

**BEFORE**

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

## ENTRY

### The Commission finds:

- (1) On June 13, 2010, the governor of the state of Ohio signed into law Substitute Senate Bill 162 (Sub. S.B. 162), which revises state law as it pertains to the provision of telecommunications services. Among other things, Sub. S.B. 162 authorizes the Commission to create and administer mechanisms for carrier access reform, including, but not limited to, high-cost support. Further Sub. S.B. 162 provides that the Commission may order changes in a telephone company's rates for carrier access within Ohio. The effective date of Sub. S.B. 162 was September 13, 2010.
- (2) Carrier access charges are charges assessed by local exchange carriers to providers of telephone toll service for access to the local telephone network and are intended to recover a portion of the cost of the local telephone facilities. Carrier access charges comprise a significant portion of the revenue received by small incumbent local exchange carriers (ILECs) as well as three mid-size ILECs: Windstream Ohio, Inc. and Windstream Western Reserve, Inc. (collectively, Windstream) and CenturyTel of Ohio, Inc. dba CenturyLink. Over the past several years, the Commission has received complaints, both formal<sup>1</sup> and informal, from providers of telephone toll service that the carrier access rates that they are being assessed are excessive. During this time, the small ILECs, Windstream and CenturyLink have also experienced a precipitous decline in the access minutes of use for which they assess carrier access charges, thus eroding a significant pillar of their financial support. Accordingly, to address these matters, the Commission deems it appropriate to open a generic

<sup>1</sup> See *In the Matter of the Complaint of Verizon North, Inc. et. al v. CenturyTel of Ohio, Inc., et. al Relative to Unjust and Unreasonable Switched Access Charges*, Case No. 07-1100-TP-CSS, filed October 5, 2007.

investigation into intrastate carrier access reform as authorized by Sub. S.B. 162.

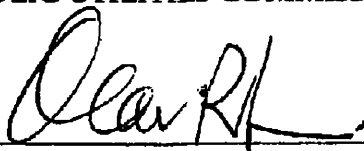
- (3) As a part of the investigation undertaken in this proceeding, the Commission staff has proposed an access restructuring plan and drafted a series of questions pertaining to the proposed plan (attached hereto as Appendices A and B, respectively). Additionally, the Commission staff has also drafted two data requests that staff proposes be issued with the proposed plan should the plan be adopted by the Commission (attached hereto as Appendices C and D). The Commission invites all stakeholders and other interested parties to provide responses to the questions posed in Appendix B and to provide any additional comments that they may wish regarding the proposed plan and proposed data requests.

It is, therefore,

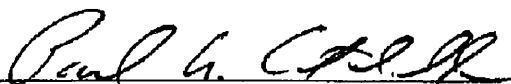
ORDERED, That all stakeholders and other interested parties wishing to file responses to the questions posed in Appendix B or any other comments regarding the proposed access restructuring plan and/or data requests should file such responses and/or comments no later than December 20, 2010. Reply comments should be filed no later than January 19, 2011, and shall be served upon all stakeholders and interested parties who filed initial responses and/or comments. It is, further,

ORDERED, That copies of this entry be served upon all ILECs, all competitive local exchange carriers, all providers of telephone toll service and all wireless service providers registered with the Commission.

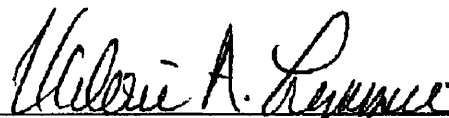
THE PUBLIC UTILITIES COMMISSION OF OHIO



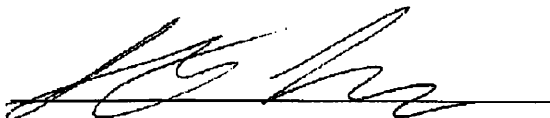
Alan R. Schriber, Chairman



Paul A. Centolella



Valerie A. Lemmie



Steven D. Lesser

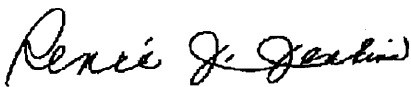


Cheryl L. Roberto

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Renee J. Jenkins

Secretary

# **Appendix A**

## **Access Restructuring Plan**

### **Statement of purpose and policy**

The purpose of establishing the Access Restructuring Plan is to maintain the affordability of local service rates for end-user customers while allowing rural incumbent telephone companies to reduce access charges, on a revenue-neutral basis, thereby encouraging greater competition.

