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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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	))))	Case No. 00-1265-TP-ORD

AMERITECH OHIO'S REPLY COMMENTS

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Ameritech Ohio, by its attorneys, submits these reply comments in the captioned proceeding. Ameritech Ohio responds herein to the comments filed by ALLTEL Communications, Inc., ALLTEL Ohio, and The Western Reserve Telephone Company ("ALLTEL"); Cincinnati Bell Telephone Company ("Cincinnati Bell" or "CBT"); the joint comments filed by CoreComm Newco, Inc., the Association of Communications Enterprises, AT&T Communications of Ohio, Inc., TCG Ohio, Time Warner Telecom of Ohio, L.P., ICG Telecom Group, Inc., and McLeodUSA Telecommunications Services, Inc. ("the CLECs"); NEXTLINK Ohio, Inc. ("NEXTLINK"); the Ohio Consumers' Counsel ("OCC"); the Ohio Telecommunications Industry Association ("OTIA"); Sprint; Teligent Services, Inc. ("Teligent"); Verizon; and WorldCom.

General Reply Comments

OCC's comments mirror the apparent philosophy of the Staff that the MTSS need to be "improved" in order to be more "pro-consumer." OCC, p. 2. This approach, though, favors regulation over competition and is ultimately to the detriment of consumers. As shown in several of the industry comments, the vitality of many of the existing MTSS rules must be questioned. *See, e.g.,* CBT, p. 2; CLECs, p. 12; Sprint, p. 27 ; Teligent, pp. 2, 4. This is because the MTSS predate the emergence of a competitive telecommunications marketplace and, in a major sense, they ignore its very existence. Like rate regulation, the MTSS are intended to be a surrogate for a competitive

marketplace. Where market forces have taken hold, the need for such a surrogate disappears.

The MTSS place requirements on telecommunications service providers that are not placed on other competitive businesses such as retail stores, automobile dealers, or restaurants. However, all of these entities provide important goods and services and must work to meet and exceed customers' expectations in the competitive marketplace in which they do business. Each of these businesses strives to provide reasonable accommodations when they do not meet their customers' expectations. A retail store will provide a refund or an adjustment for a product that does not work. An automobile dealer may provide a free loaner car if repairs take longer than anticipated. A restaurant may offer a free meal or some other accommodation if its product does not meet a customer's expectations. None, however, is required by law to provide these free goods or services to disappointed customers. Competition encourages these types of accommodations to be made by businesses if they hope to compete successfully for customers. This fact, though, is one, which is largely ignored by the Staff's proposal and by OCC's proposed "enhancements" of it.

The reality of the competitive marketplace is that customers will not continue to patronize the providers who fail to meet their needs and expectations or those who fail to make these types of accommodations when a product or service is substandard. *See*, CBT, p. 3. Those customers will "vote with their pocketbook" and seek out the goods and services of competing providers. So it is in the telecommunications marketplace

today, despite the naysaying by the Staff and OCC. For these reasons, Ameritech Ohio endorses CBT's call for the adoption of market-based standards that limit regulatory intervention. CBT, p. 3. Ameritech Ohio also echoes Teligent's recommendation that the Commission should avoid promulgating unduly burdensome or unnecessary regulations. Teligent, p. 18.

If there is a public policy rationale for continued micromanagement of the industry, as reflected in many aspects of the MTSS, the Commission needs to articulate it and closely examine its validity. As noted by Ameritech Ohio, the MTSS are in need of more radical surgery than that proposed by the Staff or many of the commenting parties. Ameritech Ohio Comments, p. 3. The marketplace, better than any rule, will police the quality of service provided to all customers. The MTSS need to recognize and embrace this important impact of competition.

Characteristically, OCC warns that the Commission should not place *too much emphasis* on the marketplace in promulgating the MTSS. OCC, p. 2. OCC's parochial view cannot stand scrutiny. The MTSS place *far too little emphasis* on the marketplace, where customers can freely choose among many providers of telecommunications services today. Local exchange competition is thriving in Ohio, as evidenced by the number of CLECs that have been certified and the definitive closing of the "fresh look" window by the Commission in virtually all of Ameritech Ohio's exchanges. OCC, though, clings to regulations that are a relic of a prior monopoly era and which clearly have no proper place in today's dynamic, customer-driven marketplace. Just as the

Commission is considering alternative regulation that permits additional pricing flexibility where competition has developed, so too should it consider relaxing or eliminating the requirements of the MTSS where competitive service providers have received certification and are operating.

In this vein, the Commission should not simply view the periodic review of the MTSS under R. C. §§ 111.15(B) and 119.032 as a "mandate." Rather, the periodic review should be viewed as an opportunity for real reform. *See*, CBT, p. 11. Given the short time frame allotted by the Commission for this review, however, and for the preparation of comments and reply comments by the parties, it appears that the opportunity for significant reform could be squandered. That will be a lost opportunity for the Commission and, ultimately, a loss for Ohio consumers. When future revisions to the MTSS are contemplated, the Commission should consider other approaches to gathering input and suggestions for changes from the industry and other interested parties. *See* Verizon, p. 5.

