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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Complaint of:

AMERICAN BROADBAND AND  
TELECOMMUNICATIONS COMPANY,

Complainant,

v.

VERIZON NORTH, INC.,

Respondent.

PUCO

Case No. 10-553-TP-CSS

**COMPLAINT AND REQUEST FOR EXPEDITED RULING**

Pursuant to Ohio Revised Code ("R.C.") §4905.26, AMERICAN BROADBAND AND TELECOMMUNICATIONS COMPANY ("AMBT"), whose business address is 104 North Summit Street, 3<sup>rd</sup> Floor, Toledo, Ohio 43604, respectfully files this Complaint against VERIZON NORTH, INC. ("Verizon"), for violations of R.C. §4905.22, failure to provide adequate service, and for other violations of regulatory and contractual obligations, as more fully described herein and set forth in the Interconnection Agreement between the parties (the "Interconnection Agreement") and Verizon tariffs on file with the Public Utilities Commission of Ohio (the "Commission"). Accordingly, Complainant AMBT states as follows:

**PARTIES AND JURISDICTION**

1. Complainant AMBT is an Ohio corporation authorized by the Commission to provide telecommunications services in the State of Ohio. Among other things, AMBT provides, through its own facilities and on a resale basis, telephone services to various end users, including without limitations end users located within the service area of Verizon.

2. Respondent Verizon is authorized to operate within Ohio as a "public utility" and "telephone company," as these terms are defined in R.C. §§4905.02 and 4905.03(A)(3).

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3. Complainant AMBT must utilize Respondent Verizon's network to provide service to its own end user customers within the areas served by Respondent and, thus, is subject, without choice, to the facilities, services and processes as provided by Verizon. AMBT is also in competition with Verizon in the provision of local telephone services and other competitive telephone services in Ohio.

4. Respondent Verizon provides services to AMBT pursuant to Verizon tariffs on file with the Commission and the Interconnection Agreement.

5. The Commission has jurisdiction to entertain this complaint pursuant to R.C. §4905.26, which authorizes the Commission to hear and review the adequacy and reasonableness of any service provided by a public utility upon a complaint that such service is "in any respect unreasonable, unjust, discriminatory, or preferential, or that any service is, or will be, inadequate or cannot be obtained."

6. The Commission also has jurisdiction over this complaint pursuant to Section 251 and 252 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. §§ 251 & 252.

7. Complainant AMBT is requesting an expedited ruling, pursuant to Ohio Administrative Code ("A.C.") §4901:1-7-28, because this dispute directly and immediately affects the ability of AMBT to provide uninterrupted service to its customers and precludes the provisioning of services, functionality, and network elements under the Interconnection Agreement.

#### FACTUAL BACKGROUND

8. AMBT purchases services on a wholesale basis from Verizon and resells those services to AMBT customers. Charges from Verizon to AMBT are established and limited by, among other things, an Interconnection Agreement and applicable Verizon tariffs.

9. At all times relevant to these proceedings, Verizon has invoiced AMBT and demanded payment of charges in excess of those established by the Interconnection Agreement and applicable Verizon tariffs, including but not limited to charges relating to local calls and local package bundles, charges relating to services never provided by Verizon, and late charges improperly applied by Verizon

to AMBT's account.

10. AMBT submitted timely disputes with respect to all charges at issue herein and conducted extensive negotiations with Verizon, and in some instances this Commission. Throughout said negotiations, Verizon, through its authorized representatives, allowed a significant number of disputes, identified by both batch number and amount, and agreed to apply a credit to AMBT's account for said allowed disputes.

11. Following AMBT's repeated requests for written verification of the allowed disputes and credits applied to the AMBT account, Verizon denied said disputes, without justification and without further explanation. Accordingly, Verizon's invoicing to AMBT still contains charges that are incorrect and improper.

12. In selling and providing telephone services to its customers, AMBT often submits loop and port orders to Verizon, whereby Verizon, upon acceptance, is obligated to establish a loop or path for voice and data transmissions and a port consisting of switching and other facilities to enable dial tone, switching, and access to other services, thereby establishing telephone services to and from AMBT's designated end user customer.

