

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Review)	
of Ohio Adm. Code Chapter 4901:1-7,)	Case No. 16-2066-TP-ORD
Local Exchange Carrier-to-Carrier Rules.)	

**INITIAL COMMENTS
OF
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

I. Introduction

The Ohio Cable Telecommunications Association (“OCTA”) represents the members of Ohio’s cable industry. Some OCTA members currently offer voice services through “circuit” switched technology and/or internet protocol-enabled “packet” switched technology and, in offering those services, may utilize the services or facilities of incumbent local exchange carriers (“ILECs”) and competitive local exchange carriers (“CLECs”), including CLECs that are affiliates of OCTA members. Therefore, the OCTA, on behalf of its members, is an interested person and offers these Initial Comments regarding select rules in Chapter 4901:1-7, Ohio Administrative Code,¹ which address the standards by which telephone companies interconnect their networks to provision telephone service to end user customers.

The OCTA raises concerns with two of the compensation rules (Rules 7-12 and 7-14) and the customer service records rule (Rule 7-22) because these rules are not consistent with current federal law and requirements. The OCTA also identifies some additional language changes that should be adopted to fix reference errors. Lastly, the OCTA urges greater transparency in the Business Impact Analysis regarding the impact of these rules.

¹ For ease, all references in these comments to the rules in Chapter 4901:1-7 will be simply “Rule 7-___.”

While the OCTA offers targeted comments on only certain carrier-to-carrier rules proposed by the Staff of the Public Utilities Commission of Ohio (“Commission”), the OCTA’s silence on any particular rule or suggested revision does not necessarily reflect its validation or endorsement of any of such rule or revision. The OCTA also reserves its right to further address the carrier-to-carrier rules in reply comments in this proceeding.

II. Comments

A. **Rule 7-12 (Compensation for Transport and Termination of Non-Access Telecommunications Traffic) must be modified to be consistent with Federal law.**

This rule addresses intrastate compensation for non-access telecommunications traffic. The Staff proposes redlines to only subsection (C). The OCTA raises two concerns with Rule 7-12. First, when the Commission last reviewed this rule in 2012, the Commission rejected certain changes to the compensation rules in Chapter 4901:1-7 because the then-recent *Transformation Order*² issued by the Federal Communications Commission (“FCC”) was under appeal and the law concerning it was “unsettled.” Specifically, the Commission stated in response to some carriers’ questioning whether to retain any carrier-to-carrier compensation rules:³

The *Transformation Order* cited by Verizon represents the first instance of the FCC asserting authority over intrastate communications compensation. The FCC’s *Transformation Order* decision is under appeal at the present time by no less than five state utility commission’s including this Commission. Moreover, we note that, even under the *Transformation Order*, the Commission’s jurisdiction over all intrastate access and telecommunications services compensation is not preempted until July 1, 2013, so long as our actions are not inconsistent with the FCC’s *Transformation Order*.

² The *Transformation Order* refers to *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (Nov. 18, 2011), *pets. for review denied sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

³ *In the Matter of the Commission’s Review of Chapter 4901:1-7 of the Ohio Administrative Code, Local Exchange Carrier-to-Carrier Rules*, Case No. 12-92-TP-ORD, Finding and Order at 7-8 (October 31, 2012).

Appellate review of the *Transformation Order* has since concluded. The OCTA recommends that Rule 7-12 be clarified to ensure that it will be applied consistently with the *Transformation Order*, so as to avoid any interpretation that the intrastate compensation under Rule 7-12 would apply irrespective of the FCC's ruling. To that end, the OCTA recommends that the following clarification be inserted before subsection (A): "The provisions of this rule will apply to the extent that they are not inconsistent with Subpart H (Reciprocal Compensation for Transport and Termination of Telecommunications Traffic) of Part 51 of Title 47 of the Code of Federal Regulations."

The OCTA's second concern relates to symmetrical non-access reciprocal compensation rates under Rule 7-12(D)(2)(e), which currently states and is proposed to continue to state as follows:

(e) The commission may establish symmetrical transport and termination rates for non-access reciprocal compensation traffic that vary according to whether this traffic is routed through a tandem switch or directly to an end office switch.

(i) Where the telephone company interconnects at the ILEC's tandem office and the switch of the telephone company serves a geographical area comparable to the area served by that ILEC's tandem switch, the telephone company is eligible for the tandem interconnection rate for the transport and termination of nonaccess reciprocal compensation traffic over this tandem interconnection facility.

(ii) Where the telephone company interconnects at the ILEC's end office, regardless of the geographical area served by the telephone company's switch, the telephone company is eligible for the end office termination rate only for the transport and termination of reciprocal compensation traffic over this end office interconnection facility.

This rule requires the rate to vary based on whether the traffic is routed through a tandem switch or directly to the end office switch – the rate will be the tandem rate when the

interconnection is at the ILEC's tandem office, and the rate will be the end office termination rate when the interconnection is at the ILEC's end office. One impact of this rule is that CLECs will not receive tandem compensation when interconnecting at an ILEC's end office.

The applicable federal rules are based on the geographical area served, not the switch routing pattern. 47 CFR 51.711 states that "[w]here the switch of a carrier other than an incumbent LEC serves a geographic area comparable to the area served by the incumbent LEC's tandem switch, the appropriate rate for the carrier other than an incumbent LEC is the incumbent LEC's tandem interconnection rate." Rule 7-12(D)(2)(e) should be revised to be consistent with 47 CFR 51.711.

