

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Petition of Patty Lykins
and Numerous Other Subscribers of the
Oxford Exchange of Verizon North Inc.,

Complainants,

v.

Ameritech Ohio, Cincinnati Bell Telephone
Company, United Telephone Company dba
Sprint, and Verizon North Inc.,

Respondents,

Relative to a Request for Extended Area
Service Between the Oxford Exchange
of Verizon North Inc. and the Seven Mile,
Reily, Shandon, Harrison, Cincinnati, and
Bethany Exchanges of Cincinnati Bell
Telephone Company, the Monroe, Trenton,
and Middletown Exchanges of Ameritech
Ohio, and the Mason Exchange of United
Telephone Company of Ohio dba Sprint.

Case No. 02-379-TP-PEX

FINDING AND ORDER

The Commission finds:

- (1) On February 11, 2002, Patty Lykins, spokesperson for the complainants, and numerous other subscribers of the Oxford Exchange of Verizon North Inc. (Verizon) filed a petition with the Commission requesting the institution of extended area service (EAS) between the Oxford Exchange of Verizon and the Seven Mile, Reily, Shandon, Harrison, Cincinnati, Bethany, Little Miami, Bethel, Clermont, and Williamsburg exchanges of the Cincinnati Bell Telephone Company (Cincinnati Bell); the Monroe, Trenton, and Middletown exchanges of Ameritech Ohio (Ameritech); and the Mason Exchange of United Telephone Company of Ohio dba Sprint (Sprint).
- (2) On March 1, 2002, Ms. Lykins amended the petition so that the Little Miami, Bethel, Clermont, and Williamsburg exchanges were not included in the EAS request.
- (3) On July 30, 2002, the complainants, Verizon, Ameritech, Cincinnati Bell, and Sprint filed a document titled Stipulation,

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Agreement and Recommendation (the Stipulation). The purpose of the Stipulation is to resolve the issues of community of interest that would be involved in the EAS proceeding, thereby avoiding the need for a public hearing. In addition, the parties are requesting that the Commission issue an order finding that a community of interest for EAS exists between Verizon's Oxford Exchange and Cincinnati Bell's Cincinnati Exchange. Finally, the complainants agree that their request for EAS between the Oxford Exchange and the Seven Mile, Reily, Shandon, Harrison, and Bethany exchanges of Cincinnati Bell, the Monroe, Trenton, and Middletown exchanges of Ameritech, and the Mason Exchange of Sprint should be dismissed.

- (4) The Stipulation generally provides as follows:
- (a) Verizon provides local exchange telephone service in the Oxford Exchange.
 - (b) Cincinnati Bell provides local exchange telephone service in the Cincinnati Exchange.
 - (c) Complainants are residents and telephone customers of the Oxford Exchange.
 - (d) The Oxford and Cincinnati exchanges are all located in the Cincinnati LATA.
 - (e) Telephone service between the aforementioned exchanges has been described in Information Responses submitted by Verizon and Cincinnati Bell. The Information Responses are true and correct.
 - (f) The Oxford Exchange and the Cincinnati Exchange share a community of interest, as indicated by calling rates and other factors. As stated in the Information Response of Verizon, the calling rate from Oxford to Cincinnati for the month of March 2002 was 8.43.
 - (g) As disclosed in the telephone directory for Cincinnati and other reliable sources, various services, products and activities located in the Cincinnati Exchange include commercial and employment facilities; medical and veterinarian services; shopping facilities; social, cultural and recreational activities; state government offices and facilities serving residents of the Oxford

Exchange; churches and religious institutions; and higher educational facilities.

