

THOMPSON HINE

BRUSSELS CINCINNATI CLEVELAND COLUMBUS DAYTON NEW YORK WASHINGTON, D.C.

FILE

March 27, 2003

Via Hand Delivery

Ms. Daisy Crockron
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

RECEIVED - DOCKETING DIV
2003 MAR 27 AM 10:34
PUCO

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

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

Dear Ms. Crockron:

Enclosed are an original and fifteen (15) copies of a Memorandum of the Ohio Telecom Association in Response to Joint CLECs' Application for Rehearing and Request for Clarification to be filed in the above-referenced matters.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Very truly yours,

Carolyn S. Flahive

Enclosure

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Technician _____ Date processed 3-27-03

Carolyn.Flahive@ThompsonHine.com Fax 614.469.3361 Phone 614.469.3294

ew 361990.1

THOMPSON HINE LLP
ATTORNEYS AT LAW

10 West Broad Street
Columbus, Ohio 43215-3435

www.ThompsonHine.com
Phone 614.469.3200
Fax 614.469.3361

**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
Telecommunication Services under Chapter)
4927, Revised Code.)

**MEMORANDUM OF THE OHIO TELECOM ASSOCIATION
IN RESPONSE TO JOINT CLECS' APPLICATION FOR REHEARING AND
REQUEST FOR CLARIFICATION**

THE OHIO TELECOM ASSOCIATION, on behalf of its membership ("OTA"), hereby submits its response to the Application for Rehearing and Request for Clarification filed on March 17, 2003 by the "Joint CLECS" (the "CLEC Application").¹

ARGUMENT

The CLEC Application identifies eleven (11) assignments of error and three (3) requests for clarification of the Commission's February 13, 2003 Opinion and Order (the "February Order"). In response, the OTA notes as follows:

Rule 4901:1-6-28 – The CLEC Application objects to the elimination of former rules requiring carrier-to-carrier tariffs. The OTA submits that the February Order properly eliminated this requirement which, in fact, had been observed primarily in the breach. To require such tariffs at this point in history would likely be no more effective than the prior requirements

The CLEC Application further objects to deletion of a proposed requirement relating to interconnection terms of ILEC affiliates. The OTA likewise supports the Commission's

¹ The Joint CLECs are composed of AT&T Communications of Ohio, Inc., TCG Ohio, CoreComm Newco, Inc., Time Warner Telecom of Ohio, LP, and WorldCom, Inc.

February Order in this respect. The Rule as proposed was neither lawful nor enforceable and was properly eliminated; the Rule as adopted is reasonable.

Rule 4901:1-6-31(C)(1) – The CLEC Application objects to the treatment of local calling areas under Rule 4901:1-6-31(C)(1). The OTA supports the Commission's February Order in this respect. The Commission properly set forth a mandatory requirement to govern reciprocal compensation associated with local calling areas, and does not materially differ from existing requirements.

Rule 4901:1-6-31(E) – The CLEC Application objects to the Rules' requirement to block calls originated to and/or terminated from another telephone company that has not established an interconnection agreement. As noted in OTA's Application for Rehearing filed March 17, 2003, the OTA applauds the establishment of this Rule and supports the Commission's intentions to facilitate such blocking.²

Rule 4901:1-6-32(C)(2) – The CLEC Application similarly objects to Rules governing transit traffic that require the existence of compensation agreements. For the same reasons voiced above and in OTA's Application for Rehearing, the OTA supports the Commission's decision in this regard. In today's environment, ILECs and CLECs alike receive a great deal of unidentified traffic from carriers with which they have no contractual relationship, and the Commission has properly attempted to manage and regulate that phenomenon.

Rule 4901:1-6-41 – The CLEC Application unsurprisingly objects to Rule 4901:1-6-41, which for the first time imposes an obligation on CLECs to provide operational support systems similar to ILECs. While the CLEC Application devotes a considerable of text to its objections in this regard, the fact is that the customer migrations are now and will continue to be bilateral; as a result, OSS is a necessary function for all carriers.