### **Definitions**

- (a) "Commercial mobile service" shall have the meaning set forth in section 332(d)(1) of the Telecommunications Act of 1996, 47 U.S.C. 332(d)(1).
- (b) "Contributing carrier" means an entity required to pay into the restructuring fund and includes all incumbent local exchange carriers (ILECs) as such term is defined in Rule 4901:1-6-01(P), Ohio Administrative Code (O.A.C.), all competitive local exchanges carriers (CLECs) as such term is defined in Rule 4901:1-6-01(I), O.A.C., all wireless service providers as such term is defined in Rule 4901:1-6-01(OO), O.A.C., and all providers of telephone toll service as such term is defined in Rule 4901:1-6-01(KK), O.A.C. Among contributing carriers, other than wireless service providers, no distinction shall be made between a facilities-based and non-facilities-based carriers. Additionally, among contributing carriers, no distinction shall be made between prepaid and postpaid certified/registered carriers.
- (c) "Eligible ILEC" means an incumbent local exchange carrier as such term is defined in Section 4927.01(A)(5), Revised Code, and which, as of July 1, 2010, assessed rates for intrastate switched access services that exceeded the rates it assessed for the same interstate switched access services.
- (d) "Interconnected voice over internet protocol service" shall have the meaning set forth in 47 C.F.R. 9.3.
- (e) "Access Restructuring Fund" means the intrastate switched access rate restructuring mechanism established in this proceeding.

### **Plan Framework**

- 1) In order to restructure intrastate switched access service rates, there is hereby established an intrastate switched Access Restructuring Fund (ARF).

- 2) All ILECs shall set the rates for intrastate switched access services at a level that does not exceed the rates it is allowed to charge for the same interstate switched access services by the Federal Communications Commission (FCC) and shall only apply the switched access rate elements for intrastate switched access services that are in effect for the same interstate switched access services by the FCC. Eligible ILECs shall comply with this section as of the date established for the commencement of the operation of the restructuring fund.
- 3) All carriers providing switched access service, whether under tariff or contract, shall offer the switched access services under the same rates, terms, and conditions, without unreasonable discrimination, to all toll providers. Eligible ILECs offering switched access service under contracts shall, upon the effective date of the commencement of the operation of the restructuring fund, offer a "fresh-look" to their contract customers to make available the reduced switched access rates to them, without the application of termination liabilities fees that may be included in such contract.
- 4) All eligible ILECs are entitled to receive monthly disbursements from the ARF as provided in paragraph 11, in order to offset the reduction in intrastate switched access service revenues resulting from the rate reductions set forth in paragraph 1.
- 5) The ARF shall be administered by a third-party administrator, with the Commission maintaining the oversight authority to review and audit.
- 6) Pursuant to the authority granted to the Commission under Section 4927.20, Revised Code, all eligible ILECs and contributing carriers shall provide to the Commission all information that is necessary for the administration of the ARF. Where applicable, company-specific information pertaining to access lines, switched access services minutes of use, switched access demand quantities, contributions to the ARF, and intrastate telecommunications services revenues submitted to the Commission under this section may be considered trade secrets as defined in Section 1333.61(D), Revised Code, and may be exempt from public disclosure pursuant to Section 4931.66 (B)(1), Revised Code.
- 7) Within 45 days from the effective date of the Commission Order adopting the access restructuring plan, each eligible ILEC shall submit to the Commission the data and all the supporting documentation necessary to establish the amount that eligible ILECs will be able to receive from the ARF due to the reduction in intrastate access rates pursuant to paragraph 1. The Commission shall maintain on its website a form to be used by eligible ILECs to submit such data. The initial size of the ARF for each eligible ILEC shall then be calculated as the difference between intrastate and interstate switched access service rates in effect as of July 1, 2009, multiplied by the intrastate switched access billed minutes of use and other switched access demand quantities for the calendar year 2009. The Commission shall inform each eligible ILEC of their individual ARF computation no later than 45 days

following the 45 day period during which eligible ILECs are to provide the Commission with the information and supporting documentation required by this paragraph.