- (h) Instituting EAS from the Oxford Exchange to the Cincinnati Exchange would serve the public interest.
- (i) The representative of the complainants, Patty Lykins, whose signature appears on the Stipulation, has represented to Verizon and Cincinnati Bell, and upon submission of this Stipulation represents to the Commission, that she is fully and completely authorized to act on behalf of the complainants in the execution of this Stipulation, the agreements herein reflected, and the recommendations herein recited.
- (j) The complainants acknowledge and are fully aware that they are waiving their rights to any public hearing on the community of interest issues described herein.
- (k) Promptly upon its execution, the Stipulation will be filed with the Commission. Thereafter, the complainants, Verizon, and Cincinnati Bell will take reasonable steps, including but not limited to the development and submission of such other data as the Commission may request, to facilitate the issuance by the Commission of an order.
- (l) Upon Commission approval of the Stipulation, Verizon and Cincinnati Bell will institute EAS as ordered by the Commission and as described in Verizon's and Cincinnati Bell's tariffs between the Oxford Exchange and the Cincinnati Exchange.
- (m) Verizon and Cincinnati Bell will take reasonable steps to facilitate the issuance of a Commission order at the earliest practicable time, but not later than six months after the issuance of a Commission order approving this Stipulation, unless a further Commission order is issued extending the time to institute EAS.
- (n) If the Commission fails to approve the Stipulation or fails to issue the orders contemplated, or rejects any part of the Stipulation, then the Stipulation shall upon notice by any party to the other parties and to the commission, be void.

- (o) The Stipulation is submitted solely for purposes of compromise in these proceedings, and nothing in the Stipulation is intended to bind the complainants, Verizon, or Cincinnati Bell in any other proceedings before any tribunal, including but not limited to any other proceedings before the Commission involving EAS.
- (5) In an information response filed on May 24, 2002, Verizon stated that if flat-rate EAS is established, Oxford Exchange residents will not be subject to a rate increase. Similarly, Cincinnati Bell's information response, which was filed on May 24, 2002, indicates that its customers in the Cincinnati Exchange will not experience a rate increase if flat-rate EAS is implemented.
- (6) The Commission finds that the terms and conditions set forth in the Stipulation are reasonable and, therefore, the Stipulation should be approved.
- (7) The Commission finds that, based on the record as a whole, a sufficient community of interest has been shown to warrant a grant of two-way, nonoptional, flat-rate EAS in this case, between the Oxford and Cincinnati exchanges. Our conclusion is supported by the record in several ways:
 - (a) First, the calling rate is 8.43. This calling rate demonstrates that a significant amount of calling is taking place between the exchanges. Furthermore, Rule 4901:1-7-03(b)(1)(d)(i), Ohio Administrative Code (O.A.C.), states that, under normal circumstances and in the absence of other compelling considerations, a calling rate of at least eight from the requesting exchange to the requested exchange results in a rebuttable presumption that some of EAS, either flat-rate or usage sensitive service, is warranted.
 - (b) Second, the Stipulation indicates that the Oxford and Cincinnati exchanges have a community of interest between them and that Oxford subscribers rely on the presence of services, products and activities in the Cincinnati Exchange such as commercial and employment facilities; medical and veterinarian services; shopping facilities; social, cultural and recreational activities; state government offices and facilities serving residents of the Oxford

Exchange; churches and religious institutions; and higher education facilities.

