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.	)	

SUPPLEMENTAL COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY LLC, CINCINNATI BELL EXTENDED TERRITORIES LLC, CINCINNATI BELL WIRELESS, LLC AND CINCINNATI BELL ANY DISTANCE INC.

I. INTRODUCTION

On November 18, 2011, the Federal Communications Commission ("FCC") released its Report and Order and Further Notice of Proposed Rulemaking in WC Docket No. 07-135, *et al., In the Matter of Establishing Just and Reasonable Rate for Local Exchange Carriers* ("FCC Order"). The FCC Order adopted a comprehensive intercarrier compensation ("ICC") restructuring framework for both intrastate and interstate telecommunications traffic. On January 18, 2012, this Commission sought comment on the FCC Order relative to its impact on this proceeding. Having previously participated in each round of comments in this proceeding, Cincinnati Bell Telephone Company LLC, Cincinnati Bell Extended Territories LLC, Cincinnati Bell Wireless, LLC and Cincinnati Bell Any Distance Inc. (collectively "Cincinnati Bell"), submit these Comments on the FCC Order in response to the Commission's January 18, 2012 Entry.

II. THE FCC ORDER PROVIDES COMPREHENSIVE INTER-CARRIER COMPENSATION REFORM, NEGATING THE NEED FOR STATE ACTION

In the comments filed earlier in this proceeding, a number of parties suggested that the Commission should wait on the then-pending FCC ICC reform before proceeding with intrastate switched access reform. The main opposition to that approach was the uncertainty of whether and when the FCC might act. Time has proven the prudence of waiting, as the FCC has now set out a comprehensive plan that accomplishes the reforms that were contemplated by this Commission. It is now unnecessary to implement the proposed Staff Plan or any variation thereof or to create the proposed state Access Relief Fund ("ARF").

The FCC considered two approaches to access reform: one in which the states managed the intrastate transition and recovery and the other in which there is a more predictable nationally uniform approach. The FCC decided to pursue latter course, which best advanced its policy goals.[1] This approach provides a uniform transition nationwide for all carriers and removes the large financial burden regarding cost recovery from the states. With a federal cost recovery mechanism, there is no need to create an Ohio ARF, with the attendant administrative issues.

While the FCC Order did not *per se* prohibit further state access reform in parallel with its reforms, state action would be preempted where it is inconsistent with the requirements of section 251, or when the state regulation substantially prevents implementation of the requirements of section 251 or the purposes of section 251 through 261 of the Act.[2] Cincinnati Bell submits that there is no legal or policy reason for the Commission to act now that the FCC has laid out a comprehensive reform plan. And there is no reason to undertake the cost or burden of creating and administering an ARF for whatever small cost recovery might be left to ILECs beyond what would be afforded by the federal funding mechanism.

In its earlier comments, Cincinnati Bell had urged that access reductions be phased in over a period of years. Most of the other parties similarly advocated reductions over time, as opposed to a flash cut to full mirroring. The FCC Order follows that approach by reducing

[1] FCC Order, ¶ 790.
[2] FCC Order, ¶ 767.

intrastate rates to interstate levels over a period of two years, followed by reductions in intrastate and interstate access and reciprocal compensation rates to $0.0007 over a period of four to seven years (depending upon the type of carrier). Thereafter, all ICC is further reduced to “bill and keep.”[3]

Despite the overall length of the FCC’s ICC reform plan, its reduction of intrastate access rates to mirror interstate rates is very rapid and not all that different from what was proposed in the Staff Plan. The Staff plan called for the mirroring of intrastate and interstate access rates to occur at once, within 120 days after the effective date of the Commission order implementing the plan. The FCC ordered mirroring in two steps. First, all carriers whose intrastate switched access rates exceed their interstate rates would reduce those rates by one-half of the difference on July 1, 2012. On July 1, 2013, any remaining differences in intrastate and interstate switched access rates are to be eliminated. With the lack of an Ohio order to date and the reopening of comments, an Ohio reform plan likely could not go into effect until after the first round of intrastate reductions ordered by the FCC will already have taken place on July 1, 2012. The FCC Order would only defer the second phase of intrastate access rate reductions about a year past when they would have occurred under the Staff Plan.

The FCC Order permits LECs to replace lost intrastate access revenues with end user charges. ILECs are permitted to impose an Access Recovery Charge (“ARC”) on their end user customers, with a maximum annual increase of $0.50 for consumers and small business lines and $1.00 per line for multi-line businesses.[4] Cumulatively, ILECs would be limited to local rates

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[3] A chart summarizing the schedule of FCC reforms appears in paragraph 801 of the FCC Order.
[4] FCC Order, ¶ 852.

and ARC charges totaling $30.00 per month on residential lines. If this is insufficient to recover lost access revenues, the FCC Order provides for a federally funded recovery mechanism.

The FCC Order also eliminates the administrative burden of gathering access charge data and the debate over what year to use as a baseline and how often to refresh the data. The Staff Plan being considered by the Commission originally called for the use of 2009 data to establish the ARF and would only update the data every two years. Most commenters agreed that any plan should begin with more current data and be updated at least annually. Under the FCC plan, all future recovery will be based on fiscal year 2011 revenues. The baseline will decline by a fixed percentage annually to reflect historical downward trends in access usage. The FCC determined that its plan would leave most carriers better off than if actual data was used to measure future revenue baselines.[5]

The federal cost recovery mechanism makes it unnecessary to create a parallel state funding mechanism. This proceeding largely centered on the mandate in S.B. 162 that any Commission-ordered decrease in access rates must be revenue neutral.[6] But S.B. 162 does not require any revenue replacement as a result of FCC action. If the Commission does not order additional intrastate access reform beyond what the FCC did, S.B. 162's mandate is not invoked. But, even if the Commission were to require intrastate access reductions sooner than the FCC

[5] FCC Order, ¶ 851.

[6] R.C. 4927.15(B) ("In the event that the public utilities commission reduces a telephone company's rates for carrier access that are in effect on the effective date of this section, that reduction shall be on a revenue-neutral basis under the terms and conditions established by the public utilities commission . . . .")

Order, only the *accelerated* portion of the revenue reductions would be subject to the S.B. 162 revenue neutrality requirement.[7] As of July 1, 2013, reductions of intrastate access rates to mirror interstate rates will be required by federal law, not by this Commission. Thereafter, S.B. 162 would not require the Commission to replace any of the lost intrastate access revenue. The Commission should not create an ARF for the recovery of such a fleeting state-ordered access reduction.

III. CONCLUSION

The Commission should terminate this proceeding and allow the FCC Order to control the reform of intrastate access rates in Ohio. There is no reason for the Commission to independently order access charge reductions that will already occur under the FCC Order and no need to create a complex and expensive state access recovery fund.

Respectfully submitted,

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[7] For example, if the Commission ordered immediate mirroring, only that half of the difference between intrastate and interstate rates that the FCC left in place until July 1, 2013 would truly be subject to the Commission's reduction order.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following parties by electronic mail this 10th day of February 2012.

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