- 8) The ARF shall be supported by a mandatory monthly contribution by all contributing carriers. A contributing carrier providing telecommunications services to a provider of interconnected voice over internet protocol services shall pay a mandatory monthly contribution related to its intrastate revenues from providing such services.
- 9) Notwithstanding anything in paragraph 8, if the FCC determines that interconnected voice over internet protocol services may be subject to state regulation for universal services purposes, the Commission may open a proceeding to determine which service providers will be required to contribute to the ARF.
- 10) Within 45 days of the effective date of the Commission Order adopting the restructuring plan, each contributing carrier shall report its 2009 intrastate retail telecommunications services revenues (including revenues from all prepaid services and revenues from providing telecommunications services to a provider of interconnected voice over internet protocol services) to the Commission. The Commission shall maintain on its website a form to be used by contributing carriers to submit such data.
- 11) The initial contribution assessment percentage shall be a uniform percentage of retail intrastate telecommunications services revenues determined by calculating the total amount necessary to cover the initial intrastate switched access ARF disbursement levels for 12 months for all eligible ILECs, including projected cash reserve requirements, projected administrative costs, and projected uncollectible contribution assessments, divided by the 2009 calendar year total retail intrastate telecommunications services revenues in Ohio (including revenues from all prepaid services and revenues from providing telecommunications services to a provider of interconnected voice over internet protocol services). The Commission shall issue an order establishing the initial calculation of the contribution assessment percentage within 90 days of the effective date of the Commission Order establishing the ARF.
- 12) Each eligible ILEC shall, in an ATA case, file its revised intrastate switched access tariff reflecting the mandated rate reduction outlined in paragraph 1, no later than 45 days prior to the effective commencement date of the ARF as established in the Commission's Order adopting the restructuring plan. The revised tariffs shall have the same effective date as the date of the commencement of the operation of the restructuring plan.
- 13) The ARF shall commence 120 days from the effective date of the Commission Order adopting the restructuring plan.

- 14) Each contributing carrier shall remit to the Commission on a monthly basis an amount equal to its intrastate retail telecommunications services revenues (including revenues from all prepaid services and revenues from providing telecommunications services to a provider of interconnected voice over internet protocol services), multiplied by the contribution assessment percentage determined under paragraph 11, according to a time frame to be established by the Commission. These contributions shall continue until the end of the period for which eligible carriers are entitled to receive monthly disbursements from the ARF pursuant to paragraph 15.
- 15) The size of the ARF shall be recalculated two years from the date the initial restructuring plan becomes operational, and again every two years thereafter until the earliest of:
  - (a) A final non-appealable decision from the FCC to reform the intercarrier compensation; or,
  - (b) The Commission establishes a state high cost support fund pursuant to Section 4927.15(C), Revised Code.
- 16) The recalculation process identified in paragraph 15, shall be as follows:
  - (a) For each price cap eligible ILEC, the amount of the ARF disbursement shall be recalculated each time as follows:
    - (i) The difference between the intrastate switched access rates in effect as of July 1, 2009, and the interstate switched access rates in effect at the time of the recalculation, multiplied by the annual billed intrastate switched access minutes of use and other switched access demand quantities of the calendar year immediately preceding the year in which the recalculation is made.
    - (ii) An additional reduction of \$0.50 in the amount that a price cap eligible ILEC is eligible to receive from the ARF for every year that has passed since the initial ARF calculation multiplied by the number of access lines in service at the end of the most recent calendar year multiplied by 12. Eligible ILECs may recover the \$0.50 reduction per access line through an end-user fee. If this adjustment is more than the calculation in subparagraph (i) above, the carrier will not be eligible to recover lost intrastate access revenues through the ARF.
  - (b) For nonprice-cap eligible ILECs only, the amount of the ARF disbursement shall be recalculated each time as follows:
    - (i) The difference between the intrastate switched access rates in effect as of July 1, 2009, and the interstate switched access rates in effect at the time of the

recalculation, multiplied by the billed intrastate switched access minutes of use and other switched access demand quantities for the 2009 calendar year.

- (ii) The recalculated ARF shall be further adjusted by the percentage change in the number of access lines in service for each eligible nonprice-cap ILEC between December 31, 2009 and December 31 of the year immediately preceding the year in which the recalculation is made.
  - (c) The recalculated contribution assessment percentage shall be a uniform percentage of retail intrastate telecommunications services revenues determined by calculating the total amount necessary to cover the recalculated intrastate switched access ARF disbursement levels for 12 months for all eligible ILECs, including projected cash reserve requirements, projected administrative costs, and projected uncollectible contribution assessments, divided by the most recent calendar year total retail intrastate telecommunications services revenues in Ohio (including revenues from all prepaid services and revenues from providing telecommunications services to a provider of interconnected voice over internet protocol services). The Commission shall issue an order establishing the recalculation of the contribution assessment.
  - (d) Each eligible ILEC is entitled to receive monthly disbursements from the ARF based on its recalculated ARF disbursement for the period described in paragraph 15.
- 17) If the FCC adopts intercarrier compensation reforms or takes any action that causes or requires a significant change in interstate switched access service rates, the Commission may initiate a proceeding to determine the necessary course of action. Any interested party may file an application within 60 days of the final, nonappealable action by the FCC to request that the Commission determine the necessary course of action. During the pendency of that proceeding, the requirement in paragraph 1, for eligible ILECs to set intrastate switched access service rates equal to interstate switched access service, shall be temporarily suspended with respect to those eligible ILECs. Intrastate access rates for the eligible ILECs may not be increased above the levels that existed the day before the suspension was instituted.
  - 18) Disputes arising under this plan may be submitted to the Commission for resolution pursuant to Section 4927.21, Revised Code.
  - 19) If any contributing carrier fails to make the required contributions or fails to provide required information to the commission as set forth in paragraph 8, the Commission shall initiate an enforcement proceeding under Section 4927.21, Revised Code. If the Commission finds that a contributing carrier has failed to make contributions or to perform any act required under this section, a contributing carrier shall be subject to the remedies and penalties under Section 4927.21, Revised Code.