The CLEC Application also seeks clarification of three points, two of which contend that the Commission Rules run afoul of FCC prescriptions. Request for Clarification No. 2 contends that the Commission's Rule 4901:1-6-31(A)(3) runs afoul of FCC Rules concerning reciprocal compensation and ISP traffic; Request for Clarification No. 3 contends that Commission Rule 4901:1-6-35(C) contradicts FCC Rules governing unbundled network elements.

In response, the OTA repeats the observation of its Application for Rehearing: the Commission should not attempt to "mirror" the FCC Rules, and certainly should not attempt to contradict them. Rather, when FCC regulations have spoken to a topic governing carrier-to-carrier relationships, this Commission should defer to and adopt applicable FCC regulations.

CONCLUSION

For the foregoing reasons, the Ohio Telecom Association submits that the Commission should respond to the CLEC Application in accordance herewith.

Respectfully submitted,

THE OHIO TELECOM ASSOCIATION

By: _____


Thomas E. Lodge (0015741)
Carolyn S. Flahive (0072404)

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

Its Attorneys

² As OTA observed in its Application for Rehearing, the technical attributes of this Rule warrant further discussion.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon all parties listed on the attached list, by ordinary U.S. Mail, postage prepaid, this 27th day of _____ March, 2003.



Carolyn S. Flahive

SERVICE LIST
CASE Nos. 99-563-TP-COI - 99-998-TP-COI

Jon F. Kelly
Ameritech Ohio
150 East Gay Street, Room 4C
Columbus, Ohio 43215

Michael R. Smalz, Esq.
Ohio State Legal Services Association
861 North High Street
Columbus, Ohio 43215

Douglas W. Tarbaris, Attorney
AT&T
222 W. Adams, Suite 1500
Chicago, IL 60606

Sally W. Bloomfield, Esq.
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215-4291

Jack B. Harrison, Esq.
Frost & Jacobs LLP
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

Benita A. Kahn, Esq.
Vorys, Sater, Seymour & Pease
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43215-1008

Ellis Jacobs, Esq.
Legal Aid Society of Dayton
333 West First Street, Suite 500
Dayton, Ohio 45402

John P. Williams
Great Cincinnati Chamber of Commerce
300 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202-2812

Boyd Ferris
Ferris & Ferris
2733 W. Dublin-Granville Road
Columbus, OH 43235

Judith B. Sanders, Esq.
Bell, Royer & Sanders Co., LPA
33 South Grant Avenue
Columbus, Ohio 43215-3927

Mary W. Christensen, Esq.
Christensen, Christensen & DeVillers
401 N. Front Street, Suite 350
Columbus, Ohio 43215

John W. Bentine, Esq.
Chester, Wilcox & Sabe, LLP
17 South High Street, Suite 900
Columbus, Ohio 43215-3413

David C. Bergmann, Esq.
Terry Etter, Esq.
Joseph P. Serio, Esq.
Assistant Consumers' Counsel
Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215

William A. Adams, Esq.
Arter & Hadden, L.L.P.
One Columbus
10 West Broad Street, Suite 2100
Columbus, Ohio 43215-3422

PRIVILEGED AND CONFIDENTIAL – ATTORNEY WORK PRODUCT
DRAFT 3/20/2003

Gregory S. Lang
Southern Ohio Communication Services, Inc.
P.O. Box 488
100 East Third Street
Waverly, Ohio 45690

Jason J. Kelroy, Esq.
Sure-Tel, Inc.
52 East Gay Street
P.O., Box 1008
Columbus, Ohio 43215-1008

Kerry Bruce, Esq.
Leslie A. Kovacik, Esq.
City of Toledo
Dept. Of Public Utilities
420 Madison Avenue, Suite 100
Toledo, Ohio 43604-1219

Joseph R. Stewart, Esq.
United Telephone Company of Ohio
d/b/a Sprint
50 West Broad Street, Suite 3600
Columbus, Ohio 43215