At a minimum, the Commission should also strive to lessen the requirements applicable to business customers. The focus of the MTSS should be on residential customers' basic services. Several commenting parties note that business customers have different needs and expectations that are simply not appropriately addressed in standards such as these. NEXTLINK, p. 5; Sprint, p. 4;Teligent, p. 9. . The CLECs note that the rule on the establishment of credit, which is proposed to be expanded to include business customers in connection with their telephone service but not other services, would place

stricter requirements on the telecommunications industry in its relationships with business customers while a less rigorous condition applies to the other industries. CLECs, p. 17.

Several commenting parties also point out inconsistencies between the proposed MTSS and other rules or policies proposed by the Staff in Case Nos. 99-563-TP-COI and 99-998-TP-COI. CBT, p. 6. The Commission should, of course, address these inconsistencies. For example, the same set of definitions should be used for all purposes, with variations and exceptions made only where necessary. The definition of basic local exchange service proposed in Case No. 99-998 should be used for purposes of the MTSS as well. NEXTLINK notes a conflict between the exchange map provisions of the proposed MTSS and the proposed Local Service Guidelines revisions. NEXTLINK, p., 4. The Commission needs to address these problems with the Staff's recommendation and develop consistent rules in each of these dockets.

Ameritech Ohio disagrees with several of OCC's recommendations. First, OCC's requests that the Commission declare that a determination of noncompliance with the MTSS or any other telecommunications regulation or law constitutes "inadequate service." OCC, pp. 4, 6. This proposal cannot withstand scrutiny under Ohio law. The current rule and the proposed revision reflect the proper approach: a violation of the MTSS cannot, by itself, constitute inadequate service. Current Rule 1(F); proposed Rule 2(F). Only a formal legal determination by the Commission, following a hearing under R. C. § 4905.26, can support a finding of inadequate service under Ohio law. A finding

of inadequate service must be based on specific facts, including the LEC's circumstances and the particular nature of the customer's problem. The legal precedents support the necessity of a hearing and factual determinations. Legally inadequate service is more than simple negligence or mistake. Ohio Bell Tel. Co. v. Pub. Util. Comm. (1984), 14 Ohio St.3d 49; Avery Engineering v. Ohio Bell Tel. Co., Case No. 80-917-TP-CSS (February 17, 1982), p. 6. As a result, an instance of technical non-compliance with a rule cannot constitute "inadequate service" without findings of fact and conclusions of law focused on the specific circumstances of a case. The Commission is aware of the implications of a finding of inadequate service under R. C. §§ 4905.381, 4905.46, and 4905.61, and other statutes. Due process simply would not permit an "automatic" finding of inadequate service as proposed by OCC. The Staff's proposed language in Rule 2(F) is only an editorial and not a substantive change from the current rule; it should be adopted.

In a major new undertaking, OCC also proposes that the MTSS prescribe an "adequate local calling area," thus bypassing the normal requirements of extended area service cases. OCC, pp. 4, 9-32. OCC's extensive proposal is, at once, misplaced and misguided. This is not the forum in which to revise the EAS rules. The EAS rules are scheduled for periodic review by September 30, 2001. OCC's proposal is, at best, premature. Moreover, it is not supported by any logical argument and cannot be adopted in the absence of a complete record and a clear understanding of the financial implications on the industry and its customers.

The Commission should also reject the call for the application of the MTSS to the carrier-to-carrier relationship. CLECs, p. 2. The rule proposed by the CLECs simply has no place in the MTSS, which should be geared to the provision of basic local exchange voice services to residential subscribers. Similarly, the Commission should reject the call to exempt resellers from the MTSS while subjecting the underlying carriers to the requirements. CLECs, p. 5; Teligent, p. 3. The service standards that govern the carrier-to-carrier relationship should be part of the interconnection and resale agreements authorized by the Telecommunications Act of 1996, and should not be unilaterally mandated by a state commission.

The approach advocated by several parties with their call for continued close regulation of ILECs while most of the regulations on CLECs are lifted would aggravate the problem of disparate regulation. ALLTEL, p. 2; Sprint, p. 3; Teligent, p. 3. The MTSS should apply, if at all, equally to all competing providers of basic local exchange service until market forces supplant the standards.

The CLECs propose a "Rule 21" that they suggest was omitted from the Staff's recommendation. CLECs, p. 2. This proposed addition is inappropriate for the MTSS. It addresses carrier-to-carrier relationships which, as noted above, are the subject of agreements and are beyond the proper scope of the MTSS.

