

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of:	)	
	)	
AMERICAN BROADBAND AND	)	
TELECOMMUNICATIONS COMPANY,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 10-533-TP-CSS
	)	
VERIZON NORTH, INC.	)	
	)	
Respondent.	)	

**VERIZON’S OPPOSITION TO REQUEST FOR EXPEDITED RULING**

**I. INTRODUCTION**

Verizon North, Inc. (“Verizon”) hereby responds to the “Request for Expedited Ruling” included in the Complaint filed by American Broadband and Telecommunications Company (“AMBT”) with the Public Utilities Commission of Ohio (“Commission”) in the above-captioned matter on April 19, 2010.

The Commission issued a notice on April 20, 2010 serving a copy of AMBT’s Complaint and Request for Expedited Ruling directing Verizon to file an Answer to the Complaint within 20 days of service of the notice and Complaint. Thus, it appears that the Commission has already determined that an expedited ruling is not appropriate in this case. However, in accordance with OAC 4901:1-7-28 and out of an abundance of caution, Verizon provides this response to demonstrate that AMBT’s Complaint does not qualify for an expedited ruling in any event.

AMBT’s Complaint is a billing dispute disguised as a customer-impacting dispute in an attempt to qualify for the expedited ruling relief available under OAC section 4901: 1-7-28. But

AMBT has no outstanding issues regarding Verizon's ability to fill and complete loop and port orders and corresponding local number portability ("LNP") requests in a timely manner.

Conspicuously absent from AMBT's Complaint are any claimed circumstances related to specific customers or telephone numbers that were impacted by problems with Verizon's loop and port systems or processes.

Certain software issues that impacted AMBT related to line, port, and LNP provisioning did exist, but they were identified in late 2008 and fully resolved in early 2009. While LNP software issues have long-since been resolved, AMBT persists in disputing portions of bills for services rendered to it by Verizon. Regardless of their merits, billing disputes clearly do not warrant an expedited ruling under the Commission's rules.<sup>1</sup> AMBT's Complaint does not state any specific circumstances that demonstrate there are any existing problems with Verizon's loop and port ordering systems or processes, or with requests for LNP associated with loop and port orders. For these reasons, and as discussed in further detail below, AMBT's Complaint does not qualify for an expedited ruling, and one should not be issued.

Section 4901: 1-7-28 provides in pertinent part:

- (A) This rule establishes procedures pursuant to which a telephone company who files a complaint against another telephone company pursuant to section 4905.26 of the Revised Code, *may request an expedited ruling when the dispute directly affects the ability of a telephone company to provide uninterrupted service to its customers or precludes the provisioning of any service, functionality, or network element under an interconnection agreement.* The attorney examiner has the discretion to determine whether the resolution of the complaint may be expedited based on the complexity of the issues or other factors deemed relevant. Unless otherwise determined during the course of the proceeding, the provisions and procedures set forth in section 4905.26 of the Revised Code, and Chapters 4901-1 and 4901-9 of the Administrative Code, shall apply.

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<sup>1</sup> See *In the Matter of the Complaint of tw telecom of ohio llc v. AT&T Ohio*, PUCO Case No. 08-1215-TP-CSS (Entry, November 21, 2008) ("08-1215"). tw telecom of ohio llc is referred to hereafter as "Time Warner Telecom of Ohio."

- (B) Any request for expedited ruling shall be filed at the same time and in the same document as the complaint filed under section 4905.26 of the Revised Code. The complaint shall be entitled “complaint and request for expedited ruling.” *A complaint seeking an expedited ruling shall also state the specific circumstances that make the dispute eligible for an expedited ruling.* The complainant shall simultaneously serve a copy of the complaint and request for expedited ruling on the respondent and the chief of the telecommunications section of the legal department by hand delivery or facsimile on the same day as it is filed with the commission.<sup>2</sup>

