

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of AT&T)
Ohio for Approval of an Alternative)
Form of Regulation of Basic Local) Case Nos. 06-1013-TP-BLS
Exchange Service and Other Tier 1) 07-259-TP-BLS
Services Pursuant to Chapter 4901:1-4,)
Ohio Administrative Code.)

ENTRY

The Commission finds:

- (1) On December 20, 2006, the Commission issued an Opinion and Order in Case No. 06-1013-TP-BLS (06-1013), *In the Matter of the Application of AT&T Ohio for Approval of an Alternative Form of Regulation of Basic Local Exchange Service and Other Tier 1 Services Pursuant to Chapter 4901:1-4, Ohio Administrative Code*, finding, among other things, that, based on the record in that proceeding, AT&T Ohio's application for alternative regulation of basic local exchange service (BLES) and other tier 1 services should be granted in part and denied in part, in accordance with Chapter 4901:1-4, Ohio Administrative Code (O.A.C.). Specifically, the Commission determined that the request for BLES alternative regulation was granted for the following exchanges: Akron, Alliance, Alton, Atwater, Beallsville, Beavercreek, Bellaire, Bellbrook, Belpre, Berea, Bethesda, Bloomingville, Burton, Canal Fulton, Canfield, Canton, Carroll, Castalia, Cedarville, Centerville, Cheshire, Chesterland, Cleveland, Columbus, Conesville, Coshocton, Dalton, Danville-Highland, Dayton, Donnelsville, Dublin, East Palestine, Enon, Fairborn, Findlay, Fletcher-Lena, Fostoria, Franklin, Fremont, Gahanna, Gates Mills, Girard, Glenford, Graysville, Greensberg, Grove City, Guyan, Hartville, Hilliard, Hillsboro, Holland, Hubbard, Ironton, Jamestown, Jeffersonville, Kent, Kirtland, Lancaster, Leetonia, Lindsey, Lisbon, Lockbourne, London, Louisville, Lowellville, Magnolia-Wayne, Manchester-Summit, Marietta, Marlboro, Marshall, Martins Ferry, Massillon, Maumee, Medway, Mentor, Miamisburg-West Carrollton, Middletown, Milledgeville, Mingo Junction, Mogadore, Monroe, Montrose, Navarre, Nelsonville, New Carlisle, New Lexington, New Waterford, Newcomerstown, Niles, North Canton, North Hampton, North Lima, North Royalton, Perrysburg, Piqua, Rainsboro, Ravenna, Reynoldsburg,

Rio Grande, Ripley, Rogers, Rootstown, Salem, Sandusky, Sebring, Sharon, Shawnee, Somerset, South Charleston, South Vienna, Spring Valley, Springfield, Steubenville, Strongsville, Terrace, Thornville, Tiffin, Toledo, Toronto, Trenton, Trinity, Uniontown, Upper Sandusky, Vandalia, Vinton, Walnut, Wellsville, West Jefferson, Westerville, Wickliffe, Winchester, Worthington, Xenia, Yellow Springs-Clifton, Youngstown, and Zanesville.

- (2) On June 27, 2007, the Commission issued an Opinion and Order in Case No. 07-259-TP-BLS (07-259), *In the Matter of the Application of AT&T Ohio for Approval of an Alternative Form of Regulation of Basic Local Exchange Service and Other Tier 1 Services Pursuant to Chapter 4901:1-4, Ohio Administrative Code* finding, among other things, that, based on the record in that proceeding, AT&T Ohio's application for alternative regulation of BLES and other tier 1 services should be granted in part and denied in part, in accordance with Chapter 4901:1-4, O.A.C. Specifically, the Commission determined that the request for BLES alternative regulation was granted for the following exchanges: Barnesville, Belfast, Dresden, East Liverpool, Harrisburg, Lewisville, Salineville, and St. Clairsville.
- (3) On March 13, 2008, the office of the Ohio Consumers' Counsel (OCC) filed a motion for an order requiring AT&T Ohio to show cause as to why its alternative regulation of BLES in the following exchanges should not be revoked pursuant to Section 4927.03(C), Revised Code, and Rule 4901:1-4-12(B), O.A.C.: Beallsville, Belfast, Danville (Highland), Graysville, Guyan, Marshall, Newcomerstown, Rio Grande, Shawnee, Vinton, and Walnut. In support of its request, OCC submits that AT&T Ohio no longer meets the requirements of the test under which BLES alternative regulation was approved and, therefore, the continuation of BLES alternative regulation is no longer in the public interest. Specifically, OCC asserts that AT&T Ohio no longer satisfies Rule 4901:1-4-10(C)(3), O.A.C., due to the acquisition of one of the competitive alternatives to AT&T Ohio's service by another of the companies recognized by the Commission when it granted the BLES alternative regulation in the aforementioned 11 exchanges.
- (4) On March 31, 2008, AT&T Ohio filed its memorandum contra OCC's motion for a show cause order.