Specific Reply Comments

Rule 1: Definitions

Verizon correctly points out that the definition of "basic local exchange service" needs to be modified. Verizon, p. 2. Ameritech Ohio agrees that intraLATA and interLATA services (which terms usually refer to toll services) should not be considered to be part of basic local exchange service. Moreover, as explained by Ameritech Ohio, the definition should clearly be limited to voice switched network access. Ameritech Ohio, p. 6. OCC's approach, however, is clearly too expansive and would include optional features and services in the definition of basic local exchange service. OCC, p. 33. OTIA properly carves out the highly competitive data services sector from coverage by these standards. OTIA, p. 3. Sprint also recognizes the need to address voice and data communications separately. Sprint, pp. 2-3.

The Sprint and Verizon comments reflect a concern, shared by Ameritech Ohio, with the proposed definition of "business day." Sprint, p. 6; Verizon, pp. 2-3. As noted by Ameritech Ohio, the definition of business day should be keyed to days when the service provider performs regularly scheduled installations and repairs *and* maintains office hours. Ameritech Ohio, p. 7. If these activities are viewed separately, every day would become a "business day" for purposes of the MTSS. The Commission should adopt a definition consistent with these comments.

The Commission should consider Verizon's suggested change to the definition of "subscriber" which would permit responsible household members to act on behalf of the party that is responsible for payment. Verizon, p. 4.

Rule 2: General Provisions

Ameritech Ohio agrees with the CLECs and Sprint that the MTSS cannot automatically prevail over tariff provisions. CLECs, pp. 3-4; Sprint, pp. 7-8. As Ameritech Ohio explained in its initial comments, service providers can be directed to amend their tariffs to conform to the MTSS, but the MTSS cannot properly supersede conflicting tariff provisions. Ameritech Ohio, p. 10.

Several CLECs contest the proposed elimination of the recourse provision. CLECs, pp. 5-7; NEXTLINK, pp. 2-3; Teligent, pp. 5-6. OCC joins this chorus. OCC, p. 40. Any provision for such recourse is more properly a subject of carrier-to-carrier negotiations. It should not be a part of "minimum" telephone service standards. NEXTLINK's claim that CLECs' customers will suffer if the recourse provision is eliminated is simply unsupported. NEXTLINK, p. 3. The recourse provision is not necessary to insure parity in terms of service performance between ILEC wholesale and retail operations. Numerous other safeguards are in place to prevent the kind of discrimination imagined by NEXTLINK. The recourse provision should be removed from the MTSS as proposed by the Staff. Moreover, there is no basis for the Commission to require Ameritech Ohio to retain the recourse provisions of its tariff, as suggested by

NEXTLINK. NEXTLINK, p. 3. To single out one LEC for the imposition of such a requirement would be clearly discriminatory.

The CLECs claim that recourse rights are an important "anti-competitive weapon." CLECs, p. 6. Yet, Ameritech Ohio has received very few requests for recourse, and the approval of its recourse tariff has not stimulated additional requests. The CLECs have failed to avail themselves of the recourse provisions. It must be remembered that the CLECs criticized the suggestion that such provisions should be negotiated. Teligent warns of "potential for abusive tactics" with no supporting evidence. These claims must be dismissed. Teligent, p. 5.

In connection with proposed Rule 2(B)(4), Ameritech Ohio agrees with Cincinnati Bell that the Commission should address the carrier of last resort obligation in a separate proceeding. CBT, p. 14. In doing so, the Commission must consider compensation mechanisms or other appropriate relief for any carriers having such an obligation. Such an obligation is also at issue in Case No. 99-998-TP-COI and presumably will be addressed there.

Rule 3: Records and reports

OCC recommends expanding this rule, an approach which ignores the discretion vested in the Commission to request this type of information at any time. OCC, p. 41. OCC's proposal that installation and repair performance of all carriers be provided on an annual basis will add unnecessary administrative burdens on both the carriers and the

Commission. Not surprisingly, OCC asks that the information also be provided to it. OCC, p. 42. Without a clear showing of need for all this additional paperwork and bureaucracy, OCC's approach should not be adopted.

Rule 4: Filing and minimum content requirements for local service provider tariffs.

NEXTLINK points out that the proposed MTSS and the Staff's proposal in Case No. 99-998-TP-COI are in conflict. NEXTLINK, pp. 3-4. The option to post tariffs on a web site should be available to all carriers. The Commission should consider the approach advocated by WorldCom, which would consolidate the tariff requirements in the rules under consideration in the 563 and 998 cases and eliminate the MTSS rule. WorldCom, p. 6.

Rule 5: Handling of Subscriber Complaints

Ameritech Ohio agrees with the OTIA that the status quo should be maintained in both the definition of complaint and in the complaint handling processes in connection with this rule. OTIA, pp. 5-6. The Commission should not adopt the expansion of the rule advocated by OCC. OCC seeks to invoke the complaint handling processes as a "representative of the subscriber" (p. 45) and requests that the companies be forced to notify residential subscribers about the availability of OCC's services. OCC, p. 46. It is clear that not every inquiry by OCC to the carriers should be treated as a complaint, but that would be the effect of the change recommended by OCC. As to its other suggestion, OCC's budget permits it to engage in significant customer outreach without the requirement that the carriers offer it free publicity.

