

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 Sub. 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 submit their Memorandum in Opposition to the Application for Rehearing filed by the Office of the Ohio Consumers' Counsel ("OCC") on January 7, 2011. OCC seeks rehearing of the Commission's procedural Entry, dated December 8, 2010, by which the Commission clarified the procedure in this docket and addressed OCC's assignments of error raised in its previous application for rehearing, dated December 3, 2010. This repetitive application should be denied.

OCC asserts that the December 8, 2010 Entry was unjust, unreasonable and unlawful because the Commission **failed again** to order a hearing, **failed again** to order that data be filed before comments are filed, limited discovery, and failed to grant OCC's motion to intervene filed on November 9, 2010.

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.

The Commission's December 8, 2010 Entry addressed OCC's request for hearing, and other procedural orders, along with other parties' procedural issues. Specifically, the Commission found OCC's request for hearing to be premature and did not rule on it. 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. It 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.” (emphasis added)

Entry, December 8, 2010, at para. 12. It is clear that the Commission intends to review the initial and reply comments filed on December 20, 2010 and to be filed on January 19, 2011, respectively, and is receptive to having parties file motions, thereafter, for further procedural steps before it rules on the proposed Plan, including having a hearing. Such intentions are hardly unjust, unreasonable, or unlawful, as OCC asserts. OCC's improper use of those words here evaporates their strength.

OCC contends that it is filing this application “in an exercise of caution.” OCC Application at 4. It agrees that the Commission adequately addressed these requests first made by OCC in its December 8 Entry. Therefore, its arguments that the December 8 Entry is in any way unjust, unreasonable or unlawful cannot stand. Finally, OCC's claim that the Commission's failure, for whatever reason, to rule on its motion to intervene was in anyway unjust, unreasonable or lawful is without merit. OCC has participated in the

procedural steps of filing comments that all other interested entities have enjoyed. It has in no way been harmed or prejudiced. OCC's application for rehearing should be denied.

Respectfully submitted,

The AT&T Entities

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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 18th day of January 2011.

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