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THOMPSON
HINE & FLORY LLP

Attorneys at Law
(614) 469-3246 • Thomas E. Lodge • tlodge@thf.com

FILE

September 14, 2000

Via Hand Delivery

Ms. Daisy Crockron
Chief of Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43266-0573

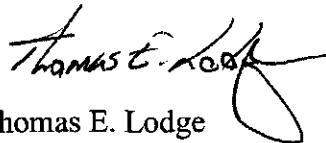
Re: In the Matter of the Amendment of the Minimum Telephone Service
Standards as Set Forth in Chapter 4901:1-5 of the Ohio Administrative
Code

Dear Ms. Crockron:

Enclosed for filing is an original and fifteen (15) copies of the Reply Comments of the Ohio Telecommunications Industry Association to be filed in connection with the above-referenced matter.

Thank you for your assistance. If you have any questions, please feel free to call.

Very truly yours,



Thomas E. Lodge

TEL/kh

cc: Carolyn Flahive

Enclosure

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Technician Christina M. Johnson Date Processed Sept 14, 2000

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Amendment of the)	
Minimum Telephone Service Standards)	Case No. 00-1265-TP-COI
As Set Forth in Chapter 4901:1-5 of the)	
Ohio Administrative Code)	

REPLY COMMENTS OF THE OHIO TELECOMMUNICATIONS INDUSTRY
ASSOCIATION

THE OHIO TELECOMMUNICATIONS INDUSTRY ASSOCIATION ("OTIA"), on behalf of its membership¹ and as called for by the Commission's Entry of August 3, 2000, hereby provides its Reply Comments concerning the Staff's proposed amendments to Ohio Administrative Code Chapter 4901:1-5 (the "Proposed MTSS").

General Comments

The Initial Comments of the interested parties demonstrate both considerable unanimity in support of many of Staff's proposals, and clear differences of opinion in other areas. Of particular concern to the OTIA are issues raised in the Comments of the Ohio Consumers' Counsel ("OCC Comments"), many of which have either been investigated (at considerable length) and resolved in previous dockets, or are more appropriately suited for an investigation and docket separate from the current proposal for Amendment of the Minimum Telephone Standards.

A glaring example of such overreaching is the OCC's proposal to establish minimum local calling areas as a Minimum Telephone Service Standard. *See OCC Comments* at 10. This proposal is not only untimely and inappropriate as a minimum service standard, but is based entirely on arbitrary considerations.

¹ Several members of the OTIA have submitted individual Initial Comments in separate filings. These Reply Comments constitute the position of the OTIA as a whole.

More importantly, OCC's proposal would require the extension of expanded service regardless of whether customer demand exists for it. The current process for customers to petition for Extended Area Service ("EAS") adequately provides for an in-depth investigation and analysis of customer demand, and permits the service providers to respond in appropriate fashion. One such response has been the formation of the EAS pilot programs. The OCC's current proposal shortcuts these pilots and suggests that the information garnered therein will be irrelevant, but lacks any justification for that result.

The OTIA membership is fully committed to meeting the expectations and demands of its customers. However, the OTIA believes that those expectations and demands must first be determined before launching forward with a "one-size-fits-all solution." Given the ambitious timetable for the implementation of the Proposed MTSS, the OTIA strenuously urges the Commission to reject consideration of the OCC's proposal to establish minimum local calling areas as a Minimum Telephone Service Standard.

Specific Comments

The OTIA hereby provides its responses to particular comments provided by others. Where no additional comments are provided in respect to a particular rule or provision, the OTIA asserts (without restating) its position as set forth in its Initial Comments, submitted August 31, 2000.

4901:1-5-02 GENERAL

The OTIA supports the concern of Ameritech and others that proposed Subsection (C), which holds that any tariff provision inconsistent with the MTSS shall be deemed inoperative and superseded by the MTSS unless the Commission specifically orders otherwise, is inappropriate. *See Initial Comments of Ameritech Ohio* at 10. As noted by the CLEC Group in

its Initial Comments, tariffs are viewed to be the “definitive source of information concerning the terms and conditions of a tariffed service.” *Comments of CoreComm Newco, Inc., Association of Communications Enterprises f/k/a Telecommunications Resellers Association, AT&T Communications of Ohio, Inc., TCG Ohio, Time Warner Telecom of Ohio, L.P., ICG Telecom Group, Inc. and McLeodUSA Telecommunications Services, Inc.* at 4. Should the Staff’s proposal be adopted, the Commission would find itself in the position of approving (either directly or automatically) a tariff that has no effect or force.

