

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Ordered )  
Investigation of the Existing Local Exchange ) Case No. 99-998-TP-COI  
Competition Guidelines. )

In the Matter of the Commission Review of the )  
Regulatory Framework for Competitive ) Case No. 99-563-TP-COI  
Telecommunications Services Under Chapter )  
4927, Revised Code. )

THIRD ENTRY ON REHEARING

The Commission finds:

- (1) On December 6, 2001, the Commission issued an opinion and order in this matter that adopted revised rules for competitive telecommunication services pursuant to Chapter 4927, Ohio Revised Code. On November 21, 2002, the Commission issued its entry on rehearing ruling on the applications for rehearing filed in this matter. On January 16, 2003, the Commission issued a second entry on rehearing ruling on the additional applications for rehearing filed in this matter.
- (2) An application seeking further clarification or further rehearing in this matter was filed by The Ohio Telecom Association (OTA) on February 10, 2003.
- (3) Section 4903.10, Revised Code, provides that any party who has entered an appearance in a proceeding may apply for a rehearing with respect to any matter determined in the proceeding by filing an application within 30 days of the order in the Commission's journal. The Commission may grant and hold a rehearing on the matters specified in the application if, in its judgment, sufficient reasons appear.
- (4) In its application for rehearing, the OTA acknowledges that, while the second entry on rehearing successfully resolved OTA's concerns in most respects, further clarification or further rehearing is necessary on one rule. Specifically, the OTA submits that, as written, the rule addressing service packages, Rule 4901:1-6-21(C), has unintended consequences for both customers and telephone companies. More specifically, the OTA maintains that the disconnection procedures associated with regulated local services should operate the same way, whether the customer selects a package that contains only

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regulated services, or a package that contains both regulated and other services.

Additionally, the OTA continues to believe that the Commission should not compel tariffing of unregulated services, whether packaged with regulated services or not. Consequently, OTA recommends that the rule grant local exchange carriers the option to tariff only the regulated components of a service package, or the service package in its entirety. The OTA also recognizes the Commission's policy prohibiting disconnection of regulated service for nonpayment of nonregulated services. Accordingly, the OTA submits that the Commission should plainly delineate conditions under which service can be discontinued, and what services are subject to such disconnection.

- (5) Rehearing is granted on OTA's February 10, 2003, application for further clarification or further rehearing. The Commission's stated purpose for revising Rule 4901:1-6-21(C) in the second entry on rehearing was to clarify the components of a packaged service and to add an option for applying partial payments made by a customer that are insufficient to cover the package price. It was not our intent to supersede current disconnection practices which are consistent with Rule 4901:1-5-17, Ohio Administrative Code. Because we foresee the bundling or packaging of services will continue to increase into the near future, we find that a clarification to Rule 4901:1-6-21(C) is warranted. Accordingly, attached as Appendix A to the entry on rehearing is a revised rule.

It is, therefore,

ORDERED, That the application for rehearing filed by the OTA on February 10, 2003, is granted. It is, further,

ORDERED, That the attached revised rule (Appendix A) is hereby adopted. It is, further,

ORDERED, That copies of the revised rule be refiled with the Joint Committee on Agency Rule Review, the Legislative Service Commission, and the Secretary of State pursuant to Section 111.15, Revised Code. It is, further,

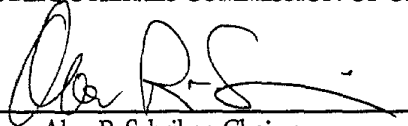
ORDERED, That, unless otherwise ordered by the Commission, the review date for the revised rule shall be May 31, 2007. It is, further,

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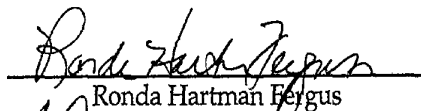
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ORDERED, That a copy of this third entry on rehearing be served upon all commenters and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

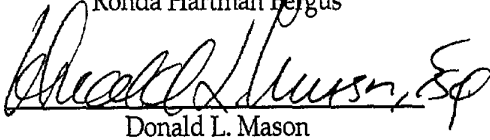


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Entered in the Journal

FEB 13 2003



Renee J. Jenkins  
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## Appendix A

### 4901:1-6-21 Tier 2

#### (A) Tier 2 definition

Tier 2 services include all regulated telecommunications services that do not fall on Tier 1.