Rule 6: Consumer safeguards and information

Like Ameritech Ohio, CBT and Sprint recognize the problems created by a requirement to distribute annually to each subscriber a directory or directories that include all listings in the subscriber's local calling area. CBT, p. 16; Sprint, p. 10. The reference to EAS and EAS pilots should be removed, and the Commission should rely on existing practices related to the distribution of directories that include EAS listings. Directories with EAS listings are provided free of charge, upon customer request.

The proposed inclusion of EAS listings could also have a "daisy chain" effect that would create administrative difficulties and would be very costly. For example, Ameritech Ohio's Canal Winchester customers can now call Ameritech Ohio's Columbus customers via EAS and vice versa. If Canal Winchester customers must be listed in the Columbus directory, the rule could be interpreted to require that all the numbers that are also local calls to those Canal Winchester customers must also be included in the directories made available to Columbus customers. This would include listings in Ameritech Ohio's Lancaster exchange, which is southeast of Canal Winchester. This would have the absurd result of including in the directories made available to Columbus customers the numbers that are a local call for Canal Winchester customers but not a local call for any other subscribers listed in the Columbus directory.

Ameritech Ohio agrees with the CLECs that proposed Rule 6(C) should be revised to reflect that payments should be credited within "one business day" rather than within twenty-four hours. CLECs, p. 11.

Proposed revisions to the Customer Bill of Rights drew a number of comments. Ameritech Ohio agrees with Cincinnati Bell that the appendix adds negligible benefit and should be deleted from the MTSS. CBT, p. 18. The Customer Bill of Rights now contains substantive rules and is not simply a summary of rules that are already in place. WorldCom recognizes this as a concern. WorldCom, p. 8. The Customer Bill of Rights should only be a summary and should not contain substantive rules. At a minimum, there should be greater flexibility in connection with the content and distribution of the Customer Bill of Rights, as advocated by the OTIA. OTIA, p. 7.

Ameritech Ohio would note that WorldCom's comments underscore the present level of disparity between the enforcement of the MTSS between ILECs and CLECs. WorldCom explains that it does not follow the 10-day "cooling off" policy set forth in the Commission's inside wire orders. WorldCom, p. 9. This is an example of a policy that is not well understood, not uniformly followed, and certainly not uniformly enforced by the Commission. The inside wire policies, of course, have never been set forth in rules promulgated by this Commission.

OCC's proposed expansion of the Bill of Rights would only aggravate the problems cited in connection with that document. OCC, pp. 51-52. OCC has the wherewithal to advise its constituents of their rights but it should not expect the Commission to mandate a complete and repetitive explication of every nuance by the carriers in the form of the Customer Bill of Rights.

Ameritech Ohio also agrees with the OTIA that the medical certification procedure needs to be scaled back. OTIA, p. 8. OCC's call for expanding the medical certification benefits must be rejected. OCC, p. 4. If medical certification should, as a matter of policy, entitle one to free or subsidized telephone service, it is the province of the Ohio General Assembly to make that decision. In this regard, it should be noted that the General Assembly did not renew the state lifeline program, but rather permitted it to expire effective at the end of 1999. *See*, former R. C. §§ 4905.76-78.

Ameritech Ohio agrees that the prohibition related to disconnection of service on the day before any federal holiday should be removed, consistent with the OTIA's comments. OTIA, p. 8.

OCC's call for the mandatory expansion of providers' customer service hours must be rejected. OCC, p. 50. Such a requirement would intrude too far into the management of the companies, contrary to the Commission's limited mission of regulation. Elyria Tel. Co. v. Pub. Util. Comm. (1953), 158 Ohio St. 441. Moreover, the proposed expansion of hours would come at great costs with questionable benefits. The service providers should be free to adapt their office hours to what they reasonably determine to be the needs of most of their customers. As with many other proposed standards, this one is better left to the marketplace, which will determine the appropriate hours for all service providers' customer service operations.

Rule 7: Marketing Practices

Not surprisingly, OCC commends the marketing rules as "needed consumer protections." OCC, p. 52. What is not clear is whether they are indeed *protections* or *needed*. Ameritech Ohio agrees with the CLECs that the marketing practices rule is simply unnecessary in an emerging competitive market environment. CLECs, p. 11. Ameritech Ohio would only add that the rule is inappropriate for any carrier and should not be applied to ILECs or CLECs.

Ameritech also endorses the comments of Cincinnati Bell, which highlight the negative impacts on customer service of complying with all of the requirements of the proposed rule. CBT, p. 19. Not all customers need to hear - - or want to hear - - all of the proposed mandatory disclosures. This is an area in which the Commission should rely on market forces. Customers will deal with the companies they believe provide good customer service - - as determined by the customers themselves, and not by regulatory fiat - - and will shun the companies that they believe do not meet their standards. It is the marketplace - - and not the Commission - - that should establish the standards in this area. NEXTLINK, describing its experience with business customers, recognizes the role of the marketplace in this regard; the Commission should, as well. NEXTLINK, p. 5. Teligent also focuses on the important distinctions between residential and business customers in this context. Teligent, pp. 9-10.

