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December 23, 2002

Ms. Daisy Crockron
Chief, Docketing Division
The Public Utilities Commission of Ohio
180 E. Broad St.
Columbus, Ohio 43266-0573

RE: Case No. 99-998-TP-COI

Dear Ms. Crockron:

Attached are an original and 15 copies of an Application for Rehearing of Cincinnati Bell Telephone Company to be filed in the above referenced proceeding. An additional copy is also attached. Please date stamp and return the additional copy to acknowledge receipt. Questions regarding this filing may be directed to me at the above address or by telephone at (513) 397-7540.

Sincerely,

Christopher S. Colwell

Attachments

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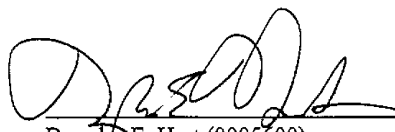
**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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

**APPLICATION FOR REHEARING OF
CINCINNATI BELL TELEPHONE COMPANY**

Pursuant to §§ 4903.10 and 4903.11 of the Revised Code, Cincinnati Bell Telephone Company ("CBT") hereby applies for rehearing of the Commission's November 21, 2002 Entry on Rehearing in this proceeding. CBT seeks rehearing: (1) to reconcile Rule 4901:1-6-20(A)(1)(b)(viii) with the terms of the Entry on Rehearing; (2) to vacate Rule 4901:1-6-21(C)(1) as inconsistent with the Entry on Rehearing and contrary to law; (3) to clarify Rule 4901:1-6-22(A) as to ILEC rights to increase non-specific service charges; and (4) to modify Rule 4901:1-6-22(B) to be consistent with the Entry on Rehearing. The specific issues raised by CBT are described in detail in the attached Memorandum in Support.



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MEMORANDUM IN SUPPORT OF APPLICATION FOR REHEARING

SUMMARY OF REHEARING REQUESTS

On November 21, 2002, the Commission released its Entry on Rehearing in this docket. The Entry on Rehearing addressed a number of requests for rehearing raised by various parties to this proceeding. Accompanying the Entry on Rehearing as Appendix A was a set of Competitive Retail Service Rules that were intended to implement the results of the Entry on Rehearing. CBT has identified several inconsistencies between the Entry on Rehearing and the Rules. Therefore, CBT seeks rehearing of the Commission's November 21, 2002 Entry on Rehearing with respect to the following issues:

1. To reconcile Rule 4901:1-6-20(A)(1)(b)(viii) with the terms of the Entry on Rehearing.
2. To vacate Rule 4901:1-6-21(C)(1) as inconsistent with the Entry on Rehearing and contrary to law.
3. To clarify Rule 4901:1-6-22(A) as to ILEC rights to increase non-specific service charges.
4. To modify Rule 4901:1-6-22(B) to be consistent with the Entry on Rehearing.

I. The Commission Should Modify Rule 4901:1-6-20(A)(1)(b)(viii) To Be Consistent With The Terms of the Entry on Rehearing.

On page 19 of the Entry on Rehearing, the Commission established a distinction between access to 411 directory assistance and usage of directory assistance. The Commission determined that access to directory assistance was considered part of basic local exchange service and, hence, was appropriately classified as a tier 1 core offering. To the contrary, the Commission found that usage of directory assistance was subject to competition and that reasonably available alternatives exist. Therefore, directory assistance usage (as opposed to

access to directory assistance), whether provided through dialing 411 or some other number, should be afforded tier 2 regulatory and pricing flexibility. Entry on Rehearing, at 19.

Rule 4901:1-6-20(A) contains the definition of Tier 1 services. Section (A)(1)(b)(viii) of the Rule identifies “N-1-1 access and usage, unless exempted” as Tier 1 non-core services. This rule should not include 411 usage, as the Entry on Rehearing specifically found that to be a Tier 2 service. This Rule should be modified to be consistent with the Entry on Rehearing. This could be accomplished either by inserting the words “except 411 usage” or by adding a sentence to the effect of: “411 usage is exempt from this Rule and shall be treated as a Tier 2 service.”

II. Rule 4901:1-6-21(C)(1) is Inconsistent With the Entry on Rehearing and is Contrary To Law.

Rule 4901:1-6-21(C) addresses service packages. Rule 4901:1-6-21(C) is new since the Commission’s last promulgation of Competitive Retail Service Rules on December 6, 2001. The new Rule appears to be the result of rewriting what was Proposed Rule 4901:1-6-12. The Rule, as rewritten, would require telephone companies to tariff all bundles of services, regardless of whether the bundles contained unregulated services. The Rule further would require identification of which services are regulated and which are unregulated, together with specific identification of the price of each regulated service contained in the package. Nothing in the Entry on Rehearing discusses the features of the Rule that would require tariffing of unregulated service packages.

The Commission has acknowledged elsewhere that it has no jurisdiction over unregulated services. The Commission’s Minimum Telephone Service Standards, Rule 4901:1-5-01(WW), define “regulated service” to mean “a service under the jurisdiction of the public utilities commission of Ohio.” Conversely, Rule 4901:1-5-01(NN) defines “nonregulated service” as “a

service offering not regulated by the commission.” Thus, by definition, a nonregulated service is not under the jurisdiction of the Commission.

The Commission has also indicated the types of services that are unregulated.