- (5) On June 13, 2008, OCC filed a motion for an order requiring AT&T Ohio to show cause as to why its alternative regulation in the following exchanges should not be revoked pursuant to Section 4927.03(C), Revised Code, and Rule 4901:1-4-12(B), O.A.C.: Burton, Cheshire, Dresden, Ironton, Lowellville, New Lexington, Rogers, and Toronto. In support of its request, OCC submits that AT&T Ohio no longer meets the requirements of the test under which BLES alternative regulation was approved and, therefore, the continuation of BLES alternative regulation is no longer in the public interest. Specifically, OCC asserts that AT&T Ohio no longer satisfies the fifteen percent line loss criterion of Rule 4901:1-4-10(C)(4), O.A.C., in the aforementioned eight exchanges.
- (6) On July 1, 2008, AT&T Ohio filed its memorandum contra OCC's motion of June 13, 2008.
- (7) Pursuant to the attorney examiner entry of August 15, 2008, the Commission determined that, consistent with the requirements of Rule 4901:1-4-12(B), O.A.C., OCC has set forth reasonable grounds that the market in a telephone exchange area(s) has changed such that AT&T Ohio may no longer meet one of the competitive market tests set forth in paragraph (C) of Rule 4901:1-4-10, O.A.C. Therefore, in accordance with Rule 4901:1-4-12(B), O.A.C., AT&T Ohio was directed to show cause as to why alternative regulation of BLES and other tier 1 services in the involved telephone exchange areas should not be revoked.
- (8) On August 29, 2008, AT&T Ohio filed its "Showing Why Basic Local Exchange Service Alternative Regulation Should Not Be Revoked" (AT&T Ohio Showing). AT&T Ohio submits that, based on the company's filing, the Commission should take no further action because no further action is required by statute or rule and would not be prudent under the circumstances.
- (9) On September 12, 2008, OCC filed its Reply to AT&T Ohio's pleading.
- (10) On March 1, 2011, AT&T Ohio filed a motion to dismiss the show cause motions filed by OCC on March 13, 2008, and June 13, 2008, as well as its motion for a protective order filed on September 25, 2008, in the above captioned cases. In support of its motion to dismiss, AT&T Ohio submits that with the passage of Sub. S.B. 162, effective September 13, 2010, and the adoption of

implementing rules by the Commission, effective January 20, 2011, the issues raised in all three motions are now moot.

- (11) The motion to dismiss is reasonable and should be granted. In reaching this determination, the Commission notes that Section 4927.12(C)(3), Revised Code, provides for the automatic approval of applications seeking increases in basic local exchange rates and, unlike rescinded Rule 4901-4-12, O.A.C., Rule 4901:1-6-14, O.A.C., does not provide the mechanism for the Commission to revisit and potentially revoke a prior approval for BLES alternative regulation for a telephone exchange area.

It is, therefore,

ORDERED, That AT&T Ohio's motion to dismiss be granted in accordance with Finding (11). It is, further,

ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman

Paul A. Centolella


Steven D. Lesser

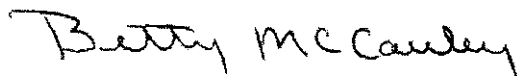

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Entered in the Journal

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Betty McCauley

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Secretary