## II. ARGUMENT

### 1. **AMBT’s Complaint Is A Billing Dispute and therefore does not qualify for an expedited ruling.**

AMBT’s Complaint centers on allegations that Verizon has improperly billed AMBT for services Verizon provides. AMBT asserts that “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.”<sup>3</sup> AMBT references purported billing and invoicing disputes throughout its Complaint and devotes three separate paragraphs describing the relief it seeks based on its billing and invoice allegations.<sup>4</sup> These allegations and requests for relief are nothing more than unsupported billing disputes that have nothing to do with Verizon’s provision of service to AMBT. The Complaint does not allege, because it cannot, that the purported billing and invoicing issues directly affect the ability of AMBT “to provide

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<sup>2</sup> OAC section 4901: 1-7-28(A) and (B) (emphasis supplied). Moreover, AMBT also failed to comply with the service requirements of this rule. Section (B) requires the complainant to “simultaneously serve a copy of the complaint and request for expedited ruling on the respondent and the chief of the telecommunications section of the legal department by hand delivery or facsimile on the same day as it is filed with the commission.” AMBT sent a “courtesy copy” of the request via e-mail to Verizon’s outside counsel, Tom Lodge, on April 20, one day after the Complaint was filed.

<sup>3</sup> Complaint at 2, ¶ 9.

<sup>4</sup> *Id.* at ¶¶ 8, 9, 10, 11, 24, 27 and C, D and E of its request for relief.

uninterrupted service to its customers” or that they preclude AMBT’s ability to provision any service, functionality, or network element under the Verizon/AMBT interconnection agreement, as required under OAC 4901:1-7-28(A). AMBT makes general allegations regarding Verizon’s invoices but it fails to provide specific examples of bills and how they violate state law, federal law, the Verizon/AMBT ICA or Verizon’s tariffs. The Complaint does not establish any “specific circumstances” that would make AMBT’s assertions eligible for an expedited ruling, as the rule requires.

The Commission denied a similar request for an expedited ruling in Case No. 08-1215-TP-CSS, where Time Warner Telecom of Ohio requested an expedited ruling on a complaint filed against AT&T Ohio. The Commission denied the request for expedited relief after finding that the criteria set forth in OAC 4901: 1-7-28(A) were not satisfied because “the pending dispute pertains to a rule interpretation and the resulting billing ramifications.”<sup>5</sup> The Complaint in 08-1215 contained specific legal allegations about the appropriate rate to be charged for transit traffic, just as AMBT’s Complaint contains legal allegations about the appropriate rates Verizon should charge for services it provides to AMBT. As it did in 08-1215, the Commission should deny AMBT’s request for an expedited ruling because the Complaint pertains to billing disputes that do not meet the criteria set forth in OAC 4901:1-7-28.

**2. AMBT has Failed to State the Specific Circumstances that Make the Dispute Eligible for an Expedited Ruling.**

In an attempt to secure an expedited ruling on its billing disputes, AMBT attempts to relate its allegations of improper billing to purported deficiencies in Verizon’s processes for transferring customers from Verizon’s network and facilities to AMBT’s network and facilities

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<sup>5</sup> 08-1215, Entry, November 21, 2008 at ¶ 4.

that it claims date to 2007.<sup>6</sup> AMBT asserts that in 2007 when Verizon attempted to cut-over customers from its facilities to AMBT's facilities "prospective customers of AMBT would experience no dial tone for, on average, three (3) days, resulting in a complete inability to make or receive calls."<sup>7</sup> AMBT contends the deficiencies in filling loop and port orders were attributable to software problems and claims that Verizon has refused to fix the deficiencies despite repeated requests to do so resulting in "significant deficiencies in service which are burdensome to AMBT and interfere with AMBT's ability to conduct business."<sup>8</sup>

AMBT's allegations rehash concerns it raised years ago that have long-since been resolved. AMBT's Complaint fails to name any specific customers or identify any specific telephone numbers that were impacted by the alleged line and port ordering deficiencies. AMBT makes no attempt to demonstrate that there is an existing problem, much less a customer impacting problem, that "directly affects the ability of [AMBT] to provide uninterrupted service to its customers or precludes the provisioning of any service, functionality, or network element under an interconnection agreement," as OAC 4901: 1-7-28 requires. Because AMBT fails to muster even one example of a customer or telephone number impacted by loop and port ordering deficiencies it necessarily fails to "state the specific circumstances that make the dispute eligible for an expedited ruling." For this reason alone, AMBT's request for expedited ruling should be denied.