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- 20) All required data submitted pursuant to the restructuring mechanism shall be accompanied by a notarized affidavit signed by an authorized officer of the company.

## **Appendix B**

Please provide responses to the following questions regarding the staff proposed Access Restructuring Plan:

- 1) The Staff's proposed plan for the restructuring of ILEC access rates addresses the impact of access rate reduction only and does not address the impact of access line loss on the rural ILECs' provider-of-last resort obligation. Should the impact of access line loss on revenue be addressed as part of the access restructuring plan? What are the advantages and disadvantages of such an addition to the restructuring plan?
- 2) Although the Staff's proposed plan does not require interconnected voice over internet protocol (VoIP) service providers to contribute to the restructuring fund, it requires a provider of telecommunications services to a provider of interconnected VoIP-enabled services to pay the mandatory monthly contribution related to those VoIP services. As VoIP traffic volumes terminating on the eligible ILECs' networks increases, is this a reasonable approach to obtain support from all beneficiaries of the eligible ILECs' networks?
- 3) The Staff's proposed plan includes a provision for recalculating the size of the restructuring mechanism for each eligible ILEC every two years after the initial restructuring mechanism becomes operational. Is this a reasonable time frame? If not, how often should the recalculation of the fund occur? Should the fund recalculations for price-cap eligible ILECs and nonprice-cap eligible ILECs be performed at different intervals?
- 4) The Staff's proposed plan includes different methodologies for recalculating the size of the access restructuring mechanism for price-cap eligible ILECs than the methodology proposed for nonprice-cap eligible ILECs. Is this a reasonable approach?
- 5) The Staff proposes a third-party administrator to oversee the access restructuring fund. How should this third-party administrator be selected? What criteria for selecting a third-party administrator should be included in the selection process? Are there alternatives to a third-party administrator that the Commission should consider?
- 6) The Staff proposes that the projected administration costs be included in the fund size calculation. How should a reasonable initial administration cost amount be estimated? How should it be calculated on an ongoing basis?

- 7) The Staff proposal includes a provision to allow the Commission to revisit the access restructuring mechanism if the Federal Communications Commission (FCC) takes specific actions. Is this a reasonable approach?
- 8) In what ways, if any, can the Staff proposal be modified to address various contingencies including, but not limited to, carriers entering or exiting the Ohio market and mergers between and acquisitions of carriers doing business in Ohio?
- 9) If a carrier believes that it is not a contributing carrier, how shall such a carrier inform the Commission of its belief? How should the Commission deal with such carriers?

## **Appendix C**

All eligible ILECs shall submit the following information for the calendar year 2009:

- 1) The total intrastate switched access revenues from all recurring switched access rate elements billed, including switched dedicated elements that are priced on a flat-rate basis;
- 2) The rate elements that contributed to the calculation of item 1;
- 3) The intrastate and interstate rate associated with each rate element identified in 2;
- 4) The intrastate billed demand for each rate element identified in 2;
- 5) The interstate and intrastate tariffs supporting the rates identified in 3; and,
- 6) The number of access lines as of December 31, 2009.

## Appendix D

All contributing carriers shall submit the following information:

- 1) The contributing carrier 's 2010 total intrastate retail telecommunications services revenues, including prepaid and revenues from providing telecommunication services to interconnected voice over internet protocol services providers; 776,776<sup>00</sup>
- 2) The contributing carrier's 2010 uncollectible intrastate retail telecommunications revenues; 15,536<sup>00</sup>
- 3) The contributing carrier's 2010 total intrastate retail telecommunications revenues minus uncollectibles. This value should be equal to the value for 1 – 2 above; and, 761,240<sup>00</sup>
- 4) The contributing carriers' total Ohio access lines as of December 31, 2010. Ø

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

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Summary: Report electronically filed by Mr. Daniel Velez on behalf of Velez, Daniel Mr.