Attorney General
Betty D. Montgomery

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June 14, 1996

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Via Overnight Mail

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D. C. 20554

Re: *In the Matter of Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network,* CC Docket No. 95-115

Dear Mr. Caton:

Enclosed please find the original and seventeen copies of the **Policy Disconnection of Local Exchange Service for the Nonpayment of Toll Charges adopted by the Public Utilities Commission of Ohio** (PUCO), which is being submitted as a late-filed exhibit in the above-referenced matter. The Ohio disconnection policy was adopted on June 12, 1996 in PUCO Case No. 95-790-TP-COI. The Ohio's Initial Comments in this docket included the PUCO Staff's proposed disconnection policy and the enclosed order reflects the final policy adopted by the PUCO. The FCC should be aware of the Ohio disconnection policy when deciding this docket. A summary of the order is also enclosed for the FCC's convenience.

Please return a time-stamped copy to me in the enclosed stamped, self-addressed envelope. Thank you for your assistance in this matter.

Respectfully submitted,

STEVEN T. NOURSE
Assistant Attorney General
Public Utilities Section
180 East Broad Street
Columbus, Ohio 43266-0573
(614) 466-4397

Enclosure

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cc: Janice Myles, Common Carrier Bureau
International Transcription Services, Inc.

SUMMARY of
PUCO CASE NO. 95-790-TP-COI
(LOCAL SERVICE DISCONNECTION)

JUN 17 1996

Local services providers shall be permitted to disconnect a customer's local service for nonpayment of charges incurred for local service.

Local service providers also shall be permitted to disconnect a customer's access to toll service for nonpayment of of charges incurred for toll service.

Local service providers shall not be permitted to disconnect a customer's local service for nonpayment of charges incurred for toll service.

- Partial payments must be apportioned to regulated local service charges first before being applied by a local service provider to any toll charges.

- For the purposes of the PUCO's local disconnection policy, all regulated telephone services provided by a local service provider, except toll service, shall be considered local service.

- The PUCO's disconnection policy applies to both residential and nonresidential service.

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Investigation into the Disconnection of Basic Local Exchange Service for the Nonpayment of Charges Associated with Services Other Than Basic Local Exchange Service.	)))))	Case No. 95-790-TP-COI

JUN 17 1996

FINDING AND ORDER

The Commission finds:

I. BACKGROUND

On August 31, 1995, the Commission issued an entry which initiated this matter, Case No. 95-790-TP-COI (the 95-790 docket), for the purpose of investigating the question of whether to prohibit local service providers[1] from disconnecting a subscriber's basic local exchange service for the nonpayment of charges for services other than basic local exchange service. Within that entry, the Commission determined that its existing disconnection policy should remain in place during the pendency of the 95-790 docket. The Commission's existing disconnection policy was established by the Commission's April 14, 1988 Opinion and Order in Case No. 85-1930-TP-COI *In the Matter of the Commission's Investigation into the Disconnection of Local Exchange Service for Failure to Pay Message Toll Service* (the 85-1930 docket). Briefly stated, it permits a LEC to disconnect a subscriber's local service for the nonpayment of interexchange carrier (IXC) toll charges for which the LEC is providing billing and collection services and for which the LEC purchased the IXC's accounts receivable in advance. In addition, it requires a LEC to apportion partial payments to regulated LEC charges and IXC toll charges before applying subscriber payments to charges for any other services.

In its August 31, 1995 entry, the Commission explained its reasons for launching its present investigation. There are a number of factors which cause the Commission to believe that the right time has come to reexamine our current local service disconnection policy. For one thing, the scope of inquiry undertaken in the 95-790 docket is broader than the limited investigation conducted in the 85-1930 docket. No longer are we only concerned with the validity of local service disconnection in response to nonpayment of IXC toll charges. Rather, we are presently considering whether to prohibit disconnection of local service for nonpayment of toll charges, regardless of who (including the local service provider) might be the provider of the toll service, who

[1] The term "local exchange company", or "LEC", used throughout the August 31, 1995 Entry, is too limiting. The Commission's true intention in the 95-790 docket is, and has been, to decide whether any local service provider, whether incumbent or emerging, should be permitted to disconnect local service for nonpayment of other than local service. Therefore, when referring to LECs we are referring to both incumbent local exchange carriers and new exchange carriers.

might own the debt owed for that service, and/or who might be the entity billing for that service.