**3. AMBT has Presented No Evidence that its Dispute is Customer-Impacting.**

Regardless of AMBT's failure to support its request for an expedited ruling as required

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<sup>6</sup> Complaint at 4, ¶¶ 15 and 16.

<sup>7</sup> *Id.* at ¶ 16.

<sup>8</sup> *Id.* at ¶ 16.

by the rule, Verizon is unaware of any recent AMBT customer-impacting problems caused by Verizon's line and port ordering systems and processes, or with LNP processes associated with those orders.

The only software problems that impacted AMBT, which were related to loop and port orders and associated LNP requests, were identified in 2008 and resolved in early 2009. Since those issues were resolved, AMBT has not notified Verizon of any continuing problems with loop, port and associated LNP orders. (See affidavit of Cassandra Cole attached hereto as Exhibit A.)

AMBT did raise concerns with Verizon, and later the Commission Staff, about loop and port orders allegedly not being completed late in 2009. In response to those concerns, Verizon's account manager for AMBT at the time, Steve Graf, sent an electronic mail correspondence on December 15, 2009 to AMBT's President (Jeff Ansted) and its Director of Sales and Marketing (Jim Ravas) stating that Verizon's review of the issues raised in AMBT's informal complaint did not support AMBT's claims. Verizon's initial review indicated that all AMBT orders were completed on time and as requested by AMBT. As a result, Mr. Graf's correspondence to AMBT on December 15th stated that "[w]e will need for you to provide specific examples, with dates that show when orders were submitted, when foc's were issued and when orders did not complete as you have suggested. This is critical information that will allow us to review." AMBT never provided a response to that request, which would have allowed Verizon to conduct a review and root cause analysis of any orders that AMBT claimed had not been completed. On January 11, 2010, Cassandra Cole, Verizon's Manager of Regulatory and Government Affairs for Ohio, sent an e-mail to Commission Staff stating that Verizon requested additional information from AMBT on December 15, 2009, but never received a response and as a result it

was impossible for Verizon to further investigate AMBT's claims. (See e-mail from Cassandra Cole, Verizon, to Allen Francis and Doug Wile, Commission Staff, dated January 11, 2010, attached hereto as Exhibit B, and attached Cole affidavit.) Because AMBT failed to provide Verizon or Commission Staff information regarding the specific circumstances underlying its claims, just as it fails to do in its Complaint, it was and is impossible to investigate AMBT's general and unsupported claims. If there truly was an urgent customer-affecting issue related to line, port and LNP orders preventing AMBT from providing service, it does not stand to reason that AMBT would refuse to provide information to Verizon or Staff that would facilitate the investigation and resolution of the alleged problem in December of 2009 and wait more than four months to file a Complaint alleging an urgent, customer-affecting situation.

Moreover, Verizon's current Sales Manager for AMBT, Bob Peterson, who assumed his responsibilities in January 2010, has never been contacted by AMBT regarding any alleged problems with line and port orders, or any problems with respect to LNP requests related to such orders. (See affidavit of Bob Peterson attached hereto as Exhibit C.) Mr. Peterson verified with AMBT's former account manager, Mr. Graf, that he received no response from AMBT to his December 15, 2009 letter, or any further correspondence from AMBT regarding alleged problems with line and port orders and LNP requests associated with those orders. (See attached Peterson affidavit.) Consequently, AMBT's course of conduct with its main point of contact within Verizon (AMBT's account managers) suggests that there have been no problems with line and port orders or LNP requests associated with those orders at least since early 2009.

