

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of TCG)
Cleveland for a Certificate of Public)
Convenience and Necessity to Provide Local) Case No. 96-382-TP-ACE
Telecommunications Services in all or)
Portions of the Counties of Cuyahoga,)
Greene, and Montgomery, Ohio.)

ENTRY ON REHEARING

The Commission finds:

- (1) On September 26, 1996, the Commission issued its Opinion and Order in this case granting TCG Cleveland's (TCG) application for a certificate of public convenience and necessity (certificate) to provide switched local exchange and intraLATA toll telecommunications services to residential and business customers in the exchanges in Cuyahoga, Greene, and Montgomery counties, Ohio, where Ameritech Ohio currently provides local exchange services. The Commission noted that, on June 12, 1996, it adopted guidelines for the establishment of local exchange competition in Ohio, *In the Matter of the Commission Investigation Relative to the Establishment of Local Exchange Competition and Other Competitive Issues*, in Case No. 95-845-TP-COI (95-845 or Guidelines). The Commission also noted that Guideline VI(B) allows new entrant carriers (NEC) to retain streamlined regulation of their competitive certificate services under Case No. 89-563-TP-COI (89-563), only if the competitive local exchange operations are in separate affiliates and in compliance with the Commission's affiliate transaction requirements. The Commission determined that, in this case, pursuant to Guideline VI(B), TCG's competitive access services certificate should be merged with the certificate the Commission would issue TCG for the local exchange services approved in this case, and that TCG could no longer take advantage of the more streamlined provisions afforded competitive telecommunication service providers through 89-563.
- (2) On October 28, 1996, TCG filed an application for rehearing of the Commission's September 26, 1996 Opinion and Order in this case. TCG argues that the Opinion and Order is unreasonable and unlawful in that it requires TCG to merge its existing competitive certificate with its local exchange certificate.

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TCG argues that it should be allowed to retain both the competitive certificate with the applicable streamlined regulations of 89-563, and a certificate for local access services, without being required to conform to the affiliate separation standards. TCG states that it has filed an application for rehearing of Guideline VI(B) in 95-845 and, that, to the extent the Commission changes this guideline on rehearing, TCG's application for rehearing here should be granted. TCG further argues that reason and law do not support a requirement for separate affiliates and compliance with affiliate transaction rules for TCG's operations, because, as a NEC, TCG lacks market power to harm consumers or competition through cross subsidization.

TCG also contends that the Commission is considering granting rehearing of Guideline II.A.4. barring incumbent local exchange carriers (ILEC) from operating NECs within their serving areas. TCG states that this guideline currently allows ILECs to create NECs outside their serving areas subject to the affiliate transaction requirements. TCG contends that there is not a sufficient basis for subjecting TCG to the same requirements that an ILEC must follow for an affiliate outside its service area.

- (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.
- (4) TCG's application for rehearing has been timely filed as required by Section 4903.10, Revised Code.
- (5) Upon review of the record in this proceeding, the Commission finds that TCG has presented no new information or justification for allowing it to maintain separate certificates for its competitive services and its local exchange operations, and allowing its competitive services to take advantage of the streamlined provisions for CTS providers, without being required to conform to the affiliate separation standards. In our November 7, 1996 Entry on Rehearing of 95-845, we fully addressed TCG's request for rehearing of this issue, determined that TCG raised no issue not fully addressed, and denied TCG's request for rehearing of Guideline VI(B). We similarly find that TCG has raised no new issue not fully addressed and

therefore, TCG's application for rehearing on the same issue in this case should similarly be denied. TCG still has the option to create a separate affiliate for its competitive services in order to retain its certificate for competitive services with the applicable streamline regulations under 89-563.

Accordingly, TCG's application for rehearing should be denied.

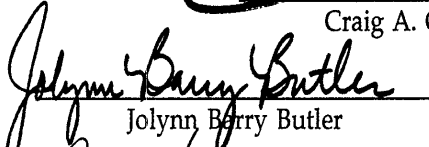
It is, therefore,

ORDERED, That TCG's application for rehearing be denied and that a copy of this Entry on Rehearing be served upon each party of record.

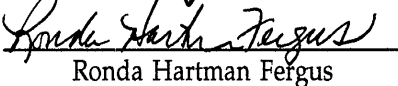
THE PUBLIC UTILITIES COMMISSION OF OHIO



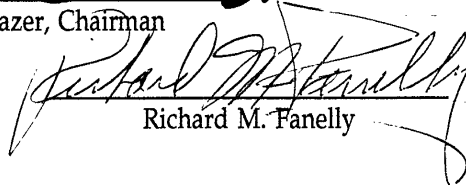
Craig A. Glazer, Chairman



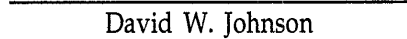
Jolynn Berry Butler



Ronda Hartman Fergus



Richard M. Fanelly

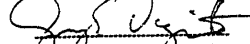


David W. Johnson

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Gary E. Vigorito
Secretary