

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Sage)
Telecom, Inc. for a "Me Too" Waiver of the)
Minimum Telephone Service Standard Set)
Forth in Rule 4901:1-5-03(B), Ohio Admin-) Case No. 09-156-TP-WVR
istrative Code, Pertaining to the Distribution)
of Printed White Pages Directory Listings.)

In the Matter of the Application of tw tele-)
com, of Ohio llc for a "Me Too" Waiver of)
the Minimum Telephone Service Standard)
Set Forth in Rule 4901:1-5-03(B), Ohio) Case No. 09-157-TP-WVR
Administrative Code, Pertaining to the Dis-)
tribution of Printed White Pages Directory)
Listings.)

In the Matter of the Application of NuVox)
Communications Company for a "Me Too")
Waiver of the Minimum Telephone Service)
Standard Set Forth in Rule 4901:1-5-03(B),) Case No. 09-158-TP-WVR
Ohio Administrative Code, Pertaining to the)
Distribution of Printed White Pages)
Directory Listings.)

In the Matter of the Application of Nexus)
Communications, Inc. dba TSI for a "Me)
Too" Waiver of the Minimum Telephone)
Service Standard Set Forth in Rule 4901:1-5-) Case No. 09-159-TP-WVR
03(B), Ohio Administrative Code, Pertaining)
to the Distribution of Printed White Pages)
Directory Listings.)

In the Matter of the Application of LDMI)
Telecommunications for a "Me Too" Waiver)
of the Minimum Telephone Service)
Standard Set Forth in Rule 4901:1-5-03(B),) Case No. 09-160-TP-WVR
Ohio Administrative Code, Pertaining to the)
Distribution of Printed White Pages)
Directory Listings.)

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In the Matter of the Joint Application of First)
 Communications, LLC and GCI Globalcom,)
 Inc. dba First Communications for a "Me)
 Too" Waiver of the Minimum Telephone)
 Service Standard Set Forth in Rule 4901:1-5-) Case No. 09-284-TP-WVR
 03(B), Ohio Administrative Code, Pertaining)
 to the Distribution of Printed White Pages)
 Directory Listings.)

ENTRY

The Commission finds:

- (1) On February 11, 2009, the Commission issued a finding and order (the AT&T Order) in Case No. 09-42-TP-WVR (09-42) that granted the applicant in that case, AT&T Ohio, a limited waiver from 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 local exchange companies (LECs) are to supply directory information 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), requires LECs, unless they provide a free directory assistance service, to provide, annually, a free, printed directory of all published telephone numbers in current use within the customer's local calling area. MTSS Rule 3(B) allows the LEC to give customers the option to request an electronic directory, where available, so long as that electronic directory is provided at no charge.

The AT&T Order granted the company's waiver application and, as such, effectively authorized AT&T Ohio to cease providing, automatically, an annual, printed directory to all of its customers and to begin providing them, through the company's website, an electronic directory instead, so long as AT&T Ohio continues to provide a free printed directory to those customers who act affirmatively to receive one, and so long as AT&T Ohio meets certain other conditions set forth in the AT&T Order.

- (2) On March 3, 2009, and April 1, 2009, various involved LECs filed, in each of the above-captioned cases, respective applications which seek to have the Commission grant a "me too" waiver that would,

in effect, relieve each respective LEC applicant¹ from compliance with MTSS Rule 3(B) to the same extent such waiver relief was granted to AT&T Ohio through the AT&T Order. Each of the LEC applicants state, within its respective waiver application, that it is authorized to provide local telecommunication services in AT&T Ohio's territory and relies exclusively on AT&T Ohio for delivery of the white pages directories to its customers within AT&T Ohio's service territory. Each applicant's own respective interconnection agreement with AT&T Ohio governs the terms and conditions of the directory services that AT&T Ohio provides to each LEC applicant. Pursuant to the terms of the respective interconnection agreements, each LEC applicant received from AT&T Ohio, following the issuance by the Commission of the AT&T Order, an "Accessible Letter" that notified the LEC applicant that AT&T "is no longer providing copies of its residential white pages in the Cleveland and Columbus directory markets, under terms consistent with the waiver that was granted" pursuant to the AT&T Order. The Accessible Letter indicates that additional directory markets will be identified in future accessible letters.