AMBT's silence and failure to identify any specific facts since 2009 about any problems with line and port orders and LNP requests associated with those orders is consistent with the lack of complaints from end user customers. Specifically, Verizon reviewed all complaints it has

received through its customer relations channels, including informal and formal complaints received by Verizon from the Commission that involved AMBT for 2009 and 2010. For 2009, there were ten such complaints, of which two appeared to be related to ordering errors. For 2010, there were two such complaints, neither of which involved line and port or LNP request problems attributable to Verizon. (See attached Cole affidavit.) There have been no complaints in 2010 made by end user customers through the Commission to Verizon, about problems of migrating service from Verizon to AMBT. The lack of such complaints indicates that there are no existing problems with Verizon's line and port ordering systems and processes that "directly affects the ability of [AMBT] to provide uninterrupted service to its customers or precludes the provisioning of any service, functionality, or network element under an interconnection agreement," as OAC 4901: 1-7-28 requires.

In addition, Verizon reviewed metrics from its Ohio Performance Assurance Plan ("PAP") from January 2009 through February 2010 used to measure Verizon's provision of service as applied to the service Verizon provides to AMBT. Those metrics indicate that there are no systemic operational issues with regard to the wholesale services provisioned by Verizon to AMBT. (See attached Cole affidavit.)

Taken together, the foregoing information demonstrates that there is no "emergency" or customer-impacting issues that would warrant an expedited ruling in this case.

### **III. CONCLUSION**

AMBT's Complaint is nothing more than an unsubstantiated billing dispute. AMBT attempts to tie its billing dispute to outdated LNP ordering problems that no longer exist to avail itself of the Commission's expedited ruling procedures in OAC 4901: 1-7-28. But AMBT fails to demonstrate that there is an "emergency," or any current customer-impacting issue, that



“directly affects the ability of a telephone company to provide uninterrupted service to its customers or precludes the provisioning of any service, functionality, or network element under an interconnection agreement,” as the rule requires. AMBT does not name one customer experiencing interrupted service or that could not obtain service due to its vague loop and porting allegations. Indeed, the information provided by Verizon in this Response demonstrates that there are no existing operational issues that have had any impact on AMBT customers or prospective customers at least since early 2009. The facts simply do not qualify AMBT’s request for an expedited ruling.

For all of the foregoing, AMBT’s Request for Expedited Ruling should be denied and its Complaint should proceed in the normal course.

Respectfully submitted,

Dated: April 26, 2010

**Verizon North Inc.**

By: /s/ Carolyn S. Flahive  
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Carolyn S. Flahive  
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Its Attorneys

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been served upon all parties listed below, by electronic service and U.S. mail, this 26<sup>th</sup> day of April, 2010.

David A. Ferris  
Ferris & Ferris LLP  
P.O. Box 1237  
Worthington, Ohio 43085  
[dferris@carrierlaw.com](mailto:dferris@carrierlaw.com)

Attorneys for Complainant

/s/ Carolyn S. Flahive  
Carolyn S. Flahive

## **EXHIBIT A**

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of:	)	
	)	
AMERICAN BROADBAND AND	)	
TELECOMMUNICATIONS COMPANY,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 10-533-TP-CSS
	)	
VERIZON NORTH, INC.	)	
	)	
Respondent.	)	

**AFFIDAVIT OF CASSANDRA COLE**

STATE OF OHIO	)	
	)	SS
COUNTY OF FRANKLIN	)	

I, Cassandra Cole, being first duly sworn, depose and state as follows:

1. I am Manager of Regulatory and Government Affairs for Verizon North, Inc. in Ohio. My business address is 1300 Columbus-Sandusky Road, Marion, Ohio 43302.
2. Among my job responsibilities are investigating and assisting with informal and formal complaints filed by end users and/or other carriers.
3. This declaration is submitted in support of Verizon's Objection to Request for Expedited Ruling in the above-captioned proceeding (the "Response").
4. I base this declaration on my personal knowledge. I have read the Complaint and Request for Expedited Ruling filed by American Broadband and

Telecommunications Company (“AMBT”) in Case No. 10-533-TP-CSS on April 19, 2010 (“Complaint”) and Verizon’s Response.