Then too, we have reason to suspect that the state of toll restriction technology has greatly changed since the time when our existing policy was first formulated. This is important because, within our order in the 85-1930 docket, the Commission expressed its unwillingness, at that time, to prohibit disconnection of local service for nonpayment of IXC toll service charges based, in part, on our assessment of the then-current state of toll restriction technology. It was found that toll restriction technology of a type necessary to viably separate toll service disconnection from local service disconnection was not, at the that time back in 1988, sufficiently developed and/or deployed throughout the state of Ohio. Now, however, unlike a decade ago, most local service providers operating in Ohio include toll blocking features among their tariffed service offerings. Thus, one of the Commission's expressed reasons for opening this docket was to establish a formal record upon which to judge whether, over the past ten years, toll restriction technology has developed to such a degree as to no longer present a serious impediment to the formulation of a regulatory policy which would prohibit disconnection of local service for nonpayment of charges for toll service.

In our August 31, 1995 entry, we went on at considerable length, and in greater detail than reiteration here requires, spelling out still more reasons why we have decided to reexamine local service disconnection issues in this docket. Suffice it to say that two important reasons among them are: (1) the Commission's belief that, with competition in the local service market becoming ever closer to reality, comes a need to evaluate whether, and if so how, to unbundle local service features, including disconnection; and (2) a desire to examine the issue from a state regulatory perspective, given the fact that the Federal Communications Commission (FCC) has recently undertaken a federal rulemaking proceeding concerned with whether to prohibit local service disconnection for failure to pay outstanding interstate long distance charges. See: *In the Matter of Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network,* CC Docket 95-115, (Notice of Proposed Rulemaking adopted July 13, 1995 and released July 20, 1995.)

The Commission maintains that it possesses the requisite authority to decide the issue of whether local service providers should be permitted to disconnect a subscriber's local service for the nonpayment of toll service. In support of this conclusion, the Commission notes that in Ohio, as well as in many other states, local service providers are permitted to purchase, prior to collection, the accounts receivable associated with both intrastate and interstate toll traffic. In such instances, the uncollected debts attributable to the provision of toll service (including interstate service) become the property of the local service provider. When these accounts receivable for toll calls become the property of the local service provider, the collection methodologies and mechanisms that the local service provider is permitted to employ with respect to those accounts, become a matter of an exclusive local jurisdictional concern.

II. THE STAFF PROPOSAL

Within our August 31, 1995 entry, we invited public comment on a staff proposal which was set forth in appendices to that entry. Although our staff, at that time, clearly took an initial position in favor of prohibiting disconnection of basic local exchange service for nonpayment of charges for services other than basic local exchange service, the Commission, itself, was careful to point out that we would not be reaching any conclusions on any of the issues being addressed in the 95-790 docket until after we had reviewed the complete record, including any comments submitted in response to the Commission's invitation. Following the August 31, 1995 entry, numerous entities filed comments and/or reply comments in this docket, both to address directly the staff proposal, appended to that entry, and also to bring to the Commission's attention other concerns relevant to the issues at hand in this docket. These comments and reply comments will be summarized and addressed in greater detail below. First however, the Commission will summarize the staff proposal, as it was originally set forth in appendices to the August 31, 1995 entry.

