

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Verizon North, Inc. for Approval of an)	Case No. 08-989-TP-BLS
Alternative Form of Regulation of Basic)	
Local Exchange Service and Other Tier 1)	
Services Pursuant to Chapter 4901:1-4,)	
Ohio Administrative Code.)	

**MOTION TO REOPEN
OR, ALTERNATIVELY, MOTION TO ABROGATE OR MODIFY THE ORDER
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC"), an intervenor in this proceeding on behalf of residential utility customers,¹ moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") reopen this proceeding.² Alternatively, OCC moves the Commission to abrogate or modify the Order in this proceeding,³ pursuant to R.C. 4903.10. OCC files this Motion in order to bring to the PUCO's attention the fact that AT&T has discontinued its CallVantage Internet-based service. The Commission apparently relied upon the CallVantage service as an alternative provider in granting basic service alternative regulation ("alt. reg.") to Verizon North, Inc. ("Verizon") in the Cambridge, Montrose and Norwalk exchanges. There is good cause for granting OCC's Motion, as explained in the following memorandum.

¹ OCC's motion to intervene was granted by Entry dated October 10, 2008.

² OCC moves to reopen pursuant to Ohio Adm. Code 4901-1-12 and 4901-1-34.

³ Opinion and Order (March 18, 2009).

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

/s/ Terry L. Etter

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MEMORANDUM IN SUPPORT

OCC requests the Commission to reopen this proceeding. Under Ohio Adm. Code 4901-1-34, the Commission may reopen a proceeding before the issuance of a final order.⁴ On March 18, 2009, the Commission issued the Order that granted Verizon the ability to raise the rates it charges customers for basic service in 21 exchanges, including the Cambridge, Montrose and Norwalk exchanges.⁵ On April 17, 2009, OCC filed an Application for Rehearing of the Order. This proceeding is in the rehearing stage.

Ohio Adm. Code 4901-1-34(B) requires that a motion to reopen a proceeding must specifically set forth the purpose of the requested reopening. If the purpose is to permit the presentation of additional evidence, the motion must specifically describe the nature and purpose of the evidence, “and shall set forth facts showing why such evidence could not, with reasonable diligence, have been presented earlier in the proceeding.” As discussed below, the information did not become available until April 22, 2009 – five days after OCC filed its Application for Rehearing. Thus, OCC could not have presented the new information to the Commission before now.

⁴ Ohio Adm. Code 4901-1-34(A).

⁵ See Order, Attachment A.

OCC asks that the PUCO reopen the proceeding so that OCC may bring to the Commission's attention a relevant new fact regarding a carrier that the Commission recognized as an alternative provider of residential service in granting Verizon basic service alt. reg. in the Cambridge, Montrose and Norwalk exchanges. OCC has filed an application for rehearing in this proceeding, but Verizon has not. Thus, under the Commission's rules, OCC has no further opportunity to bring the new information to the Commission's attention other than through this Motion.⁶

In order to authorize basic service alt. reg. for Verizon in the three exchanges, the Commission had to find, among other things, that there were five alternative providers serving residential customers in those exchanges.⁷ Among the alternative providers that the Commission found to be serving residential customers in the three exchanges was AT&T's wireline competitive local exchange carrier ("CLEC").⁸ AT&T, however, does not serve residential customers through its tariffed CLEC offering, but instead has offered residential service outside its incumbent local exchange territory only through an Internet-based service named CallVantage.⁹

But AT&T no longer offers the CallVantage service. AT&T's website states that it is not accepting new CallVantage customers.¹⁰ According to a press report, "All of the

⁶ See Ohio Adm. Code 4901-1-35.

⁷ See id. at 3.

⁸ See id. at 11-12.

⁹ See OCC Application for Rehearing at 13.

¹⁰ See http://www.usa.att.com/callvantage/consumer_redirect.jsp (accessed April 23, 2009).

company's current CallVantage residential and business customer accounts will be retired in phases by the end of the year. Customers will be given the opportunity to switch to either another AT&T service, transfer to another service provider or disconnect service altogether."¹¹ Apparently, the only other Internet-based product that AT&T offers is its U-verse service, which apparently is not available in the three exchanges.¹²

Based on the above, the Commission should grant OCC's Motion to Reopen this proceeding, in order to protect Verizon's customers who now are subject to increases in the charges for basic service. In the alternative, the Commission should abrogate or modify the Order under R.C. 4903.10, and reject AT&T as an alternative provider of residential service in the Cambridge, Montrose and Norwalk exchanges. As a result, Verizon would not qualify for basic service alt. reg. in the Cambridge exchange.¹³

Respectfully submitted,

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¹¹ See "AT&T pulls the plug on CallVantage phone service," Dayton Business Journal (April 22, 2009) (available at <http://dayton.bizjournals.com/dayton/stories/2009/04/20/daily49.html?surround=lfm>).

¹² See http://www.com.ohio.gov/admn/docs/vsa_ATT_service_areas.pdf

¹³ See Order, Attachment A.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion by the Office of the Ohio Consumers' Counsel was served by electronic mail to the persons listed below, on this 24th day of April 2009.

/s/ Terry L. Etter

Terry L. Etter

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Summary: Motion Motion to Reopen Or, Alternatively, Motion to Abrogate or Modify the Order 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