

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Adoption of	)	
Rules to Implement Substitute	)	Case No. 10-1010-TP-ORD
Senate Bill 162	)	

**REPLY COMMENTS OF VERIZON<sup>1</sup>**

Verizon provides these reply comments in response to the comments of tw telecom of ohio llc (“TWTC”), the Ohio Cable Telecommunications Association (“OCTA”), the Ohioans Protecting Telephone Consumers group (“OPTC”), and the AT&T Entities (“AT&T”) on the proposed rules to implement Substitute Senate Bill 162 (“Rules”). The Rules on which Verizon offers comments are addressed separately below.

**4901:1-6-01(J) Definitions – “Customer”**

Staff’s proposed revisions slightly modify the definition of “customer” to add the modifier, “end user”:

(J) “Customer” means any *end user*, person, firm, partnership, corporation, municipality, cooperative organization, government, agency, etc. that agrees to purchase a telecommunications service and is responsible for paying charges and for complying with the rules and regulations of the telephone company.

(Staff’s proposed addition in italics.)

Verizon agrees with TWTC that Staff’s addition of “end user” is useful to emphasize that “customer” in the Rules is a retail, rather than carrier-to-carrier, concept. In this regard, Verizon also agrees with TWTC’s recommendation to omit the comma after “end user” to avoid unintended consequences. (TWTC Comments at 3-4.) This

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<sup>1</sup> “Verizon” refers to Verizon Long Distance LLC; Verizon Enterprise Solutions LLC; Verizon Select Services Inc.; MCI Communications Services, Inc. d/b/a Verizon Business Services; MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services; Teleconnect Long Distance Services and Systems Company; TTI National Inc.; and Cellco Partnership d/b/a Verizon Wireless.

small change to Staff's draft will make clear that "end user" is not a separate entity in the list of possible customers, but rather a modifier applicable to that list.

Verizon *disagrees* with OCTA's extensive proposed revisions of the "customer" definition, which would have precisely the opposite effect of Staff's and TWTC's revisions. Instead of emphasizing the retail nature of "customer" for purposes of the Rules, OCTA would expand the "customer" definition to include wholesale customers, including customers with commercial agreements the Commission does not even regulate.<sup>2</sup> Contrary to OCTA's assertion, its proposed changes would confuse, rather than clarify, the term "customer."

Including wholesale customers in the definition of "customer" would have unintended results at odds with the wholesale contracts under which carriers operate. The term "customer" appears about 180 times in the proposed Rules; in many, if not most, of these instances, OCTA's customer definition would make no sense. For instance, a number of Rules impose specific requirements for format, content and/or timing of notices to "customers" in a variety of situations, including, among others, changes in rates, terms, or conditions of a service (Rule 4901:1-6-07); offers and customer agreements (Rule 4901:1-6-16); billing (Rule 4901:1-6-17); and service withdrawal (Rule 4901:1-6-25). These requirements – which, under OCTA's definition, could be read to apply to wholesale, as well as retail services – make no sense in the context of a wholesale relationship where an interconnection agreement or commercial

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<sup>2</sup> OCTA's proposed definition, blacklined against Staff's proposal, is: "Customer" means any ~~end user~~, person, firm, partnership, corporation, municipality, cooperative organization, government agency, etc. that agrees to purchase a telecommunications service and is responsible for paying charges and for complying with the rules and regulations of the telephone company or obligations in an interconnection agreement or commercial contract and includes both end user and wholesale customers unless otherwise limited in a commission rule. OCTA Initial Comments at 2-3.

contract governs matters such as notices and billing, as well as dispute resolution mechanisms.

OCTA's reference to commercial contracts – which are freely negotiated between carriers, which may cover non-telecommunications services, and which are not regulated by the Commission – is particularly troubling, because it suggests a level of potential Commission oversight that is not appropriate or authorized. In addition, OCTA's language, which would expand regulatory requirements for a “customer” group that was not subject to them before, would be contrary to the deregulatory objectives of the new law to be implemented through the proposed rules.

Where the rules apply to wholesale customers and carrier-to-carrier relationships, they explicitly state as much. This approach is clear and appropriate and should be retained. The Commission should reject OCTA's expanded “customer” definition, which has no footing in the law to be implemented. It should instead accept TWTC's minor revision to Staff's proposed “customer” definition (or at least leave the definition as it is today, without an explicit reference to wholesale customers and contracts).

**4901:1-6-01(W) Definitions – “Postmark”**

The OPTC recommends that the definition of “postmark” include a requirement that a “postmark” be stamped or imprinted on the envelope. (OPTC Comments at 8.) There is no justification for this additional requirement, which ignores technological and electronic advances in the United States Postal Service mail processes associated with bulk mailings. These changes and associated acceptance standards provide for more efficient processing and movement of the mail. High speed bill processing equipment is no longer equipped with postage meters that apply postage meter stamps during processing. Such information is now recorded and stored electronically for each bulk

mailing. A review of one's own bills will show that very few still bear postmarks on the envelopes. The OPTC's recommendation to require a postmark on the envelope ignores current advances in technology and would be exceedingly burdensome and costly to implement. Moreover, it would not be helpful to customers, who typically dispose of mailing envelopes and retain only the actual invoices. Including the bill date on the invoice itself, as well as the payment due date (set to ensure compliance with state regulations) – as is the common practice today – is far more useful to customers. The Commission should reject OPTC's recommendation to add a requirement of a stamped postmark on the mailing envelope.

**4901:1-6-08(E)(8) Telephone Company Certification**

The OPTC seeks to add a requirement to subsection (8) in which certification applications would have to include information regarding litigation alleging fraudulent or deceptive actions towards customers nationwide, as well as any other assertions in court proceedings of the applicant acting “unlawfully.” (OPTC Comments at 16.) The Commission should reject this proposed addition. It is rare that any company is free of any pending complaints or litigation, especially companies that are large enough to operate in multiple states. Large national providers may be the subject of literally thousands of agency and court proceedings at any given time, and in all such instances, there is an allegation of having acted “unlawfully” in some way. The tremendous burden associated with OPTC's suggestion far outweighs the perceived benefit of requiring such information as part of a certification application. Moreover, an allegation of wrongdoing does not mean that company is guilty of a fraudulent or deceptive act, or has acted in any way unlawfully. The Commission should reject OPTC's recommendation that a certification application include any allegation of fraudulent, deceptive or other unlawful

actions due to the improper implications it would create, as well as the considerable and unnecessary administrative burdens it would require.

**4901:1-6-31 Emergency and Outage Operations**

Verizon agrees with AT&T's comments on this proposed rule, including its observation that the draft rules' detailed requirements for outage reporting are unnecessary. (AT&T Initial Comments at 24.) As Verizon noted in its Initial Comments, complying with the proposed, burdensome reporting requirements would divert resources better spent on addressing the issue that is important to customers – that is, restoring service. Companies should not be required to spend critical time on non-essential activities such as providing an estimate of when service will be restored, a requirement that is not part of federal outage reporting. Verizon agrees with AT&T's position that companies should only be required to provide to Staff the outage reports that they provide to the FCC. At a minimum, companies should be given this option.

Verizon disagrees with the OPTC's comments that the Office of the Consumers' Counsel should receive outage information. There is no need for this additional administrative burden.

**Conclusion**

Verizon requests that the Commission adopt Verizon's recommendations as detailed in these Reply Comments.

Respectfully submitted,

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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 mail or via U.S. mail, postage pre-paid, this 30th day of September, 2010.

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