The staff recommended that the Commission consider adopting a new disconnection policy which would substantially limit the ability of LECs to disconnect local exchange service customers for nonpayment of charges unrelated to the provision of local exchange service by a LEC. In essence, the staff proposed that, wherever it is technologically feasible to separate the disconnection of basic local exchange service[2] from the disconnection of other types of service, LECs should be prohibited from disconnecting their local exchange service customers from basic local exchange service for nonpayment of unregulated service of any kind, the nonpayment of IXC-provided toll service, and the nonpayment of LEC-provided services other than basic local exchange service, including both toll and discretionary services.

The staff proposal separates all services into three categories -- local, toll, and discretionary. Under the staff's proposal, nonpayment for a service in one category cannot lead to disconnection of a service in another category. More basic services are protected from disconnection to a greater degree than are less basic services. The staff proposal included a fairly elaborate system for prioritizing the order in which partial payments would be applied to outstanding charges for services in each of the three categories. For instance, under the staff proposal, LECs would have flexibility to prioritize payments for LEC-provided toll or discretionary services over those for services of an IXC for whom the LEC is the billing agent. Ultimately however, under the staff proposal, a customer could always decide to direct payment other than in accordance with the order of priority otherwise established.

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[2] For purposes of the staff proposal, basic local exchange service consists of the following components: (1) local loop, (2) loop termination, (3) local usage (including touch-tone service), and (4) access to 9-1-1 service (where applicable).

The staff proposed a three-step procedure to be followed in disconnecting a residential subscriber's basic local exchange service. The first step involves provision of notice of disconnection in accordance with the Commission's current rules and procedures. Step two entails the imposition of a "temporary disconnection" for a minimum 30-day period during which reconnection is possible. Throughout the temporary disconnection period, LECs would be required to continue providing incoming call receiving capability but would be permitted to cease providing, and be prevented from assessing charges for, any other local usage (except access to 9-1-1). The third step would amount to final disconnection, with one caveat. This caveat would be that, under the staff proposal, access to 9-1-1 service must be maintained indefinitely even after a final disconnection of all other components of basic local exchange service has occurred.

The staff proposed that service in any given category, once disconnected, could not be reconnected unless either all arrearage charges in that category have been paid or an acceptable payment arrangement had been agreed to between the customer and the company. The staff recommended that the Commission establish a ceiling on service reconnection fees, such that a tariffed, nonrecurring service order charge of no more than $10.00 could be applied each time reconnection, within any one particular service category, occurs. The staff proposed that deposit requirements for any particular service must be specific to the company providing that service and cannot have bearing on a subscriber's ability to obtain or retain other services either from the same or a different provider. Finally, the staff proposed that customers, when ordering service, should be able, for the price of a nonrecurring fee of no more than $10.00, to exercise an option to block all toll services.

III. COMMENTS AND REPLY COMMENTS SUMMARIZED

There were seven entities which timely filed initial and/or reply comments which broadly favored the staff proposal and argued that the Commission should prohibit local service providers from disconnecting local exchange service for the nonpayment of charges for services other than local exchange service. They will be referred to collectively as "the proponents for change". The seven are:

1. The American Association of Retired Persons (AARP)
2. The Ohio Attorney General (OAG)
3. The Appalachian Peoples Action Coalition (APAC)
4. The City of Cleveland
5. The Edgemont Neighborhood Coalition (Edgemont)
6. The Office of the Ohio Consumers' Counsel (OCC)
7. The Ohio Department of Aging

On February 13, 1996, The Ohio Department of Aging submitted late-filed reply comments in this matter, along with a request to have its reply comments considered as if they had been timely filed. In support of this request, the Ohio Department of Aging indicates that it was not until the November 30, 1995 meeting of the Telecommunications Advisory Council (TAC), that it became aware that it had missed

its opportunity to file, on a timely basis, either initial or reply comments in this docket. The Commission will grant the request and treat the February 13, 1996 reply comments of The Ohio Department of Aging, as if they had been timely filed.