- (3) In support of its respective "me too" waiver application, each LEC applicant states that, without the delivery of AT&T Ohio's residential white pages directory, it cannot comply with MTSS Rule 3(B). It is for this reason that each LEC applicant claims that it now seeks, "as a direct consequence of the Commission grant" of AT&T's waiver request, and "in order to remain in compliance" with MTSS Rule 3(B), a "me too" waiver identical in scope to that granted to AT&T Ohio.
- (4) The Office of the Consumers' Counsel (OCC) filed on March 18, 2009, in 09-156, 09-159, and 09-160, and filed on April 14, 2009, in 09-284, a motion to intervene and a memorandum contra the respective application. In each of the four cases, OCC makes the same arguments in support of its pleadings. The LEC applicants in each of the three earlier filed cases, in turn, namely Sage, Nexus, and Cavalier filed respective replies to the memoranda contra filed

¹ The applicants are: in Case No. 09-156-TP-WVR (09-156), Sage Telecom, Inc. (Sage); in Case No. 09-157-TP-WVR (09-157), tw telecom of Ohio llc (tw telecom); in Case No. 09-158-TP-WVR (09-158), NuVox Communications Company of Ohio, Inc. (NuVox); in Case No. 09-159-TP-WVR (09-159), Nexus Communications, Inc. dba TSI (TSI); in Case No. 09-160-TP-WVR (09-160), LDMI Telecommunications dba Cavalier Telephone dba Cavalier Business Communications dba Cavalier Telephone and TV and Talk America Inc. dba Cavalier Telephone dba Cavalier Business Communications dba Cavalier Telephone and TV (Cavalier); and in Case No. 09-284-TP-WVR (09-284), First Communications, LLC and GCI Globalcom, Inc. dba First Communications (collectively, First Communications).

by OCC. All of the arguments made in the three replies are identical. OCC's motion to intervene is granted.

- (5) In support of its memoranda contra, OCC observes that the only means by which the involved LEC applicants propose to notify their customers about the customers' options for receiving residential white pages directory information are those provided for in the AT&T Order. In short, the involved LEC applicants' customers will be notified only: (1) through a one-page informational notice inside AT&T Ohio's yellow pages directory and (2) through a "ride-along" notice affixed to the first yellow pages directory that A&T Ohio issues.² OCC argues this methodology constitutes inadequate notice to the involved customers for four reasons:
- (a) Providing notice in the AT&T Ohio yellow pages will be ineffective in making customers aware that they must contact AT&T Ohio to obtain a directory, especially because there is no assurance that the customers will retain the AT&T yellow pages directory, or either see or read the "ride along" notice affixed to it.
 - (b) Customers of the LEC applicants are not necessarily also customers of AT&T Ohio, so even if they read the notice, they might not realize they need to contact AT&T Ohio to request a printed directory.
 - (c) The Commission, in the AT&T Order, should have, but did not, specifically direct that the informational page that AT&T Ohio will insert into the yellow pages directory must appear there each year.³
 - (d) The Commission's directive in the AT&T Order that the informational page must "describe all of the alternatives for acquiring residential directory information" is different and less stringent than the

² OCC notes that such "ride along" notice will not be accompanied by any printed residential white pages directory.

³ The Commission notes that OCC made this argument in its March 18, 2009, pleadings in 09-156, 09-159, and 09-160, but did not repeat this argument within its April 14, 2009, pleadings in 09-284, apparently because, in the meantime, on April 1, 2009, in 09-42, the Commission had issued an entry on rehearing that clarified the need for the notice in question to be published annually.

standard the Commission adopted in an earlier case [Case No. 08-1197-TP-WVR (08-1197)] involving a similar waive request by Cincinnati Bell Telephone Company (the CBT Order) and, as such, provides AT&T Ohio too much latitude regarding the directions that customers are given in order to request a printed directory. In this regard, OCC submits that the Commission should require the LEC applicants to inform their customers, through bill messages, bill inserts, and other means, of the options for obtaining residential white pages information electronically and of the need to contact AT&T Ohio to request delivery of a printed white pages directory from AT&T Ohio.