If the marketing rule is to be adopted, it should recognize that the customer's stated needs should be the focus of the companies' contacts with the customer. Sprint's

approach should be considered by the Commission: customers can obtain information concerning any service options from the LEC *upon request*. Sprint, p. 15.

The Commission should clearly reject the proposed "do not solicit" rule. Verizon, pp. 11-12; WorldCom, pp. 9-10; Sprint, pp. 17-18. The proposed "do not solicit" rule is a clear infringement on the companies' commercial free speech rights. It also impairs the open, competitive marketplace for services that the Commission is fostering and that the public policy of Ohio endorses. R. C. § 4927.02. Moreover, the Commission should not decide - - as a surrogate - - what customers "want." If the Commission chooses to adopt such a rule, however, it should only be applied to out-bound telemarketing calls by the companies and not to contacts initiated by the customer.

The Commission should also reject OCC's proposal to expand the proposed marketing rule's application to "equipment" which the Commission cannot and does not regulate. OCC, p. 54.

Similarly, OCC's call for written confirmation of the information required by Rule 7(F) is unwarranted. OCC would require this information to be provided within three business days upon request. OCC, p. 55. OCC's proposal will add needless cost and administrative difficulty with no commensurate showing of public interest benefits. The proposal would add to the complexity and expense of doing business in Ohio and may stifle competitive entry.

Rule 8: Telecommunications Carrier Subscription/Slamming

All of the commenting industry parties recognize the potential for confusion and conflict between the Staff's proposal and the comprehensive rules that the FCC has adopted. CBT, p. 20; CLECs, p. 13; OTIA, p. 10. The Commission should carefully examine the need for any of the special provisions set forth here and should simply mirror the FCC rules to the extent that is necessary under its enabling legislation, R. C. § 4905.72.

The Commission should reject OCC's call for the application of the slamming rules to cramming as well. OCC, pp. 4, 57-59. Cramming and slamming are distinct offenses with quite different characteristics. Some of the slamming rules could be adapted to address cramming offenses, but OCC's simplistic suggestion cannot be adopted here. Moreover, the Commission lacks the statutory authority to impose the punitive sanctions for cramming advocated by the OCC. OCC, p. 58. There is no showing here that Ohio's telephone companies are not taking adequate steps - - of their own volition - - to address allegations of cramming by their customers.

Contrary to the position expressed by the CLECs and WorldCom, there is no reason not to permit the application of a "preferred carrier freeze" ("PCF") to any local exchange customer's account. CLECs, p. 14; WorldCom, p. 12. Given the safeguards that have been recommended, the use of a PCF by a local exchange customer does not inhibit competition; rather, it helps insure that competitors behave properly in attracting new customers. PCFs have been shown to be successful in preventing slamming in both

the local and toll service arenas. While PCFs are viewed as "hurdles" by the CLECs (CLECs, p. 14), in reality they serve as legitimate consumer protection tools. Where a PCF has been accepted by a customer under proper procedures, it should not be viewed as a "hurdle" in any sense.

Rule 9: Pay phone service

Several comments mirror Ameritech Ohio's in questioning the jurisdictional basis for the proposed payphone rules. Ameritech Ohio agrees with Cincinnati Bell's suggestion that this section be deleted in its entirety because the federal Telecommunications Act of 1996, and FCC actions taken thereunder, have deregulated the payphone industry. CBT, p. 20. Neither the statutory basis for, nor the public policy rationale for, the proposed rules has been shown.

Rule 10: Local service provider required service offerings

The Commission should not adopt the requirement for enhanced lifeline plans advocated by OCC. OCC, pp. 59-61. Clearly, with the sunsetting of Ohio's statutory lifeline plan, the Commission lacks the authority to impose any such requirement administratively. *See* former R. C. §§ 4905.76 - 78 (repealed effective December 31, 1999). OCC incorrectly assumes that the Commission can simply mandate such an expanded program in the absence of statutory authority. Moreover, the costs and administrative complexities of such a program have not been addressed by any commenting party here. The institution of such a program would essentially constitute a

tax on other customers and the companies' shareholders. Such a tax can only be levied by the General Assembly.

Similarly, the Commission should reject OCC's call for a "warm line" and additional forms of free blocking. OCC, p. 61. Neither the costs nor the technical feasibility of these proposals has been considered. OCC has simply added them to its "wish list."

Rule 11: Directory Assistance

The commenting parties uniformly recommended against the implementation of the "immediate" time frames recommended by the Staff. CBT, p. 21; OTIA, p. 10; Sprint, pp. 23-24. The current two business day time frame should be retained.