#### (B) Tier 2 regulatory framework

- (1) Tier 2 service tariffs must be filed with the commission but do not require prior commission tariff approval.
- (2) Tier 2 service rates are not subject to any rate cap and may be priced at market-based rates.
- (3) The price floor does not need to appear in the tariff. Only the actual rate needs to appear in the tariff.
- (4) To demonstrate the cost of service and price floor, any telephone company offering Tier 2 services must provide a LRSIC study to the commission's staff upon demand.
- (5) The rate for any tier 2 service must recover the long run service incremental costs associated with the service plus a common cost allocation. A telephone company may allocate common costs using a fixed allocator of ten percent. In the event the telephone company chooses to use a different common cost allocator, the telephone company will have the burden of establishing the reasonableness of the chosen common cost allocator.
- (6) A telephone company may elect to maintain its Tier 2 service offerings either in a paper tariff filed with the Commission or in an electronic tariff on the company's website. However, the electronic tariff shall be maintained in a form that complies in all respects with rule 4901:1-6-03 of the Administrative Code. To facilitate public access to the website tariff, a telephone company maintaining a website tariff for Tier 2 services must maintain up-to-date website links on the commission's webpage from which an interested person can link to the telephone company's tariff.
- (7) A telephone company currently certified to offer tier 2 services must file notice under the company's TRF docket if the company chooses an electronic tariff as a replacement for a paper tariff. A telephone company may exercise this option no more often than once every 12 months. Telephone companies that choose the electronic tariff format must continue to file with the commission notice of any additions, withdrawals, or changes in terms and conditions of tier 2 services as ZTA notices pursuant to the 0-day notice provisions of rule 4901:1-6-05 of the Administrative Code. The initial election shall be made as a part of the company's certification proceeding for new telephone companies.

(C) Service Packages

(1) General Parameters

- (a) All packages of regulated services must be tarified whether or not they are offered in conjunction with unregulated services. The LEC shall clearly identify the regulated services within the package.
- (b) All service packages are considered Tier 2 service offerings. The total price of any bundled service package need not match the total of the services' individual prices, but must still cover the long run service incremental cost of regulated services included in the bundled package. Each regulated telecommunication service offered as a component of a service package by an ILEC must be individually tarified in the ILEC's tariff.

(2) Packages Containing both Regulated Local Service and Toll and/or Unregulated services

If a LEC packages or bundles regulated local services with toll service and/or unregulated services, the LEC must comply with the disconnection procedures in Rule 4901:1-5-17, Ohio Administrative Code. In order to insure that local service is not disconnected for non-payment of toll and/or non-regulated services, when customers are billed at a single packaged rate for both regulated local services and also toll and/or unregulated services, LECs shall choose one of the following options:

(a) Option 1

(i) Option 1 Tariff

Under option 1, LECs that package or bundle regulated local services with toll and/or unregulated services shall tariff only the regulated components of a package or bundle of services either as a package at a separate, single rate for the regulated components or individually at individual tarified rates. The unregulated services and any rate(s) associated with the unregulated service components of any package or bundle of services shall not be tarified.

(ii) Option 1 Disconnection Procedures

Under option 1, if a customer fails to submit timely payment sufficient to cover the amount of the regulated charges, the LEC may discontinue the provision of the regulated services in compliance with Rule 4901:1-5-17, Ohio Administrative Code.

(iii) Option 1 Staff Notice

Under option 1, LECs shall keep the Director of the Consumer Services Division and the Chief of Telecommunications of the Utilities Department informed and up-to-date on all current offers to consumers that bundle regulated local services with unregulated services at a single packaged rate, different from the rate shown in the tariff for the regulated components of the package. The notice to staff shall identify the regulated and unregulated services included and the packaged rate (the combined tariffed and untariffed rate).