B. Rule 7-14 (Compensation for Intrastate Switched Access Reciprocal Compensation Traffic and Carrier-to-Carrier Tariff) must be modified to be consistent with Federal law.

Staff proposes no changes to Rule 7-14. Consistent with what the OCTA recommends above for Rule 7-12, the OCTA also recommends that Rule 7-14 be clarified to also reflect that this rule will not be applied inconsistently with the *Transformation Order*. This is important to avoid any interpretation that the intrastate compensation under Rule 7-14 applies irrespective of the FCC's rules. To that end, the OCTA recommends that the following clarification be inserted before subsection (A): "The provisions of this rule will apply to the extent that they are not inconsistent with Subpart J (Transitional Access Service Pricing) of Part 51 of Title 47 of the Code of Federal Regulations."

The OCTA also recommends that subsection (A)(1) (the definition of "Nonrural incumbent local exchange carrier") be updated to refer to the renumbered definition of "rural telephone company," as follows:

"Nonrural incumbent local exchange carrier" (nonrural ILEC)" shall mean an incumbent local exchange carrier that is not a "rural telephone company" under 47 U.S.C. 153(~~374~~**44**).

Alternatively, because some or all of the subsections of § 153 are renumbered every time that Congress adds or deletes a defined term, the Commission may wish to consider changing all of the references to definitions in § 153 to simply “47 U.S.C. 153,” without subsection references, in order to avoid the need to revise its rules to track renumbered subsections of § 153.

Additionally, the OCTA recommends that subsection (A)(3) be slightly modified to reflect the term being referenced in the specific federal regulation cited. Specifically, the OCTA suggests the following: “‘Switched access reciprocal compensation’ shall have the meaning **of ‘access reciprocal compensation’** set forth in 47 C.F.R. 51.903(h).”

C. Rule 7-22 (Customer Migration) must be modified to be consistent with Federal law.

The OCTA recommends that subsection (D) of this rule be revised to require telephone companies to respond to a request for customer service records within 24 hours, instead of two business days. The FCC has adopted a 24-hour time period for responding to customer service record requests (with certain exceptions), stating that “it is consistent with the [FCC’s] efforts to improve the effectiveness and efficiency of the porting process” and noting that multiple carriers support that time frame.⁴ The Commission’s rule should be revised consistently and the OCTA recommends the following:

Telephone companies responding to local service requests shall follow industry standards, including North America numbering council timelines. Telephone companies responding to a request for customer service records shall provide such information to the requesting telephone company within **two business days twenty-four (24) clock hours unless otherwise negotiated, excluding weekends and current service provider holidays.**

⁴ *In the Matter of Local Number Portability Porting Interval and Validation Requirements, etc.*, FCC 10-85, Report and Order at ¶19 and fn. 67 (rel. May 20, 2010).

D. References in some of the rules should be corrected.

Rule 7-01(Q), Definition of “Telephone Company”: The Staff proposes to revise the definition of “telephone company” in Rule 7-01(Q) as follows:

“Telephone company” for purposes of this chapter, shall have the same meaning as defined in division (A) ~~(4)~~ of section 4905.03 of the Revised Code and includes the definition of “telecommunications carrier” incorporated in 47 U.S.C. 153(~~4451~~), as effective in paragraph (A) of rule 4901:1-7-02 of the Administrative Code.

The Staff has correctly identified the change needed for the U.S. Code reference.⁵ However, the final clause “as effective in paragraph (A) of rule 4901:1-7-02 of the Administrative Code” should be deleted because it is unnecessary and an incorrect reference.

Rule 7-21, Resale: In this rule, the Staff proposes to eliminate subsection (D) regarding resale of lifeline services. The OCTA notes that, if that Staff proposal is accepted, the Commission should further modify subsections (C)(2) and new (D)(3)(a)-(d) so that they will not incorrectly refer to subsection (E).

E. The Business Impact Analysis must be more transparent regarding its impact on Ohio businesses.

The Commission included with the Staff-proposed changes to the rules in Chapter 4901:1-07, a Business Impact Analysis (“BIA”). In the responses to questions 14 and 15 of the BIA, the only businesses listed as being affected by the rules are telephone companies. While the OCTA agrees that telephone companies will be affected, other types of companies will be affected as well. For instance, non-public-utility carriers will be affected by the interconnection requirements, collocation requirements, and the competition safeguards applicable to telephone companies. Business customers also will be affected by, for example, the inter-carrier compensation rules because they have an impact on customer rates. Likewise, the time period

⁵ As the OCTA noted earlier, a general reference of “47 U.S.C. 153” could be used to avoid the need to revise the rules to track renumbering in the federal statute.

for one carrier to provide a customer service record to another carrier could have an impact on the business customer's receipt of service. The responses to BIA Questions 14 and 15 are too narrow and should be revised to reflect the broader impact of the rules in Chapter 4901:1-7.

Additionally, in the response to Question 14(a), the reference to R.C. 4927.01 should be (A)(14).

III. Conclusion

The OCTA appreciates the opportunity to provide these targeted comments regarding a few of the rules in Chapter 4901:1-07 and the accompanying Business Impact Analysis. As industry participants, the OCTA members are affected by the rules today and will be affected by any changes therein by virtue of this proceeding. The OCTA urges the Commission to adopt the changes identified in these Initial Comments.

Respectfully submitted,

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Summary: Comments Initial Comments electronically filed by Mrs. Gretchen L. Petrucci on behalf of Ohio Cable Telecommunications Association