Rule 13: Establishment of Service

Ameritech Ohio agrees with the OTIA's comment that the Commission should not introduce a new mandatory requirement to permit deposits as a method of establishing financial responsibility. OTIA, p. 11. This approach goes beyond the current rule, which requires applicants for service to establish their financial responsibility. Even where financial responsibility is established, a deposit can be required. The Staff assumes that a deposit is a *substitute* for the demonstration of financial responsibility when it clearly is not. WorldCom's proposed rule would provide the needed flexibility to respond to individual applicants' varying circumstances. WorldCom, p. 12. Ameritech Ohio

supports Verizon's request that the deposit rule should address the offering of bundled services. Verizon, p. 17.

The Commission must be careful not to unreasonably restrict the service providers' ability to confirm the financial responsibility and the identity of all applicants for service. Such restrictions would be contrary to the public policy that prohibits fraud and the theft of utility services. *See*, R. C. §§ 2913.02, 2913.61. Service providers must be free to institute reasonable procedures to combat the growing national phenomenon of identity theft, where an individual assumes the identity of another in order to fraudulently obtain goods and services.

Ameritech Ohio agrees with the CLECs' comment to the effect that the special protections of this section, if applied at all, should only be applied to residential customers. CLECs, p. 16. The creditworthiness of business customers should be reviewed and determined in any commercially reasonable manner, as suggested by the CLECs

Teligent argues that Rule 13(B)(2) should not apply to CLECs. Teligent, p. 8. This would create an improper regulatory disparity. Moreover, Ameritech Ohio does not believe the Staff's intention here is to create "carrier of last resort" obligations, as suggested by Teligent.

OCC comments that it is "unfair and unreasonable that some consumers continue to be held captive by unpaid bills that are several years old . . . ." OCC, p. 63. OCC would excuse the payment of lawful bills simply because they are old or because customers have successfully avoided payment. The Commission should reject this approach for several reasons. First, the Commission should encourage - - not discourage - - the payment of bills by all customers. This helps keep the cost of service low for all customers. Second, OCC misrepresents the facts. Ameritech Ohio requires only a total payment of $75 for old final bills that predate the "separation" of toll from local charges as a result of the Commission's decisions in Case No. 95-790-TP-COI. In some cases, the local charges on such bills far exceed $75, but that number was agreed to as a fair proxy for the "average" local service portion of the billing on old final bills.

Rule 14: Residential Service Guarantors

While Ameritech Ohio did not provide initial comments on this rule, it notes its agreement with Sprint's proposal that this rule be eliminated. Sprint, p. 27. It should be within the discretion of the service providers to offer the guarantor option. Sprint's experience, reflecting that very few customers use this option, demonstrates that it should not be mandated. Customers have many options available for establishing credit; there is simply no need to mandate the guarantor option, which is a relic of the monopoly era of service providers in this industry. For these reasons, the Commission should reject the OCC's call to expand the guarantor provisions. OCC, pp. 34-35. Such proposals may reflect the desires of some customers, but they cannot be justified as *minimum* telephone service standards.

Rule 15: Subscriber bills

The Commission should follow CBT's suggestion and simply adopt the FCC's "truth-in-billing" requirements here without imposing additional or conflicting state rules. CBT, p. 22; *also see* Teligent, pp. 16-17. Teligent correctly asserts that for carriers with national or even regional operations, state-specific billing requirements can be particularly burdensome. Teligent, p. 15. With OCC's minor suggested change (the addition of the words "and conspicuously") this would be accomplished. OCC, p. 69. However, OCC's other billing recommendations (OCC, pp. 70-73) should not be adopted, as explained below.

CBT's comment regarding the FCC's experience with the proposed "highlighting" of new services is also instructive, and this requirement should be eliminated. CBT, pp. 22-23.

Sprint's comment again underscores the mismatch between several of the proposed rules and realities of a dynamic, competitive telecommunications marketplace. This mismatch is evidenced by the fact that a bundled package of local and long distance services cannot readily be disaggregated for purposes of proposed Rule 15(B)(1). Sprint, pp. 27-28.

Similarly, the Commission should heed OTIA's call not to require "monthly" bills when the current rule requiring regular bills has not been shown to cause any problems. OTIA, p. 12.

Ameritech Ohio also agrees with Sprint that the Commission should revisit the requirement of Rule 15(C)(4), requiring the rate applied to be shown in connection with all toll calls. Sprint, p. 28. This additional requirement would not provide useful information to customers. The technical feasibility of such a requirement also has not been established.

OCC advocates several additions to proposed Rule 15. OCC, pp. 70-71. The call for a requirement to make large print bills available upon request should not be adopted. If this is something that customers want or demand, the marketplace will fulfill this need. It would also appear that a rule requiring the inclusion of OCC's contact information on all customer bills would duplicate OCC's formidable outreach program. OCC, p. 72. The Commission should, once again, deny this self-serving request.