- (6) In their respective replies to OCC's memorandum contra, Sage, Nexus, and Cavalier each argue that the concerns raised by OCC are baseless for the following reasons:
 - (a) There is fallacy in OCC's claim that competitive LEC (CLEC) customers, because they are accustomed to dealing with their particular CLEC, may not make the connection that they need to contact AT&T Ohio in order to receive a printed directory. The truth, say the three LEC applicants, is that CLEC customers have no experience in dealing directly with the CLECs for directory information. Such services have always been provided by AT&T Ohio on a wholesale basis.
 - (b) The front of the yellow pages directory, claim the three LEC applicants, is a much more logical place to put directory-related information than in a bill insert or bill message. While it is conceivable that customers may dispose of the AT&T Ohio yellow pages, the probability is remote that a bill insert would last longer and thus would be a more effective means of conveying directory-related information.

For Sage, Nexus, and Cavalier, the bottom line is that the most logical placement of instructions for obtaining a residential white pages directory is in the informational portion of the directory. That is precisely what AT&T Ohio had proposed and it is what the

Commission has approved. The three LEC applicants submit that OCC has provided no reason to revisit the issue.

- (7) Upon review of all relevant pleadings of record, the Commission determines that the LEC applicants should be afforded the same flexibility afforded AT&T Ohio to provide white pages directory information electronically in the first instance rather than through providing a printed white pages directory automatically regardless of whether the customer wants one or not. Similar to our determination in the AT&T Ohio rehearing entry issued on April 1, 2009, in 09-42, the LEC applicants continue to have the obligation, under the MTSS, to deliver annually a free, printed white pages directory to any customer who requests one. However, for those customers who do not want the directory, our decision merely excuses the LEC applicants from the obligation to deliver the printed directory and instead provide their customers with notice of one or more website(s) where free online viewing of their residential white pages listings is available. We highlight the fact that we are not granting a waiver of the rule so much as we are entertaining a third methodology by which the LEC applicants can satisfy their directory obligations. As such, we note that the primary objective of MTSS Rule 3(B), that customers receive free access to directory information, is still intact. As was noted in the April 1, 2009, entry on rehearing in 09-42, more and more people are getting serious about conserving resources and eliminating waste. Granting the LEC applicants the same flexibility afforded AT&T Ohio provides a method to overcome a natural inertia that might otherwise cause people to continue to receive a telephone directory that they neither want nor use.

OCC's objections to the timing of the informational page, and the adequacy of a notice in the AT&T Yellow Pages as opposed to other methods (i.e., bill inserts or bill messages) of notice were thoroughly addressed in the 09-42 rehearing entry. In the April 1, 2009, rehearing entry, the Commission found that AT&T Ohio's notice provides customers with clear, explicit, and adequate notice of ways in which to request a printed residential white pages directory. Further, the Commission clarified that AT&T Ohio must provide this notice annually. Since AT&T Ohio is the directory services provider to the LEC applicants, the customers of the LEC applicants will obtain directory services in the same manner as AT&T Ohio customers. Regarding OCC's concern that customers of the LEC applicants may not know to contact AT&T Ohio for a

printed white pages directory, we agree with the LEC applicants that CLEC customers are used to obtaining directory services from AT&T Ohio and not from the CLECs. Thus, it would not be unusual for a CLEC customer to contact AT&T Ohio concerning a directory issue.

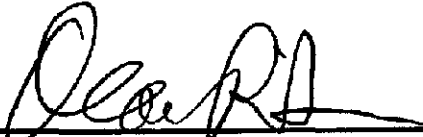
It is, therefore,

ORDERED, That OCC's motion to intervene is granted. It is, further,

ORDERED, That the applications filed in the above-cited cases be granted in accordance with finding (7). It is, further,

ORDERED, That a copy of this entry be served upon the LEC applicants, the Office of the Ohio Consumers' Counsel, and upon all other interested persons of record.


THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman


Paul A. Centolella


Ronda Hartman Fergus

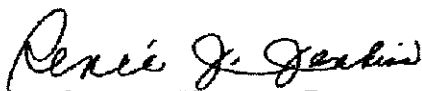

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Secretary