5. I am familiar with the software problems regarding certain line, port and Local Number Portability (“LNP”) orders that impacted AMBT in 2008. I have personal knowledge that the issues causing those problems were addressed and fully resolved in early 2009. (See Response at 6.)

6. Moreover, I was personally involved in the review and response to the informal complaint that AMBT lodged with the Staff of the Public Utilities Commission of Ohio (“Commission”). I am aware that Verizon’s initial review of AMBT’s allegation of problems concerning line and port orders and related LNP requests revealed that all AMBT orders to Verizon were completed on time and as requested by AMBT. I am further aware that Verizon’s then-account manager for AMBT, Steve Graf, sent an e-mail on December 15, 2009 to AMBT stating that “[w]e will need for you to provide specific examples, with dates that show when orders were submitted, when foc’s were issued and when orders did not complete as you have suggested. This is critical information that will allow us to review.” I have personal knowledge that AMBT never provided a response to that request. As a result, it was impossible for Verizon to conduct a review and root cause analysis of any orders that AMBT claimed had not been completed, which I noted in a January 11, 2010 email, that I sent to Commission Staff. (See e-mail attached to Response from Cassandra Cole, Verizon, to Allen Francis and Doug Wile, Commission Staff, dated January 11, 2010.)

7. In addition, I have personal knowledge that Verizon’s subject matter experts undertook a review of metrics from Verizon’s Ohio Performance Assurance Plan (“PAP”) from January 2009 through February 2010 that are used to measure Verizon’s provision of service specifically to AMBT. Those metrics indicate that there are no systemic operational issues with regard to the wholesale services provisioned by Verizon to AMBT. (See Response at 8.)

8. I have personal knowledge that Verizon reviewed all complaints it has received through its customer relations channels, including informal and formal complaints received by Verizon from the Commission that involved AMBT for 2009 and 2010. For 2009, there were ten such complaints, of which two appeared to be related to ordering errors. For 2010, there were two such complaints, neither of which involved line and port or LNP request problems attributable to Verizon.

I declare under penalty of perjury under the laws of the State of Ohio and of the United States of America that the foregoing is true and correct to the best of my information, knowledge and belief.

Executed this 26<sup>th</sup> day of April, 2010 at Columbus, Ohio.

Cassandra Cole  
Cassandra Cole

SUBSCRIBED AND SWORN to  
before me this 26th day of April, 2010.

Carolyn S. Flahive  
Notary Public



CAROLYN S. FLAHIVE  
Attorney at Law  
Notary Public, State of Ohio  
My Commission Has No Expiration  
Section 147.03 R.C.

My commission expires on \_\_\_\_\_.

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## **EXHIBIT B**



**From:** Cole, Cassandra F  
**Sent:** Monday, January 11, 2010 2:40 PM  
**To:** 'allen.francis@puc.state.oh.us'; 'Wile, Doug'  
**Subject:** Informal Commission complaints American BB Problems -

Doug/Allen,

We sent the email below to AB on 12-15 and have not heard anything from them. I cannot investigate until/unless they provide add'l information.

Cassandra Cole

Manager - Regulatory & Gov't Affairs

Office 740-383-0490

Fax 740-383-0491

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**From:** Graf, Steven L [mailto:steven.graf@verizonbusiness.com]  
**Sent:** Tuesday, December 15, 2009 12:31 PM  
**To:** jravas@ambt.net; Jeff Ansted  
**Cc:** Cole, Cassandra F; Sheridan, Emil O; Peterson, Robert J  
**Subject:** Informal Commission complaints American BB Problems -

Jeff/Jim

I have received feedback from the team within Verizon that more information is necessary on your informal complaint to the PUC in Ohio. A review of the issues has not supported the claims. We will need for you to provide specific examples, with dates that show when orders were submitted, when foc's were issued and when orders did not complete as you have suggested. This is critical information that will allow us to review