4901:1-5-04 TARIFFS

The OTIA restates its support for the provisions in this rule (and others) that enable Web-based maintenance of tariffs. Such an approach is clearly in keeping with the increasing accessibility to and reliance upon the Internet by residential and business customers alike. The OCC’s commentary that this new standard is a “radical departure” and “premature”, *OCC Comments* at 43, is in itself an archaic view in today’s world. The OTIA again acknowledges that the Commission must approve the text of tariffs under Revised Code § 4905.22, and recommends that the Commission maintain a publicly-available reference to the URL where tariffs may be found.

4901:1-5-05 COMPLAINTS

The OCC suggests that a “representative of the subscriber” be permitted to request informal investigations. *Id.* at 46. The OTIA objects; such a revision is unnecessary and invites the unauthorized practice of law. Standard agency law holds that any authorized representative of the customer may legally represent that customer, and the complaint procedure should be followed as if the customer filed the complaint personally. If the representative is unauthorized, the Commission must refuse to act upon the unauthorized agent’s request.

4901:1-5-06 CONSUMER SAFEGUARDS

The OTIA opposes the OCC's recommendation that large print directories be made available to customers upon request. *See id.* at 49-50. Setting aside cost considerations (which the OCC ignores altogether), this type of solution for those with disabilities can be dealt with adequately on a case-by-case basis.

OCC's proposal for new subsection (B)(8)(g) – that the directory provide “[d]etailed instructions sufficient to allow the subscriber to locate and use the network interface device to test the line” – is unnecessary in view of current subsection (B)(8)(f) which requires the directory to include an “explanation of both the company's and subscriber's responsibilities regarding inside wiring.” *Id.* at 51.

The OTIA further objects to the OCC's recommendation that local service providers maintain customer service hours at least two hours beyond their normal business hours Monday through Friday. *See id.* Apparently, the OCC is concerned about the CLECs' customer service hours, which in many cases mirror their normal business hours. *See id.* If so, this is a business decision the CLECs have chosen in today's competitive environment, and it should remain their choice. Furthermore, the OCC has offered no analysis of costs associated with the 25% increase in work force requirements.

Telephone Customer Bill of Rights

In view of the OTIA's belief that requiring only positive enrollment creates uncertainty and gamesmanship in today's competitive environment, the OTIA obviously opposes the OCC's recommendation that an additional section be added to the Telephone Customer Bill of Rights explaining to consumers “that in order to select a service they have to make an affirmative choice for that service.” *Id.* at 52.

Similarly, the OTIA opposes the inclusion of a section in the Bill of Rights informing customers that they can have their name included on a “do not solicit” list because the OTIA firmly believes that such a list provides a disservice to customers. *See id.* (See further discussion below in Rule 07.)

4901:1-5-07 MARKETING

The OTIA opposes the additional section proposed by OCC which “prohibits local service providers from subjecting subscribers to sales pitches when subscribers call the local service provider for repair or other service reasons,” as well as the associated text proposed by the OCC. *Id.* at 53. The OCC’s proposal would deprive customers of the opportunity to gain additional information about rate plans, services and features which may be of interest to them. Furthermore, the detailed scripting and behavioral obligations proposed by the OCC are simply impossible to observe and impossible to enforce, and well beyond the bounds of minimum telephone service standards. *See id.* at 53-54.

The OTIA supports Ameritech’s proposal that Subsection (A), which prohibits negative enrollment, should only apply to services for which there is an associated charge, and that local service providers should be free to utilize negative enrollment for services for which there is no charge. *See Ameritech Comments* at 15.

The OTIA opposes the OCC’s proposal that the requirement for only positive enrollment, if adopted, should be extended to include any equipment that may be used in connection with a service. *See OCC Comments* at 54. OCC’s proposal is plainly beyond the Commission’s jurisdiction because such equipment is unregulated.

The OTIA restates its belief that Subsection (F), requiring explanation of the specific service components of “bundled” offerings, is anti-competitive. Accordingly, the OCC’s

proposal to provide each price of each individual component to the customers merely makes matters worse. *See id.* at 55. The OCC's recommendations would eliminate the efficacy of bundling and would deprive customers of that competitive option.