- (c) Third, our decision is based, in part, on the fact that Cincinnati Bell and Verizon indicated that they would neither incur exceptionally heavy investments in facilities nor incur exceptionally high costs to provide two-way, nonoptional, flat-rate EAS between the Oxford and Cincinnati exchanges.
 - (d) Finally, neither customers in the Oxford Exchange nor customers in the Cincinnati Exchange will experience a rate increase if flat-rate EAS is established.
- (8) Accordingly, two-way, nonoptional, flat-rate EAS shall be implemented between the Oxford Exchange and Cincinnati Exchange within six months of the issue date of this finding and order. Verizon and Cincinnati Bell should work with our Office of Public Affairs, Communications Management Section staff to develop bill inserts or separate letters describing the new EAS service prior to the in-service date.
- (9) In support of our adoption of the Stipulation, as well as our finding that two-way, nonoptional, flat-rate EAS is warranted between the Oxford and Cincinnati exchanges, the Commission takes administrative notice of the following:
 - (a) Verizon and Cincinnati Bell are telephone companies as defined by Section 4905.03(A)(2), Revised Code, and are public utilities by reason of Section 4905.02, Revised Code. Verizon and Cincinnati Bell are, therefore, subject to the jurisdiction of the Commission under the authority of Sections 4905.04 and 4905.05, Revised Code.
 - (b) Rule 4901-1-30, O.A.C., authorizes parties to Commission proceedings to enter into stipulations. Although not binding upon the Commission, stipulations are given careful scrutiny and consideration, particularly where all parties have joined together in the stipulation. See, *Cincinnati Gas and Electric Company*, Case No. 76-302-EL-AIR (May 4, 1977).
 - (c) The Commission finds that the Stipulation submitted in this case appears to be the result of

serious bargaining among the parties who seem capable of grasping and resolving the issues at stake in this proceeding. The Commission further finds that the Stipulation will benefit the public interest and not violate any important regulatory principle or practice.

It is, therefore,

ORDERED, That the Stipulation filed on July 30, 2002, is approved in its entirety. It is, further,

ORDERED, That Verizon and Cincinnati Bell are authorized to provide two-way, nonoptional, flat-rate EAS between the Oxford Exchange and the Cincinnati Exchange. It is, further,

ORDERED, That Verizon and Cincinnati Bell shall implement two-way, nonoptional, flat-rate EAS as soon as practicable and, in any event, within six months from the date of this Finding and Order. It is, further,

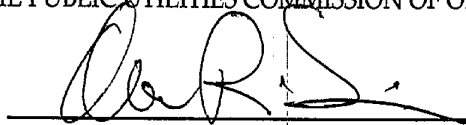
ORDERED, That Verizon and Cincinnati Bell establish an in-service date within two months of the date of this Finding and Order, inform the Commission and the spokesperson of the date, and advise the Compliance Division and the spokesperson no later than 60 days prior to the in-service date if that date cannot be met, in addition to explaining why compliance with that date cannot be accomplished. It is, further,

ORDERED, That prior to the in-service date of the two-way, nonoptional, flat-rate EAS, Verizon and Cincinnati Bell shall provide information to customers, through bill inserts or separate letters, which describes the new EAS service, explains the new dialing procedures, states the date and time that the services will become available, and explains the rate for the service. It is, further,


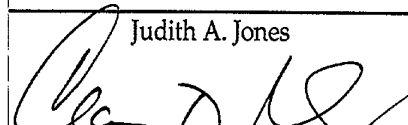
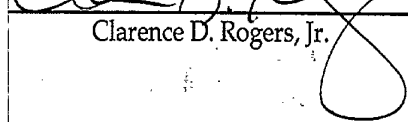
ORDERED, That Verizon and Cincinnati Bell are authorized to file in final form revised tariff sheets reflecting the establishment of two-way, nonoptional, flat-rate EAS between the Cincinnati Exchange and the Oxford Exchange, under a cover letter that references Case No. 02-379-TP-PEX and the docket number of each carrier's tariff. The tariff sheets shall be effective upon the institution of EAS. It is, further,

ORDERED, That a copy of this Finding and Order be served upon the spokesperson for the complainants, Ameritech, Verizon, Cincinnati Bell, and Sprint, their respective counsel, and any other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

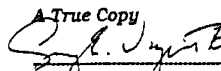


Alan R. Schriber, Chairman


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JML/vrm

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A True Copy

Gary E. Vigorito
Secretary

CASE NUMBER: 02-0379-TP-PEX
CASE DESCRIPTION: PATTY LYKINS VS VERIZON TELEPHONE COMPANY
DOCUMENT SIGNED ON: 9/17/2002
DATE OF SERVICE: 9/18/02

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PARTIES OF RECORD

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