Rule 16: Subscriber billing adjustments for local exchange service

Like Ameritech Ohio, the industry commentors recognize the practical importance of exceptions to "perfect" service, whether they are called Act of God, the CLECs' term "Acts of Nature," or "exigent circumstances," the term proposed by Ameritech Ohio. CLECs, p. 21; CBT, p. 24; OTIA, pp. 13-14; Sprint, p. 29. The Commission itself has recognized that "(b)oth state and federal courts have often indicated that perfect service cannot be required, and that a utility cannot insure that a customer will never be without service." Robert Sturwold v. The Ohio Bell Tel. Co., Case No. 86-577-TP-CSS (June 2, 1987), p. 6. OCC, however, argues that any such exceptions "add insult to injury" and are a disincentive to improving service quality.

OCC, p. 73. OCC is well aware that the American legal system is largely a "fault-based" system, and it is contrary to its fundamental principles to hold telephone companies liable for every customer outage, missed appointment, or missed repair commitment regardless of the circumstances. It is clearly appropriate to carve out exceptions to the credit rules, many which go well beyond compensating customers for service they did not receive. As Ameritech Ohio pointed out, certain of the proposed (and existing) credits and waivers go beyond a recognition that a customer should not pay for what they did not receive. They result in an award of damages against the local service providers. Ameritech Ohio, p. 22. Credits that result in the customer receiving service free of charge for any period fall within the category of damages and constitute a sanction against the companies without any finding, as required by R. C. § 4905.26. To the extent the MTSS are used as a mechanism to award damages for inadequate service, their adoption and enforcement would exceed the Commission's authority.

The LECs should be entitled to rely on clearly defined exceptions that can be applied on a reasonable basis. Certain events cannot be reasonably anticipated. Likewise, the companies cannot reasonably be expected to achieve staffing levels to meet any possible contingency. Just as service should be "just and reasonable," so too should the MTSS be just and reasonable. The limited use of exceptions is clearly reasonable and should be permitted.

The CLEC parties call for an unwarranted disparity between ILECs and CLECs. CLECs, pp. 22-23; NEXTLINK, pp. 6-7; Teligent, p. 4. In doing so, they are attempting

to relitigate issues decided in connection with Ameritech Ohio's recourse tariff in Case No. 97-1729-TP-ATA. The CLECs want the recourse tariff retained, yet they want to fundamentally change it. If there is to be an installation standard, it must apply uniformly to all local service providers. Many CLECs have performance measures as part of their interconnection and resale agreement that help assure their own compliance with service standards. Whether an underlying carrier complies with the applicable performance measures of its agreement with a CLEC is not a matter than can, or should, be addressed in the MTSS. It would simply be improper to build special service interval requirements into the MTSS for CLECs that are not also available to the ILECs. Carrier-to-carrier service intervals should be a function of carrier-to-carrier agreements, and not a Commission regulation. The Commission must reject WorldCom's request that CLECs be exempt from providing the Rule 16 billing adjustments if it applies the rule to ILECs. WorldCom, p. 16. NEXTLINK's call for reseller exceptions would discourage facilities-based competition; for that reason, it should not be heeded.

WorldCom's argument that "voluntary compensation" is appropriate in the CLEC/end-user setting is really an argument for the elimination of all the Rule 16 billing credits. WorldCom, p. 16. If market forces and good customer relations demand such credits, as WorldCom suggests, they need not be mandated by the Commission and the basis for such a regulation should be carefully examined.

Rule 17: Denial or disconnection of local exchange and interexchange service.

Ameritech Ohio recognizes and agrees with Cincinnati Bell's claim that this rule appears to duplicate the policies adopted in Case No. 95-790-TP-COI. CBT, p. 24. However, those policies were never adopted as rules, and if the Commission expects to enforce them as rules, they should be adopted as part of the MTSS or other rules.

Ameritech Ohio supports the OTIA's recommendation that partial payments should be allocated according to the alternative approach set forth in the Commission's August 3, 2000 Entry. OTIA, p. 15. The allocation of partial payments to past due amounts is both commercially reasonable and easier to administer than any other approach.

OCC does its constituents a disservice in supporting the Staff's approach on partial payments, which is reflected in the current rule. OCC, pp. 4, 7. The current policy results in toll service being blocked while partial payments are allocated to local service charges that are not past due. Ameritech Ohio has experienced the frustration of customers whose payments were allocated in this manner. OCC is fully aware of these. Inexplicably, OCC rejects the alternative approach, which guarantees that services that are in jeopardy of being blocked because the accounts are past due are preserved. The Staff's approach, which favors local service over all other categories of service, is simply illogical and does not comport with customer expectations. Contrary to OCC's suggestion, these facts alone are enough of a "record" to justify adopting the alternative approach proposed in the August 3, 2000 Entry. OCC, p. 8.