4901:1-5-08 TELECOMMUNICATIONS CARRIER SUBSCRIPTION/SLAMMING

The OTIA restates its position that this Proposed MTSS be deleted altogether as unnecessary regulation, given the subject matter's coverage provided by rules promulgated by the FCC and the Ohio General Assembly. The OCC's attempt to re-state, and in some cases, re-write the text concerning the FCC's rules will only create disjunction and lead to confusion and problems in the future. *See id.* at 56-58.

The OCC also recommends that the Commission include a provision for the filing and resolution of informal complaints concerning cramming. The OTIA believes such a complaint process is unnecessary as part of the Proposed MTSS.

4901:1-5-10 REQUIRED OFFERINGS

The OTIA opposes the OCC's proposal to add Lifeline services, a warm line and toll blocking as new "required offerings" in the Proposed MTSS. *See id.* at 61-64. All three of these issues have been previously addressed in prior dockets and any further consideration of these recommendations should be reserved for future dockets. The OCC's recommendations involve determination of benefits to end users, with associated costs (which the OCC has conveniently overlooked), and such investigation into these matters is not appropriate as part of the Proposed MTSS.

4901:1-5-13 ESTABLISHMENT OF SERVICE

The OTIA opposes the OCC's recommended revisions to subsection (A)(3)(a) and (b). *See id.* at 64-68. The Commission has extensively considered and deliberated the issue of toll

disconnect procedures as well as the appropriate allocation of charges and payments between local and toll services and the issue of toll caps and creditworthiness. The OCC is simply seeking to re-litigate issues already determined in exhaustive proceedings.

In regard to the OCC's proposed new subsection (C) dealing with Advance Payments, the OTIA believes that the OCC should be seeking greater flexibility in establishing a customer's creditworthiness, not less. *See id.* at 69-71. The OCC itself acknowledges that "the current industry practice regarding advance payments appears to be acceptable." *Id.* at 70. The OTIA suggests that the OCC has crafted a solution for which there is no problem.

4901:1-5-15 SUBSCRIBER BILLS

The OTIA supports the OCC's suggestion that subsection (A) be clarified to indicate that a customer may not be billed more often than monthly, *so long as* existing billing cycles and practices are accommodated. *See id.* at 71. Again, the OCC proposal for large print bills available upon request is unrealistic, would result in significant financial expenditures, and has not been justified. *See id.* at 71-73.

The OCC has proposed that the policy regarding partial payments received in response to a disconnection notice be similarly applied when a partial payment comes not in response to a disconnection notice but rather as a result of an ordinary bill or a past due notice sent prior to disconnection. *See id.* at 9. Although differing on which partial payment policy should be adopted (the OTIA supports the alternative approach), the OTIA supports application of the partial payment policy to all partial payments at all times.

4901:1-5-17 DENIAL OR DISCONNECTION OF LOCAL EXCHANGE AND INTEREXCHANGE SERVICE

The OTIA restates its position that its members support the alternative approach to partial payments described in paragraph (5)(1) of the Commission's Entry of August 3, 2000. This

approach, which would apply partial payments first to all past due charges before they are applied to any other charges, supports the providers' efforts to create cost-efficient bundled offerings for their customers.

The OCC's proposed modifications to Subsection (H) merely seek to make more onerous an already unacceptable proposal for a new regulation relating to medical certification. *See id.* at 76-78. The OTIA believes that both the Staff's proposal and the OCC's recommended modifications create an overly complex and burdensome process that is fraught with opportunity for abuse. The OTIA urges that the status quo be retained.

4901:1-5-20 MINIMUM SERVICE, QUALITY AND ADEQUACY OF SERVICE LEVELS FOR LOCAL SERVICE PROVIDERS

The OCC's revision to Subsection (B)(1) to add the term "immediately" is meaningless. *Id.* at 79. Furthermore, it is simply impossible to mandate (and audit) the concept of "immediacy." The Staff's proposed text in regard to attempting to notify the subscriber within twenty-four hours of discovery of the trouble condition correctly restates the current rule.

