

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of AT&T)
Communications of Ohio, Inc. for a) Case No. 98-840-TP-WVR
Waiver of the Local Service Guidelines.)

ENTRY

The Commission finds:

- (1) On May 27, 1998, AT&T Communications of Ohio, Inc. (AT&T) filed an application for waiver of the Commission's Local Service Guidelines, as promulgated in Case No. 95-845-TP-COI (845 Guidelines). AT&T requested a waiver pursuant to Guideline II.A.2(a). Guideline II.A.2(a) provides that the Commission may waive any provision of the 845 Guidelines for good cause shown or upon its own motion.

Specifically, AT&T requested that its filings for competitive telecommunications services (CTS) be exempt from the 30-day prefiling requirement set forth in Guideline VI.C. and the 30-day automatic approval process for changes to existing services as set forth in Guideline VI.E. As an alternative, AT&T requested that it be allowed to make filings pursuant to the 0-day notice provision of the guidelines for the provision of competitive telecommunication services, as promulgated in Case No. 89-563-TP-COI (563 Guidelines). In all other respects, AT&T states that it will comply with the 845 Guidelines.

- (2) AT&T filed a memorandum in support of its application. AT&T argued that its waiver request will neither contravene the underlying intent of the 845 Guidelines nor impede the goal of fostering competition. AT&T noted that it is a CTS provider and has been subject to the provisions of the 563 Guidelines since 1993. In February 1996, AT&T filed an application for local exchange service authority. The Commission conditionally granted the application on August 22, 1996, in Case No. 96-190-TP-ACE. AT&T acknowledges that Guideline VI.B of the 845 Guidelines states that CTS providers affiliated with new entrant carriers must remain as separate affiliates and comply with the affiliate transaction guidelines if the CTS provider is to retain CTS regulatory treatment. AT&T recognizes that the intent of the rule is to prevent incumbent local exchange carriers from using their monopoly power in the local market to gain an unfair advantage in the competitive interexchange market. AT&T also understands that the rule is intended to prevent incumbent

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local exchange companies from subsidizing competitive services through regulated local exchange revenues.

AT&T's intent is to provide both local and CTS through the same entity. AT&T pointed out that upon the approval of its local service tariff on May 14, 1998, AT&T became a local service provider subject to the more stringent tariffing requirements in the 845 Guidelines. The 845 Guidelines subjected AT&T to a 30-day prefiling and a 30-day automatic approval process for new competitive services and for changes in the terms and conditions of its existing competitive services.

AT&T's opinion was that its request for waiver would not undermine the intent of the rules. AT&T distinguished itself from incumbent local service providers on the basis that it has no market power to yield in the local market. Furthermore, because the Commission has found long distance services to be competitive, AT&T believed that the rationale for the separate affiliate requirement is absent.

In further support of its waiver request, AT&T footnotes OCOM Corporation's (OCOM) request for a temporary waiver of the 845 Guidelines. AT&T notes that the Commission granted OCOM's request in an entry issued September 11, 1997, in Case No. 97-693-TP-SLF.

As for its long distance services, it was AT&T's contention that the Commission's 30-day prefiling rule significantly restrains AT&T's ability to compete in the long distance market. According to AT&T, the 30-day period prevents AT&T from immediately offering new services, and, in addition, interferes with AT&T's ability to respond quickly to market forces. AT&T's competitors, on the other hand, would be free to offer such services on a 0-day notice basis. According to AT&T, such a disparity works against competition and the public's interest in being provided innovative, cost efficient services.

Emphasizing that the waiver request went only to the CTS portions of its tariff, AT&T identified the specific sections of its tariff that would be affected, i.e., those sections pertaining to Service Charges, Message Telecommunications Service, Optional Toll Service, WATS, Digital Channel Services, Custom Network Services, Digital Local Channel Services, and Private Line Services. In a footnote, AT&T pointed out that it expects that its Shared Customer Provided Access (SCPA) tariff would be included as part of the waiver.