Commission Rule 4901:1-5-06 specifies a “telephone customer bill of rights” containing required consumer information describing regulated and unregulated services. A portion of that bill of rights states:

“Other charges on your bill are unregulated and do not require PUCO approval of the rates. Charges in this category are for some services or products that you can get from the phone company or other sources. Examples of unregulated services or products would be voice mail, telephone sets, inside wire maintenance, or internet service.”

It is this very sort of unregulated product, *e.g.*, voice mail, customer premises equipment, and internet service, that are often included in service packages.

The Commission has no jurisdiction over unregulated services, and therefore, cannot require carriers to file tariffs for unregulated services, even when offered by the carrier as part of a package that includes regulated services. The Commission only has the authority to require carriers to file tariffs for the regulated components of a package. As long as the regulated package meets the requirements of Rule 4901:1-6-21(C)(2), a carrier is free to offer that package in conjunction with an unregulated service without Commission intervention. Rule 4901:1-6-21(C)(1), must be vacated as to unregulated services.

The requirement of the Rule that the price of each regulated service in a package be separately identified is also troublesome. The Rule is ambiguous as to whether it requires the standalone price of each regulated service component or that portion of the service package price that is allocated to the particular regulated service. If the former, the rule is unnecessary because Rule 4901:1-6-21(C)(2) already requires that each regulated service be tariffed and priced individually. If the latter, the rule would improperly require disclosure of internal pricing

decisions that should remain private. So long as the total package rate is above the LRSIC of the package components, there is no reason to reveal the price of individual components, particularly when those components would not be individually available except at the tariffed rates.

III. Rule 4901:1-6-22(A) is Inconsistent With the Entry on Rehearing and is Contrary To Law.

Rule 4901:1-6-22(A) appears to establish a different standard for ILECs and CLECs.

The rule acknowledges that non-specific service charges are avoidable and under the control of the customer. However, the rule caps ILEC charges for such services at the existing rates. A reasonableness standard applies to CLEC non-specific service charges. Finally, the rule allows for increases in non-specific service charges through a 60-day self-complaint. However, the rule is ambiguous whether only CLECs may use the self-complaint process or whether ILECs may also use it to increase non-specific service charges.

Assuming the Commission meant to allow ILECs to use the self-complaint process, the rule should be clarified to reflect that. If the Commission did not so intend, but meant to permanently cap ILEC non-specific service charges, CBT requests rehearing of that decision as unreasonable.

Paragraph (26) of the Entry on Rehearing discussed the process for establishing and/or increasing non-specific service charges. The Commission distinguished charges such as late payment and returned check charges from service establishment and service connection charges. The Entry on Rehearing only stated that the latter category would be capped. However, the Rule places rate caps on non-specific service charges that are avoidable and under the control of the customer. CBT submits that this is unreasonable, particularly as to returned check charges, because the telephone company has no control over the amount of such fees. The amounts for returned check charges are based on fees established by banks. Returned check charges are

caused by customers, not by ILECs. It would be unreasonable to freeze the amount an ILEC can charge its customer for a returned check when the ILEC is forced to pay the bank's independently established fees. The ILECs should be allowed to pass on direct costs that are caused by the customer. At a minimum, ILECs should have the right to update their returned check charges to match those imposed by banks. Otherwise, the ILECs (and paying customers) will be involuntarily forced to subsidize customers who do not timely pay their bills.

IV. Rule 4901:1-6-22(B) Is Inconsistent With the Entry on Rehearing.

Rule 4901:1-6-22(B) provides that non-recurring service charges shall have the same pricing flexibility as the underlying service. However, the rule goes on to say that as to packaged service offerings, the non-recurring service charges will only have the pricing flexibility associated with the most restrictive service offering in the bundle. That rule is both unreasonable and contrary to the Entry on Rehearing.

According to the Rule, if a telephone company offered a package containing basic local exchange service, regardless of what other Tier 1 or Tier 2 services are included in the package, the non-recurring rate for the package could not increase, even if the individual non-recurring rates for the other services could independently be increased. This rule could discourage the creation of packages because the pricing flexibility associated with the non-core services would be lost.

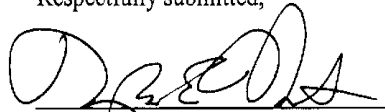
The Rule is also inconsistent with the Entry on Rehearing. Paragraph (26) of the Entry on Rehearing, at page 16, states that "[n]on-recurring service charges, such as service establishment and service connection charges, are linked to a specific service(s) and are afforded the same pricing flexibility as the service(s) associated with the non-recurring charge that gives rise to the non-recurring rate." Rule 4901:1-6-21(C)(2) explicitly defines all service packages to

be Tier 2 services. For consistency, non-recurring package prices should have Tier 2 treatment. However, as the Rule is written, the non-recurring charges for all services included in a package are only afforded the same pricing flexibility as the most restrictive service contained in the package. The Rule should be changed to conform to the Entry on Rehearing.

CONCLUSION

For the foregoing reasons, CBT requests rehearing of the November 21, 2002 Entry on Rehearing and the corresponding changes to the Rules specified herein.

Respectfully submitted,

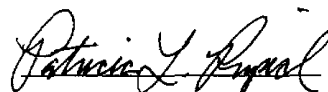


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing filing of Cincinnati Bell Telephone was sent
by U.S. mail, postage prepaid, to the following parties this 23rd day of December 2002.



TP-998-TP-COI, et al.

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