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Via Electronic Filing

Renee Jenkins, Secretary of the Commission
Attn: Docketing Division
Public Utility Commission of Ohio
180 East Broad Street
Columbus, OH 43215-3793

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

Dear Secretary Jenkins:

In its recently filed Additional Supplemental Comments and Reply Comments, the Small Local Exchange Carriers Group ("SLECs" or "SLEC Group") had used an approximation of \$10,000,000 to represent the size of the Access Replacement Fund ("ARF") were the recipients limited to the SLECs. The purpose of this letter is to update that figure.

The SLECs calculate that the access savings to the Ohio telecommunications industry resulting from immediate parity consistent with the Staff's proposed access reduction plan is \$9,360,000 per year based upon 2010 data and a ARF of that same size. Under the Access Replacement Plan, these savings are instantaneous, inasmuch as immediate parity is achieved, rather than staged over a period of years, as in the FCC's November 18, 2011 Order.

Further, the SLECs wish to emphasize to the Commission their diligent attempts over a long period of time to obtain meaningful intrastate access reform in Ohio. The SLECs' efforts started with the proposal of the Ohio Universal Service Fund ("OUSF") in 1997. On January 20, 2000, the Commission formally initiated Case No. 00-127-TP-COI for the purpose of considering whether and how intrastate access rates should be modified. A year later, on January 11, 2001, the Commission issued an Entry addressing the access charges of Ameritech, CBT, Sprint/United, and Verizon, but chose to defer a ruling on other carriers, including the SLECs, until additional information was available. The position of the SLECs was then, as it remains now, that an offsetting cost-recovery mechanism such as a state USF and some form of local service pricing flexibility must be in place in order to modify SLEC intrastate access rates.¹

The SLECs renewed their efforts to address their own intrastate access rates again in 2007, including numerous discussions with industry participants and the Commission Staff

¹ PUCO January 11, 2001 Entry, Docket No. 00-127-TP-COI, at 11.

wherein the SLECs provided factors and continued to pursue implementation of the OUSF. In 2008, the SLECs proposed the Ohio Provider of Last Resort Fund (“OPOLR”) at Docket 97-632, which was presented to the Staff and Commissioner Fergus, as the Commissioner assigned to telecommunications issues. The SLECs then were instrumental in including language regarding access reform and funding in Substitute Senate Bill 162 in 2010. With the passage of SB 162, the SLECs then renewed their efforts at the Commission with the proposal of the Consumer Affordability and Network Infrastructure Fund (“CANI”), which was also presented to the Commission Staff and Commissioner Fergus in March 2010.

Finally, with the publication of the Staff’s proposed Access Restructuring Plan and Access Restructuring Fund in November 2010, the SLECs continued what is now their 15 year effort to address small company intrastate access rates. At this point, with the passage of SB 162, questions about the PUCO’s ability to proceed were firmly answered by the universal service and revenue neutrality language that firmly supported Staff’s ARP proposal.

This notwithstanding, the PUCO remains inactive with respect to attaining an Ohio-centric result which benefits Ohioans, presumably stalled as a result of the November 18, 2011 Order issued by the FCC presenting intrastate access reform that is a cookie-cutter solution that harms Ohio SLECs and their rural customers.

Following that FCC Order, this Commission sought additional supplement comments and reply comments on the effect of the FCC Order on the Staff proposed ARP. Not one party contended that this Commission was legally preempted from proceeding. To the contrary, the consensus among the industry was that the Commission could proceed, although most carriers, specifically those that supported the national action at the federal level, cautioned the PUCO not to proceed, not because it legally could not, but because those carriers were satisfied with the financial impact on their operations as a result of the national plan.

The FCC Order expressly recognizes, that “states are free to lower intrastate access rates more quickly than specified by our reform[.]”² Failure to timely adopt a state plan that is in direct compliance with state law before the first effects of the FCC’s Order are realized on July 1, 2012, however, will effectively convert inaction to inability to act, precluding this Commission from taking reform into its own hands. The PUCO, then, will be forever foreclosed from effectuating the SLEC access reform and universal service relief that has been contemplated by this Commission and actively addressed by the SLECs since 1997. As a result, the SLECs, their rural economies, and their rural customers, will be denied the benefits of the legal and public universal service policies so clearly set out in and supported by the telecommunications industry as a whole in the state law codified by the Ohio General Assembly in June 2010 in SB 162.

² FCC ICC/USF Order, ¶ 915, note 1808. In allowing further state action, the FCC cautioned that “doing so would not increase the ARC or ICC-replacement CAF support available to carriers in such states[.]” a topic discussed next in this Memorandum.

The SLECs, once again, urge this Commission to act now. We thank you for your attention to this matter.

Sincerely,

THOMAS, LONG, NIESEN & KENNARD

By:


Norman J. Kennard

cc: Todd A. Snitchler, Chairman
Paul A. Centolella, Commissioner
Cheryl Roberto, Commissioner
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Andre T. Porter, Commissioner
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Per Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing SLEC letter served by electronic mail to the persons listed below, this 20th day of March, 2012.

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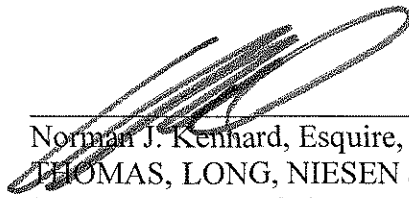
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Summary: Correspondence In the Matter of the Commission's Investigation into Intrastate Carrier Access Reform Pursuant to S.B. 162
electronically filed by Ms. Teresa L Thomas on behalf of Small Local Exchange Carriers Group