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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 attorney examiner finds:

- (1) Pursuant to the attorney examiner Entry of April 15, 2011, the period for discovery requests was extended for all entities until May 31, 2011, with the deadline for supplemental comments and supplemental reply comments extended until July 1, 2011, and July 15, 2011, respectively.
- (2) On June 8, 2011, the office of the Ohio Consumers' Counsel (OCC) filed a motion seeking an extension of the procedural schedule established in this proceeding and a request for an expedited ruling. Specifically, OCC requests that the discovery cut-off be extended until June 24, 2011, and that the deadline for supplemental comments and supplemental reply comments be extended until July 25, 2011, and August 8, 2011, respectively.

In support of its motion, OCC states that, due to difficulties in negotiating confidential agreements, the company-specific information filed under seal by Windstream Ohio, Inc., Windstream Western Reserve Inc., and the Small Local Exchange Carrier Group (SLECG),¹ was not available for review until June 3, 2011. Consistent with Rule 4901-1-13(A), Ohio Administrative

¹ The participating entities include: Arcadia Telephone Company, Arthur Mutual Telephone Company, Ayersville Telephone Company, Bascom Mutual Telephone Company, Benton Ridge Telephone Company, Buckland Telephone Company, Champaign Telephone Company, Chillicothe Telephone, Columbus Grove Telephone Company, Conneaut Telephone Company, Continental Telephone Company, Doylestown Telephone Company, Farmers Mutual Telephone Company, Fort Jennings Telephone Company, Germantown Independent Telephone Company, Glandorf Telephone Company, Kalida Telephone Company Inc., Little Miami Communications Corporation, McClure Telephone Company, Middle Point Home Telephone Company, Minford Telephone Company, New Knoxville Telephone Company, Nova Telephone Company, Oakwood Telephone Company, Orwell Telephone Company, Ottoville Mutual Telephone Company, Pattersonville Telephone Company, Ridgeville Telephone Company, Sherwood Mutual Telephone Association, Sycamore Telephone Company, Telephone Service Company, Vanlue Telephone Company, Vaughnsville Company, and Wabash Mutual Telephone Company.

Code, OCC submits that, given the fundamental importance of the information in question in this proceeding, good cause for an extension has been demonstrated. OCC also asserts that its motion should be granted in order to allow for ample discovery and for the thorough and adequate preparation for participation in this proceeding relative to the issues identified in this case.

In regard to its request for an expedited ruling, OCC points out that, as of the date of its motion, there are only 23 days until the supplemental comments are due.

- (3) On June 9, 2011, the AT&T Entities (AT&T),² filed a memorandum contra OCC's motion for an extension of time. In particular, AT&T questions why OCC waited until now to request that the discovery cut-off date be extended. Additionally, AT&T notes that the Entry of April 15, 2011, directed all entities "to expeditiously file the applicable motions to the extent that problems arise relative to discovery issues." Specific to this point, AT&T asserts that OCC should not be rewarded for waiting 54 days to file its motion pertaining to a discovery-related issue. Further, AT&T states that OCC's motion fails to set forth good cause and fails to elaborate on any difficulties that OCC encountered in getting information or the efforts made to secure it. Additionally, AT&T avers that OCC has participated in a significant amount of discovery thus far and, therefore, OCC has not been denied participation in this proceeding and still has ample time to address the information in its comments. Finally, AT&T submits that the Commission needs to continue to move this proceeding along and avoid any further delays in order to expeditiously carry out its goals for access reform consistent with Sub. S.B. 162.
- (4) On June 10, 2011, Windstream Ohio, Inc. and Windstream Western Reserve, Inc. (collectively, Windstream) filed a memorandum contra OCC's motion for additional time. Specifically, Windstream dismisses OCC's assertion that it was "dragging its feet" to provide the information that it had filed under seal in this case to OCC. Windstream explains that the essence of the discovery disputes centered on the negotiation of the terms of a protective agreement

² The AT&T Entities include 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.

between Windstream and OCC. Windstream represents that it proceeded diligently and in good faith through all of the negotiations and that the final protective agreement was executed on June 1, 2011. According to Windstream, OCC received Windstream's documents shortly thereafter. OCC believes that there is no need for further discovery inasmuch as OCC has received all of Windstream's information and Windstream is unaware of any particular questions that OCC has with respect to the information.

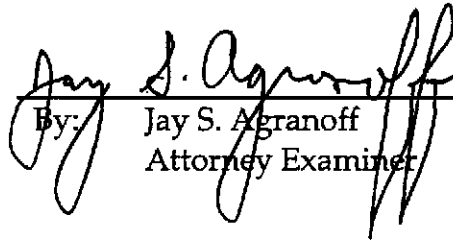
- (5) On June 14, 2011, SLECG filed its memorandum contra OCC's motion for an extension of time. Specifically, SLECG submits that sufficient time has passed for all parties to have negotiated protective agreements and conducted discovery on the submitted data as contemplated by the Commission. Further, SLECG represents that, pursuant to the attorney examiner Entry of March 22, 2011, it provided confidential data to every party that requested it, with the exception of OCC. Relative to OCC, the SLECG describes the negotiation process that occurred between the entities relative to a protective agreement, which was finalized on June 3, 2011. Finally, SLECG states that it made its public information available to OCC as early as April 4, 2011, and that only a very minimal amount of information has been deemed as confidential. SLECG believes that there is an ample amount of time remaining for OCC to review the limited amount of confidential information.
- (6) Based upon a review of the arguments set forth above, OCC's motion for an extension of the procedural schedule should be denied. In reaching this determination, the attorney examiner notes that, as discussed *supra*, the Entry of April 15, 2011, extended by six weeks the time frames for discovery and the filing of supplemental and supplemental reply comments and clearly delineated the new established deadlines. The entry clearly directed all entities "to expeditiously file the applicable motions to the extent that problems arise relative to discovery issues." Notwithstanding this directive, OCC waited until June 8, 2011, to file its motion. The filing of the motion for an extension of time eight days following the end of the discovery period certainly does not comport with the Commission's requirement to expeditiously file applicable motions related to discovery issues. To the extent that OCC was experiencing difficulties related to discovery, the appropriate motion should have been filed in a timely manner, and not eight days after the fact. Therefore, OCC's motion is denied.


It is, therefore,

ORDERED, That OCC's motion be denied in accordance with Finding (6). It is, further,

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

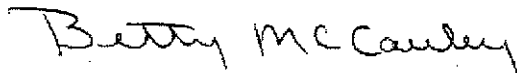
THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Jay S. Agranoff
Attorney Examiner

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Entered in the Journal

JUN 16 2011



Betty McCauley
Secretary