

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's)
Investigation into Intrastate Carrier Access) Case No. 10-2387-TP-COI
Reform Pursuant to S.B. 162.)

**AT&T'S MEMORANDUM IN OPPOSITION TO THE OFFICE OF THE OHIO
CONSUMERS' COUNSEL'S APPLICATION FOR REHEARING**

The AT&T Entities¹ ("AT&T"), by their counsel, hereby submits their Memorandum in Opposition to the Application for Rehearing filed by the Office of the Ohio Consumers' Counsel ("OCC"). OCC seeks rehearing of the Commission's initial procedural Entry, dated November 3, 2010, by which the Commission initiated its investigation in this docket. OCC's application should be denied. The application is moot in that the OCC's two assignments of error were addressed by the Commission in its December 8, 2010 Entry, which was issued after the filing of OCC's application for rehearing.

Pursuant to Sub. S.B. 162, effective September 13, 2010, the Commission opened this docket to address carrier access reform on November 3, 2010. Through its Entry, the Commission invited interested parties to provide answers to questions posed by Staff regarding its proposed access restructuring plan, attached to the Entry, and solicited comments regarding proposed data requests, also attached to the Entry, that would be

¹ The AT&T Entities are The Ohio Bell Telephone Company d/b/a AT&T Ohio, AT&T Communications of Ohio, Inc., TCG Ohio, SBC Long Distance d/b/a AT&T Long Distance, SNET America, Inc. d/b/a AT&T Long Distance East, AT&T Corp. d/b/a AT&T Advanced Solutions, Cincinnati SMSA, L.P., and New Cingular Wireless PCS, LLC d/b/a AT&T Mobility.

issued upon the Commission's adoption of the plan. Nothing substantive was decided in the Commission's Entry.

On November 9, 2010 OCC filed a motion to intervene and a motion for hearing and other procedural orders. In particular, OCC moved the Commission to 1) hold a hearing prior to ordering any changes, especially those involving increases in the rates that subscribers pay; 2) require that the filing data discussed in the Commission's November 3, Entry be docketed before filing of the requisite comments in order that the data can serve as a factual basis for the comments and the Commission's decision on the plan; and 3) provide for expedited discovery in this proceeding in order that the filed comments be based upon data.

On December 8, 2010, the Commission issued a second Entry and addressed OCC's request for intervention, hearing, and other procedural orders, along with other parties' procedural issues. The Commission did not, however, reference the OCC's pending application for rehearing. Thus, AT&T believes, in an exercise of caution, that it must respond to OCC's pending application for rehearing.

In the December 8, 2010 Entry, the Commission granted OCC's motion to intervene, but found its request for hearing to be premature and did not rule on it at this time. Regarding the requests that certain data be filed prior to filing of comments or that discovery occur prior to the filing of initial and reply comments, those requests were denied as well. The Commission further clarified the procedural directives set forth in its

November 3 Entry. The Commission held: “Once the data is submitted to us, we would entertain motions seeking discovery, a request for a technical workshop, and a hearing....In any event, interested entities will have a full opportunity to present their positions to the Commission before the Commission ultimately rules on the access recovery mechanism.” Entry, December 9, 2010, at para. 12.

The Commission adequately addressed the three requests made by OCC in its November 9 Motion which contained the requests made in its December 3 Application for Rehearing. OCC’s arguments on rehearing that the November 3 Entry is in any way unjust, unreasonable or unlawful cannot stand. For all intents and purposes, OCC’s application for rehearing is now moot and should be denied.

AT&T Ohio urges the Commission to deny OCC’s Application for Rehearing.

Respectfully submitted,

The AT&T Entities

/s/ Mary Ryan Fenlon
Mary Ryan Fenlon (Counsel of Record)
Jon F. Kelly
AT&T Services, Inc.
150 E. Gay St., Room 4-A
Columbus, Ohio 43215

(614) 223-3302

Their Attorneys

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum Contra was served by electronic mail to the persons listed below, on this 13th day of December 2010.

/s/ Mary Ryan Fenlon

Mary Ryan Fenlon

Ohio Consumers' Counsel

David C. Bergmann
Terry Etter
Office of the Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485
bergmann@occ.state.oh.us
etter@occ.state.oh.us

Cincinnati Bell

Douglas E. Hart
Cincinnati Bell Telephone Company LLC
441 Vine Street, Suite 4192
Cincinnati, OH 45202
dhart@douglashart.com

Verizon

Charles Carrathers
Verizon
600 Hidden Ridge HQE03H52
Irving, TX 75038
chuck.carrathers@verizon.com

T-Mobile USA, Inc.

Garnet Hanly
T-Mobile USA, Inc.
401 9th Street, NW, Suite 550
Washington, DC 20004
Garnet.Hanly@T-Mobile.com

Public Utilities Commission of Ohio

William Wright, Chief
180 East Broad Street, 6th Floor
Columbus, OH 43215-3793
bill.wright@puc.state.oh.us

Bailey Cavalieri LLC

William Adams
Bailey Cavalieri LLC
10 West Broad Street, Suite 2100
Columbus, OH 43215
William.Adams@baileycavalieri.com

Vorys, Sater, Seymour and Pease LLP

Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
Columbus, OH 43215
smhoward@vorys.com

Benita A. Kahn
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
Columbus, OH 43215
bekahn@vorys.com

Verizon

David Haga, Assistant General Counsel
Verizon
1320 North Courthouse Road
Arlington, VA 22201
david.haga@verizon.com

CenturyLink

Joseph R. Stewart
CenturyLink
50 West Broad Street, Suite 3600
Columbus, OH 43215
Joseph.r.stewart@centurylink.com

Thomas, Long, Nielsen & Kennard

Norman J. Kenard
Regina L. Matz
Thomas, Long, Nielsen & Kennard
P.O. Box 9500
Harrisburg, PA 17108
rmatz@thomaslonglaw.com

Bell & Royer Co., LPA

Barth E. Royer
Bell & Royer Co., LPA
33 South Grant Avenue
Columbus, OH 43215
barthroyer@aol.com

Sprint Nextel

Diana Browning, Counsel
State Regulatory Affairs
Sprint Nextel
6450 Sprint Parkway
Mailstop KSOPHN0314-3A459
diane.c.browning@sprint.com

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Summary: Memorandum Contra OCC's Application for Rehearing electronically filed by Ms. Mary K. Fenlon on behalf of AT&T