- (3) On June 11, 1998, Ameritech Ohio (Ameritech) filed a memorandum in opposition to AT&T's application for waiver. Ameritech pointed out that AT&T's SCPA service establishes the terms and conditions under which carriers may collocate and interconnect their dedicated access facilities to AT&T's network. According to Ameritech, SCPA, by definition, is not a competitive service and should be subject to the 845 Guidelines. Ameritech, therefore, concluded that, as to SCPA, AT&T's waiver should be denied.
- (4) Ameritech argued that, as the monopoly owner of a point of presence (POP), AT&T can establish the price for collocation and interconnection to be paid by local exchange carriers (LECs). LECs, because of a lack of alternatives for terminating their dedicated traffic, must pay the price demanded by the POP owner. Ameritech believes that it is critical that the Commission have an opportunity to review proposed price changes, particularly where the POP owner competes with the LEC in the special access market. Without such a review, Ameritech believes that AT&T will use its monopoly control over the access to its POPs to gain an advantage in the competitive dedicated access market. If AT&T were to have the ability to raise its SCPA price on a 0-day notice, Ameritech fears that it could be eliminated from any opportunity to compete for customers.

As an example, Ameritech pointed to AT&T's SCPA tariff filed with the Commission on April 22, 1998, in Case No. 98-654-CT-UNC and 90-5105-CT-TRF. Ameritech surmised that AT&T is seeking to raise its price for SCPA by 550 percent over its existing cost plus profit prices. Ameritech stated that if AT&T intends for the waiver to apply to SCPA, the waiver would be inconsistent with AT&T's settlement agreement with Ameritech. Moreover, Ameritech argued that since AT&T's tariff has not been filed in accordance with the procedures set forth in the 845 Guidelines, the tariff is pending review and has not become effective.

- (5) On June 18, 1998, AT&T filed a reply to Ameritech's memorandum in opposition. AT&T noted that it expected to incorporate SCPA into its waiver requests because dedicated service falls within the confines of CTS. By its reply, AT&T clarified that it does not wish to include SCPA as part of its waiver request.
- (6) On March 26, 2001, AT&T filed a letter expressing its desire to withdraw its waiver request. AT&T explained that the Commission, in its May 11, 2000, finding and order in Case

No. 99-563-TP-COI, granted to CTS providers with competitive local exchange service operations greater flexibility for certain CTS offerings. AT&T wishes to withdraw its application without prejudice to its right to file a similar waiver in the future if necessary.

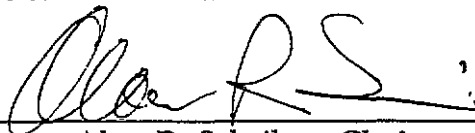
- (7) AT&T's request to withdraw its application for waiver is reasonable and should be granted. Regarding Ameritech's memorandum in opposition, the removal of SCPA from AT&T's waiver request and ultimately the withdrawal of AT&T's waiver application alleviates Ameritech's concerns and, therefore, renders Ameritech's arguments moot.

It is, therefore,

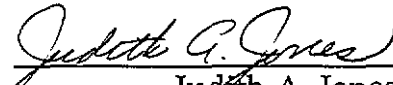
ORDERED, That AT&T's request to withdraw its application for waiver of certain provisions of the Commission's Local Service Guidelines is granted. It is, further,

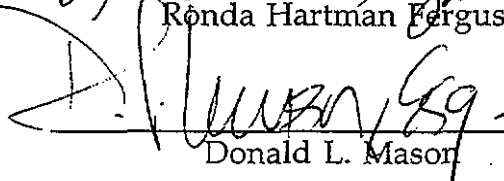
ORDERED, That copies of this Entry be served upon AT&T and its counsel, Ameritech and its counsel, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


 Alan R. Schriber, Chairman


 Ronda Hartman Fergus


 Judith A. Jones


 Donald L. Mason

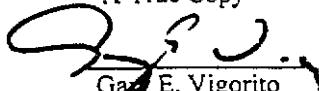
 Clarence D. Rogers, Jr.

LDJ/vrm

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 Gary E. Vigorito
 Secretary