13. Many of the prospective AMBT customers are Verizon customers who have chosen to switch service from Verizon to AMBT. This process entails, among other things, the customer requesting service from AMBT and supplying a letter of authority to transfer service, AMBT submitting a loop and port order to Verizon to facilitate the transfer of customer's account and caller detail from Verizon's network and facilities to AMBT's network and facilities, and Verizon's timely provisioning of the account in its switch to enable telephone calls to originate and terminate from and to the customer's assigned telephone number.

14. At all times relevant to this complaint, and with respect to customer accounts to be transferred to AMBT from Verizon, AMBT submitted timely, complete and proper loop and port orders

to Verizon requesting, among other things, that Verizon provision its facilities to enable each customer's account and caller detail to transfer from Verizon's network and facilities to AMBT's network and facilities and to allow each such customer to originate and terminate telephone calls from and to said customer's assigned telephone number as a customer of AMBT.

15. The processes for transferring a customer from Verizon's network and facilities to AMBT's network and facilities has been established by Verizon, as published out of Verizon's central office. At all times relevant to these proceedings, AMBT followed and complied with all such processes, as evidenced by Verizon's acceptance and initial processing of AMBT's orders.

16. Notwithstanding AMBT's full compliance with the processes, Verizon failed and refused to follow the same processes, as applied by and to Verizon. Beginning in late 2007, and with greater frequency after closure of Verizon's Couer De Lane National Open Market Center, AMBT loop and port orders submitted to Verizon began failing, in that during the cut-over from prior services to AMBT-provided services, prospective customers of AMBT would experience no dial tone for, on average, three (3) days, resulting in a complete inability to make or receive telephone calls.

17. At all times relevant to this complaint, and with respect to all customer accounts at issue in this complaint, AMBT provided Verizon with notice of the deficiencies in service and filling the loop and port orders, and Verizon acknowledged an ongoing software problem in its facilities. Specifically, Verizon stated a software issue originating from its National Open Market Center was causing the no-dial-tone issues. According to Verizon, this software problem caused AMBT's loop and port orders to fail, and Verizon failed and refused to fix said deficiencies despite repeated demands of AMBT. On information and belief, Verizon continues in its failure and/or refusal to fix the "software problem," resulting in significant deficiencies in service which are burdensome to AMBT and interfere with AMBT's ability to conduct business.

18. In acknowledging the deficiencies and issues complained of herein, Verizon granted

certain disputes and gave credits for some universal service order codes, mostly pertaining to non-recurring installation charges, directly relating to and arising out of the orders and services negatively affected by said deficiencies and issues, including but not limited to the no-dial-tone issue.

19. At various times and throughout the period relevant to this complaint, AMBT personnel met with Verizon personnel and, in some instances, Commission staff, to specify the nature and extent of all issues, including but not limited to the software problem, negatively impacting loop and port orders submitted by AMBT and the transfer of

20. As a direct and proximate result of Verizon's deficiencies, AMBT's business has been interfered with and negatively impacted, in that AMBT's prospective customers, many of whom are current Verizon customers, upon experiencing deficiencies in service caused by Verizon in its failure and/or refusal to complete each cut-over and fill each loop and port order, canceled the prospective service with AMBT and returned to their former service provider, in many cases Verizon.

21. As a direct and proximate result of Verizon's deficiencies, Verizon has hindered the portability of telephone numbers assigned to prospective customers of AMBT, all to the detriment of AMBT's business and each affected customer.

#### CLAIMS FOR RELIEF

22. R.C. §4905.22 provides as follows:

Every public utility shall furnish necessary and adequate service and facilities, and every public utility shall furnish and provide with respect to its business such instrumentalities and facilities, as are adequate and in all respects just and reasonable. All charges made or demanded for any service rendered, or to be rendered, shall be just, reasonable, and not more than the charges allowed by law or by order of the public utilities commission, and no unjust or unreasonable charge shall be made or demanded for, or in connection with, any service, or in excess of that allowed by law or by order of the commission.

23. Among other things, by failing and/or refusing to fix the software problem affecting its facilities and failing and/or refusing to fill timely and complete loop and port orders properly submitted

by AMBT, Verizon failed and refused, and continues in its failure and refusal, to furnish necessary and adequate service and facilities and to provide adequate, just and reasonable instrumentalities and facilities, all in violation of R.C. §4905.22.