Thanks

Steve Graf  
Verizon Partner Solutions  
Account Manager  
813-978-2625 office  
813-347-2027 cell  
571-918-6633 e fax

## **EXHIBIT C**

**BEFORE**  
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of:	)	
	)	
AMERICAN BROADBAND AND	)	
TELECOMMUNICATIONS COMPANY,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 10-533-TP-CSS
	)	
VERIZON NORTH, INC.	)	
	)	
Respondent.	)	

**AFFIDAVIT OF ROBERT J. PETERSON**

STATE OF MICHIGAN	)	
	)	SS
COUNTY OF OAKLAND	)	

I, Robert J. Peterson, being first duly sworn, depose and state as follows:


1. I am a Sales Manager in the Partner Solutions division of Verizon's Service Organization. My business address is 1 Towne Square, Southfield, Michigan 48076.
2. My job responsibilities include leading a team of an account manger, sales engineer and sales support consultant to sell bundled telecom products and services as well as develop sales, training and coaching plans with management to improve organization productivity and efficiency. I have been the Sales Manager for American Broadband and Telecommunications Company since January 1, 2010.
3. This declaration is submitted in support of Verizon's Objection to Request for Expedited Ruling in the above-captioned proceeding (the "Response").

4. I base this declaration on my personal knowledge. I have read the Complaint and Request for Expedited Ruling filed by American Broadband and Telecommunications Company ("AMBT") in Case No. 10-533-TP-CSS on April 19, 2010 ("Complaint") and Verizon's Response.

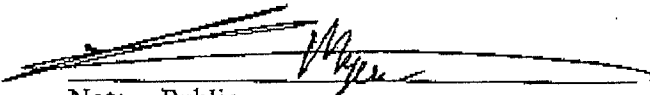
5. I have been Verizon's Sales Manager for AMBT since January 1, 2010. I am the main point of contact between Verizon and AMBT regarding all day-to-day operational matters between the companies. No representative of AMBT has ever contacted me about any alleged problems with line and port orders, or any problems with respect to Local Number Portability ("LNP") requests related to such orders. I have contacted AMBT's former Account Manager, Steve Graf, and confirmed that he never received a response from AMBT to his December 15, 2009 e-mail asking AMBT's President (Jeff Ansted) and its Director of Sales and Marketing (Jim Ravas) for additional information about alleged problems with line and port orders, or problems with respect to LNP requests associated with those orders. Mr. Graf further confirmed that he did not receive any further contacts or correspondence from AMBT regarding alleged problems with line and port orders and LNP requests associated with those orders since that time. (See Response at 7.) Based on my personal knowledge and experience, there have been no problems with line and port orders or LNP requests associated with those orders since early 2009.

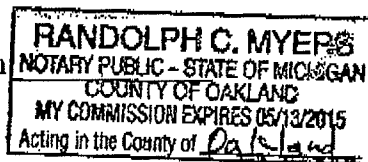
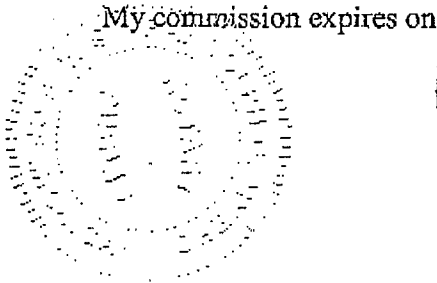
I declare under penalty of perjury under the laws of the State of Michigan and of the United States of America that the foregoing is true and correct to the best of my information, knowledge and belief.

Executed this 26<sup>th</sup> day of April, 2010 at Southfield, Michigan.

  
Robert J. Peterson

SUBSCRIBED AND SWORN to  
before me this 26th day of April, 2010.

  
Notary Public



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

**Commission of Ohio Docketing Information System on**

**4/26/2010 3:58:52 PM**

**in**

**Case No(s). 10-0533-TP-CSS**

Summary: Request -Opposition to Request for Expedited Ruling electronically filed by Carolyn S Flahive on behalf of Verizon North Inc.