(b) Option 2

(i) Option 2 Tariff

Under option 2, LECs shall tariff the entire package or bundle of services including both regulated local services and toll and/or unregulated services for a single combined packaged rate (including any amount attributable to the unregulated components). The LEC shall clearly identify the services within the package and denote which services are unregulated.

(ii) Option 2 Disconnection Procedures

Under option 2, if a customer fails to submit timely payment sufficient to cover the entire amount of the regulated and unregulated bundled packaged rate, the LEC may discontinue the provision of any regulated and unregulated services, other than basic local exchange service, if payment is sufficient to cover the rate for basic local exchange service. For purposes of this rule, the rate for basic local exchange service shall be the tariffed rate for stand-alone basic local exchange service. In the event a CLEC does not offer basic local exchange service on a stand-alone basis, the CLEC shall identify an amount in the tariff for the basic local exchange service component of the package. In no event shall this amount exceed the packaged rate. Further, if the customer loses services included in the package due to non-payment or partial payment pursuant to this rule, the customer shall be entitled to add, change, or discontinue any regulated services provided according to the LEC's normal procedures for adding, changing or discontinuing such services.

(iii) Option 2 Disconnection Notice

Under option 2, the LEC shall, in its notice of disconnection for non-payment, state the total amount due to avoid discontinuance of the package, as well as the total amount due to avoid discontinuance of the basic local exchange service component of the package.

(D) New services

- (1) New Tier 2 services are subject to a 0-day ZTA notice-only filing at the commission. New tier 2 service offerings filed after the effective date of these rules shall be deemed approved when notice and a copy of the tariff has been filed at the Commission and, if applicable, when a tariff has been published at the company's website and linked on the commission's web page.
- (2) New services introduced after the effective date of these rules will be presumed to qualify for Tier 2 regulatory treatment unless the new service involves safety and/or privacy concerns. The commission may make an after-the-fact determination that a newly introduced service should be reclassified from Tier 2 to Tier 1 if the new service involves safety and/or privacy concerns. Stand-alone basic local exchange service is always a tier 1 service.

(E) Change in terms and conditions

- (1) In order to change the terms and conditions of an existing Tier 2 service, the telephone company must docket a ZTA with the Commission along with a completed telecommunications application form.
- (2) Upon the filing by the telephone company of an application to change the terms and conditions of an existing Tier 2 service, the application will be subject to the 0-day notice process and shall become effective the day of filing, unless suspended. Such filing does not preclude the ability of the Commission to impose a full or partial suspension.
- (3) In applications for change in terms and conditions of an existing Tier 2 service, the telephone company must comply with the customer notice provisions of rule 4901:1-6-17 of the Administrative Code.
- (4) An affidavit attesting to the fact that customer notice has been provided in accordance with this rule must accompany the ZTA application.

(F) Suspension

Tier 2 services of any telephone company are subject to suspension under rule 4901:1-6-04 of the Administrative Code.

(G) Rate changes and customer notice

- (1) Rate changes above the cost floor are subject to a 0-day notice filing under its TRF docket.
- (2) Increases in rates for a Tier 2 service require a customer notice provided in accordance with rule 4901:1-6-17 of the Administrative Code.

(H) Withdrawal

Withdrawal (with or without grandfathering) of Tier 2 services is permitted through a 0-day, notice filing, with customer notice meeting the requirements of rule 4901:1-6-17 of the Administrative Code, but mailed at least 30 days prior to withdrawing the service. If applicable, a copy of the customer notice as well as an affidavit attesting to the fact that advance customer notice was provided must accompany the 0-day notice filing.

(I) Reclassification of services among tiers

Nothing within these rules prohibits the Commission from reclassifying a service between the tiers.



**CASE NUMBER:** 99-0998-TP-COI  
**CASE DESCRIPTION:** EXISTING LOCAL EXCHANGE COMP GUIDE  
**DOCUMENT SIGNED ON:** 2/13/2003  
**DATE OF SERVICE:** 2/13/03

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**PARTIES OF RECORD**

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**CASE DESCRIPTION:** REGULATORY FRAMEWORK COMPETITIVE  
**DOCUMENT SIGNED ON:** 2/13/2003  
**DATE OF SERVICE:** 2/13/03

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