24. Among other things, by failing and/or refusing to submit correct invoicing to AMBT, reflecting only lawful charges and those charges authorized pursuant to the Interconnection Agreement and applicable Verizon tariffs, and by failing and/or refusing to correct said invoicing, in spite of acknowledging AMBT's disputes as justified and allowed, Verizon failed and refused, and continues in its failure and refusal, to invoice and demand only those charges that are just, reasonable and allowed, all in violation of R.C. §4905.22.

25. R.C. §4905.35 provides, in pertinent part:

No public utility shall make or give any undue or unreasonable preference or advantage to any person, firm, corporation, or locality, or subject any person, firm, corporation, or locality to any undue or unreasonable prejudice or disadvantage.

26. Among other things, in failing and/or refusing to fix the software problem affecting its facilities and failing and/or refusing to fill timely and complete loop and port orders properly submitted by AMBT, Verizon has subjected AMBT and prospective customers of AMBT to undue and unreasonable prejudice and disadvantage, including but not limited to interfering with AMBT's business and interfering with said customer's right to select the service provider of its choice and port said customer's assigned telephone number from Verizon to AMBT, all in violation of R.C. §4905.35.

27. Among other things, in invoicing AMBT and demanding charges that are unjust, unreasonable, and in excess of lawful charges, including without limitation those charges established in the Interconnection Agreement and applicable Verizon tariffs, Verizon has subjected AMBT and AMBT's customers to undue and unreasonable prejudice and disadvantage, including but not limited to interfering with AMBT's ability to conduct business and with the rights of AMBT and AMBT's customers to be free from prejudicial treatment, all in violation of R.C. §4905.35.

28. Pursuant to R.C. §4927.02, it is the policy of Ohio to ensure adequate telephone service to all end users and to promote fair competition and opportunity among multiple providers of competing and functionally equivalent telecommunications services. Among other things, in failing and/or refusing to fix the software problem affecting its facilities and failing and/or refusing to fill timely and complete loop and port orders properly submitted by AMBT, Verizon has failed and/or refused to promote fair competition and opportunity as to AMBT.

WHEREFORE, the Complainant respectfully requests that the Commission provide the following relief:

A. Accept this Complaint pursuant to R.C. §4905.26 and A.C. §4901:1-7-28;

***B. Schedule this matter for expedited treatment and determine that reasonable grounds exist for the complaint;***

C. Find that Verizon's invoices and demands for charges in excess of those established in the Interconnection Agreement and applicable Verizon tariffs are unjust, unreasonable and in violation of federal law, Ohio law and the Interconnection Agreement and applicable Verizon tariffs;

D. Find that Verizon's invoices and demands for charges in excess of those established in the Interconnection Agreement and applicable Verizon tariffs constitute anti-competitive practices in direct interference with AMBT's business and financial arrangement with its customers;

E. Require Verizon to correct all invoicing and charges and issue all credits, all in accordance with AMBT's disputes, and further require Verizon forthwith to invoice and demand only those charges that are just, reasonable, and in accord with the Interconnection Agreement and applicable Verizon tariffs;

F. Find that Verizon's rejection of and/or failure to fill and complete valid loop and port orders and corresponding local number portability requests is a violation of federal law, Ohio law and the Interconnection Agreement and applicable Verizon tariffs;

G. Find that Verizon's rejection of and/or failure to fill and complete valid loop and port orders and corresponding local number portability requests is an anti-competitive practice and in direct interference with AMBT's business and financial arrangement with its customers, including without limitation prospective customers;

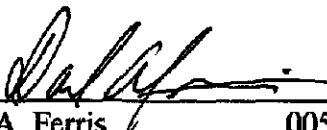
H. Require Verizon forthwith to repair any deficiencies in processes or facilities, including without limitation software problems, and to provide adequate and reasonable processes and facilities to properly fill all loop and port orders submitted by AMBT and protect against any service outages during the cut-over from Verizon to AMBT;

I. Apply all findings and conclusions to all past, present and future disputes on these issues; and

J. Provide any other relief the Commission deems appropriate.

Respectfully submitted,

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