local Exchange Telephone Companies*, established rules for the alternative regulation of BLES. These rules were subjected to the legislative rule review process and became effective on August 7, 2006. Consistent with these rules, ILECs with an approved elective alternative regulation plan can apply for pricing flexibility of BLES and other Tier 1 services. Applications for alternative regulation of BLES and basic Caller ID will be approved provided the applicant satisfies one of the competitive market tests identified in Rule 4901-1-4-10, Ohio Administrative Code (O.A.C.), in a given exchange. Pursuant to Rule 4901:1-4-09(G), O.A.C., an ILEC's application for BLES alternative regulation will become effective on the one hundred and twenty-first day after the

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician TM Date Processed 2/25/2009

filing of the application unless the application is suspended by the Commission.

- (2) On December 5, 2008, AT&T Ohio (AT&T) filed a BLES application pursuant to Section 4927.03, Revised Code, and Rule 4901:1-4-09, O.A.C. Pursuant to its application, AT&T seeks approval of an alternative form of regulation of BLES and other Tier 1 services pursuant to Rule 4901:1-4-10(C)(4), O.A.C., in the following exchanges: Fultonham, New Riegel, South Solon, and West Lafayette. Also on December 5, 2008, AT&T filed a motion for a protective order.
- (3) By attorney examiner's entry issued January 6, 2009, the Office of the Ohio Consumers' Counsel's (OCC) December 11, 2008, motion to intervene was granted and AT&T's motion for protective treatment, filed simultaneously with its December 5, 2008, application, was approved.
- (4) No objections were filed concerning AT&T's December 5, 2008, application.
- (5) Rule 4901:1-4-10(C)(4), O.A.C., provides that an applicant seeking BLES authority must demonstrate that in each requested telephone exchange area at least 15 percent of total residential access lines have been lost since 2002, as reflected in the applicant's annual report filed with the Commission in 2003, reflecting data for 2002. In addition, each applicant seeking BLES authority must indicate the presence of at least five unaffiliated facilities-based alternative providers serving the residential market.

AT&T's application offers the following access line losses as evidence that the company has met the first prong of Rule 4901:1-4-10(C)(4), O.A.C.: Fultonham 15.01 percent, New Riegel 16.72 percent, South Solon 21.88 percent, and West Lafayette 15.79 percent. The Commission determines that AT&T has substantiated its residential access line losses in these four exchanges as delineated in Attachment A.

Regarding the second prong of Rule 4901:1-4-10(C)(4), O.A.C., AT&T indicates the following as unaffiliated facilities-based alternative providers serving the residential market in the involved exchanges: Fultonham six providers, New Riegel six providers, South Solon five providers, and West Lafayette

seven providers. The Commission determines that AT&T has substantiated its list of unaffiliated facilities-based alternative providers serving the residential market in these four exchanges as delineated in Attachment A.

- (6) Upon a thorough review of the record in this proceeding, the Commission determines that, pursuant to Section 4927.03(A), Revised Code, AT&T has met its burden of proof for the four exchanges identified in Attachment A of this finding and order. Specifically, AT&T has demonstrated that the granting of the company's application for BLES and other Tier 1 service flexibility in the designated exchanges in Attachment A is in the public interest, that AT&T's BLES is subject to competition or that the company's customers have reasonably available alternatives, and that there are no barriers to entry with respect to BLES in those exchanges. Moreover, the Commission determines that AT&T's application is complete and meets the filing requirements of Rule 4901:1-4-09, O.A.C. As a final matter, the Commission finds that AT&T's proposed tariff modifications necessary to implement the pricing flexibility set forth in Rule 4901:1-4-09(A), O.A.C., are just and reasonable as to the four exchanges approved pursuant to this finding and order.

It is, therefore,

ORDERED, That AT&T's application for alternative regulation of BLES and other Tier 1 services is granted as discussed above. It is, further,

ORDERED, That for the exchanges identified in Attachment A of this finding and order, AT&T is granted Tier 2 pricing flexibility for all Tier 1 noncore services and BLES and basic Caller ID will be subject to the pricing flexibility provided pursuant to Rule 4901:1-4-11, O.A.C. It is, further,

ORDERED, That, consistent with Rule 4901:1-4-11, O.A.C., AT&T shall provide customer notice to affected customers a minimum of 30 days prior to any increase in rates. It is, further,

ORDERED, That the proposed tariff revisions are approved as discussed above. AT&T is authorized to file complete copies of tariffs in final form consistent with this finding and order. AT&T shall file one copy in its TRF docket (or may make such filing electronically as directed in Case No. 06-900-AU-WVR), and one copy in this case docket. It is, further,

ORDERED, That, except as specifically provided for in this finding and order, nothing shall be binding upon the Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO



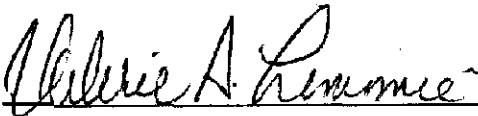
Alan R. Schriber, Chairman



Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie




Cheryl L. Roberto

JML:ct

Entered in the Journal

FEB 25 2009



Renee J. Jenkins  
Secretary

**AT&T Ohio**  
**Case No. 08-1281-TP-BLS**  
**Test 4 Results**

<u>Exchange Name</u>	<u>Test Used</u>	<u>% Access Lines Lost</u>	<u># of Unafit. F.B. Alt. Providers</u>	<u>Names of Unaffiliated F.B. alt. providers</u>	<u>Test #4 Result</u>
1 Fultonham	4	15.01%	6	ACN Communication First Communications MCI / WorldCom Revolution Comm. Sage Telecom Trinsic Comm.	Approved
2 New Riegel	4	16.72%	6	ACN Communication First Communications MCI / WorldCom Revolution Comm. Sage Telecom Verizon Wireless	Approved
3 South Solon	4	21.88%	5	First Communications Level 3/Alt. Provider MCI / WorldCom Revolution Comm. Sage Teleocm	Approved
4 West lafayette	4	15.79%	7	ACN Communication First Communications MCI / WorldCom Revolution Comm. Sage Telecom Trinsic Comm. Verizon Wireless	Approved