OCC also urges that required option for third party notice of disconnection be retained. OCC, p. 74. This is another service that companies will make available if the market demands it. It has no place in a set of minimum telephone service standards, however. OCC ignores reality in its suggestion that the only way such an option will be maintained is if the Commission mandates it.

OCC strains credulity when it suggests that the medical certification provision of the proposed disconnection rule should provide for a 60 day *minimum* period for the postponement of disconnection. OCC, p. 75. Once again, OCC would treat telephone service as an essential commodity to which people are entitled whether they pay for it or not. Such an approach is counter to the principles of an open competitive marketplace in which all providers are entitled to be compensated for the services they provide. If a program like that advocated by the OCC and the Staff is truly necessary, they should approach the General Assembly and seek to enact it, along with an appropriate mechanism to compensate the service providers for the financial losses occasioned by the mandatory offering of free service to those with a qualifying "medical certification." The Commission should reject the Staff's proposal as well as OCC's embellishment of it.

OCC's recommendation concerning proposed Rule 17(I)(3) underscores a serious problem with that rule. To permit a subscriber to retain service by paying "the amount paid for the same billing period in the previous year" totally ignores the variations in toll bills (all of which are in the subscriber's control) and the fact that subscribers may have added many services and features to their account in the intervening year. The rule

appears to be based on the notion, perhaps borrowed from the "commodity" services like natural gas and electric service, that customer bills for the same month do not fluctuate significantly on a year-to-year basis. The model has no application in the telephone service arena, where the customer has complete discretion as to the number of lines to which they subscribe, the usage (both local and toll) on those lines, and the optional features that are added to those lines, all of which are reflected on a monthly bill. OCC's proposal should therefore be rejected. The rule should be limited such that disconnection can only be avoided by the payment of the undisputed portion of the current bill.

WorldCom advocates ILEC/CLEC disparity in reconnecting services within 24 hours under Rule 17(L). WorldCom, p. 18. This is another area in which different treatment for ILECs and CLECs is unwarranted. Nothing prevents a CLEC from complying with such a rule in the same time frame as an ILEC.

Rule 19: Emergency operation

Ameritech Ohio agrees with the industry comments that point out that the new thresholds in this rule are neither justified nor reasonable. OTIA, pp. 16-17; CBT, pp.24-25 ; Sprint, p. 34 Verizon, p. 23. Like Ameritech Ohio, Verizon also recognizes the ambiguity of the use of the term "all telephone equipment." Verizon, p. 23. The Commission should maintain the status quo in this regard.

Rule 20: Minimum service quality and adequacy of service levels for local service providers

OCC advocates tighter restrictions on the service providers in its comments on this proposed rule. OCC, pp. 77-79. Its proposal for "immediate" notification of subscribers (OCC, p. 78) suffers the same infirmity as the other proposed requirements for "immediate" response. It should not be adopted. OCC would also expand the requirement for the offering of alternative service to customers whose service cannot be timely installed. OCC, p. 78. This is another area where the marketplace - - and not regulatory fiat - - should dictate the companies' practices. Similarly, OCC would provide the customer the choice of the alternative service (OCC, p. 78), when that choice should be determined by the service provider in its own judgment of what customers need and expect.

Ameritech Ohio disagrees with WorldCom's claim that the Commission must differentiate between ILECs and CLECs for purposes of these rules. WorldCom, p. 18. The differentiation between ILECs and CLECs is also advocated by ALLTEL and Teligent. ALLTEL, p. 2; Teligent, p. 5. In ALLTEL's view, the MTSS would apply to the ILEC as the "carrier of last resort." ALLTEL, p. 2. As explained above, if there are to be standards like these, they must apply equally to all carriers. To the extent one carrier is relying on the other carrier for its services, it should insure, via contract, that the performance will meet its needs. The fact that there is a wholesale/retail relationship does not justify CLEC exclusion from the rules or lesser standards for the CLECs. If the rules are not maintained for all carriers on an equal basis, they should be eliminated in

favor of market forces and the voluntary compensation efforts that WorldCom has described. WorldCom, p. 16.

Ameritech Ohio supports Cincinnati Bell's comment that the change to Rule 20(B)(5), imposing a shortened 48-hour window for clearing all service affecting trouble, is overly burdensome. CBT, p. 25. The current 72-hour interval should be retained because it has not been shown to be problematic.

Ameritech Ohio also agrees with the OTIA's request that the rule that requires companies to attempt to provide some form of alternative service in certain circumstances be retained. OTIA, p. 18. The need to mandate alternative services in place of simply requiring an attempt to provide such services has not been shown, as noted by OTIA.

Conclusion

Ameritech Ohio requests that the Commission modify the MTSS consistent with its comments and the comments that the Company endorses in these reply comments.

Respectfully submitted,

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Certificate of Service

I hereby certify that a copy of the foregoing Reply Comments has been served this 14th day of September, 2000, by first class mail, postage prepaid, on the parties shown on the attached service list.

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00-1265.Ameritech.replycomments.9-14-00.FINAL.doc

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