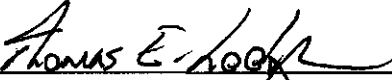
The OTIA opposes the OCC's proposed revision to Subsection (C)(1) to change "fifteen business days" to "ten calendar days." *Id.* at 79-80. The Staff's proposal of the timeframe is a satisfactory balance.

Conclusion

The Ohio Telecommunications Industry Association appreciates the opportunity to voice its views in this docket, and submits that its recommendations, as submitted in its Initial Comments and reiterated within, should be adopted.

Respectfully submitted,

THE OHIO TELECOMMUNICATIONS
INDUSTRY ASSOCIATION

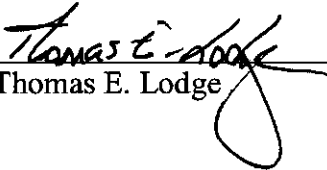
By: 
Thomas E. Lodge (0015741)

Thompson Hine & Flory LLP
One Columbus
10 West Broad Street, Suite 700
Columbus, Ohio 43215-3435
(614) 469-3200

Its Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Reply Comments was served by ordinary mail to the parties on the attached list, on this 14th day of September, 2000.


Thomas E. Lodge

SERVICE LIST

John W. Bentine, Trial Counsel
Todd M. Rodgers
Chester, Willcox, & Saxbe, LLP
17 S. High Street, Suite 900
Columbus, Ohio 43215-3413
Attorneys for NEXTLINK, Ohio, Inc.

Sally W. Bloomfield
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 34215
Attorney for the Association for
Communications Enterprises f/k/n
Telecommunications Resellers Association
and for Time Warner Telecom of Ohio, L.P.

Joan M. Campion
205 N. Michigan Avenue
Chicago, Illinois 60601
Attorney for WorldCom, Inc.

David J. Chorzempa
22 West Adams, Suite 1500
Chicago, Illinois 60606
Attorney for AT&T Communications of Ohio,
Inc., TCG Ohio

Mary Christensen
Christensen, Shoemaker, Winkler,
Howart & Taylor
77 East Nationwide Boulevard, 2nd Floor
Columbus, Ohio 43215
Attorney for McLeodUSA Telecommunications
Services, Inc.

Cincinnati Bell Telephone Company
201 East Fourth Street
Cincinnati, Ohio 45201-2301

Ellyn Crutcher
McLeodUSA Telecommunications Services, Inc.
121 South 17th Street
Mattoon, Illinois 61938

Terry L. Etter, Trial Attorney
Assistant Consumers' Counsel
Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

Boyd B. Ferris
Ferris & Ferris
2733 West Dublin-Granville Road
Columbus, Ohio 43235-2798
Attorney for ICG Telecom Group, Inc.

Benita A. Kahn
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43215-1008
Attorney for Suretel, Inc. dba SureTel, Inc.;
and for AT&T Communications of Ohio,
Inc. TCG Ohio

John F. Kelly
150 East Gay Street, Room 4-C
Columbus, Ohio 43215
Trial Attorney for Ameritech Ohio

Michael T. Mulcahy
45 Erieview Plaza, Suite 1400
Cleveland, Ohio 44114
Attorney for Ameritech Ohio

Thomas J. O'Brien
CoreComm Newco, Inc.
450 W. Wilson Bridge Road, Suite 1000
Worthington, Ohio 43085
On behalf of CoreComm Newco, Inc.

Judith B. Sanders
Bell, Royer & Sanders Co. LPA
33 South Grant Avenue
Columbus, Ohio 43215
Attorney for WorldCom, Inc.

Pamela Sherwood
Regulatory Vice president Midwest Region
Time Warner Telecom
4625 W. 86th Street, Suite 500
Indianapolis, Indiana 46268

Kimberly J. Wile, Esq.
Gretchen J. Hummel, Esq.
Fifth Third Center
21 East State Street, 17th Floor
Columbus, Ohio 43215-4228
Attorneys for Teligent Services, Inc.

Joseph R. Stewart
50 West Broad Street, Suite 3600
Columbus, Ohio 43215
Trial Attorney
United Telephone Company of Ohio d/b/a
Sprint and Sprint Communications
Company L.P.

Derrick P. Williamson, Esq.
Susan E. Bruce, Esq.
100 Pine Street
P.O. Box 1166
Harrisburg, Pennsylvania 17108-1166
Attorneys for Teligent Services, Inc.