There were ten entities which timely filed initial and/or reply comments which opposed the staff proposal and argued that the Commission's existing policies on disconnection should remain intact. These ten will be referred to collectively as "the proponents for the status quo". The ten are:

1. ALLTEL Ohio, Inc. and The Western Reserve Telephone Company (the ALLTEL companies)
2. Ameritech Ohio (Ameritech)
3. AT&T Communications of Ohio, Inc. (AT&T)
4. Century Telephone Company of Ohio, Inc. (Century)
5. Cincinnati Bell Telephone Company (CBT)
6. GTE North Incorporated (GTE North)
7. MCI Telecommunications Corporation (MCI)
8. The Ohio Telephone Association (OTA)
9. Scherers Communications Group, Inc. (SCG)
10. United Telephone Company of Ohio and Sprint Communications Company, L.P. (United/Sprint)

Summary of Initial Comments and Reply Comments by Proponents of Change

All seven of the proponents for change expressed full support for the basic idea that the Commission should prohibit "DNP", i.e., the disconnection of local service for the nonpayment of charges related to toll service. Overall, the initial and reply arguments share many common themes:

(1) Because it permits local service to be held hostage in order to coerce payment of unrelated services, the Commission's existing disconnection policy, permitting DNP, has always been unfair and discriminatory;

(2) The current policy permitting DNP should be changed since it was originally justified only in light of technological limitations which now no longer exist;

(3) To the extent it would destroy local service providers' ability to profit by buying debts and using their monopoly power to collect debts of other companies and other services (i.e., to employ billing and collection practices that are completely unavailable to virtually all other businesses) a policy which would prohibit DNP would, in effect, do little more than to force local telephone service providers simply to comport with normal business practices;

(4) With the disappearance of a rationale for special treatment, the burden shifts to companies which oppose complying with such normal business practices. Consequently, arguments that the status quo should be upheld because there is no problem to be solved, i.e., that a policy prohibiting DNP should be described as a solution in search of a problem, ring hollow;

(5) There is empirical evidence to show that prohibiting DNP promotes universal service and results in increased subscribership;

(6) Even if one questions whether increased subscribership would result from a policy prohibiting DNP, promotion of universal service is but one justification for the policy, not the only one;

(7) The predicted rise in costs, in lost billing and collection revenues, and in uncollectible debts (and the resulting need for rate increases) forecasted in the comments and reply comments of the proponents for the status quo have been overstated and should be considered as either irrelevant or entitled to little, if any, weight. The LECs are accused of failing to acknowledge how they benefit from the revenues which are generated just by keeping customers on the network; and/or

(8) Rate increases did not occur during the state of Pennsylvania's 11-years and ongoing experience with a "no disconnect" policy, even if uncollectibles admittedly did rise during the period.

APAC is a nonprofit advocacy organization for low-income residents in southern Ohio. Edgemont is a nonprofit advocacy organization for a low income neighborhood in Dayton. APAC claims that its own experience supports the conclusion that disconnection of local service for nonpayment of toll charges is a major reason why so many low-income households in southern Ohio lack telephone service. Therefore, APAC believes that a policy prohibiting DNP would significantly improve the accessibility of local telephone service to low-income residential customers. In their jointly-filed reply comments, APAC and Edgemont specify that there are approximately 218,000 homes without phones in Ohio. They claim that households below the poverty line are twice as likely as households above it to be without a phone, and that penetration levels among ethnic and/or racial minorities are considerably lower than among majority groups. They point out that, in a Commission workshop held in July 1995, Ameritech admitted the correlation between unpaid toll charges and the condition of being without a phone.

APAC supports the staff-proposed 30-day "temporary disconnection" period because it states that from its experience that timing of payments and disconnection deadlines is often a critical factor for low income households. Edgemont wants the Commission to establish, by rule, payment arrangement standards for qualifying low income customers. Edgemont specifically proposes that qualifying customers should be required to pay no more than 10 percent of the basic service arrearage or $50.00 whichever is less as an initial payment and ten percent per month of the remaining basic local exchange service arrearage, or $15.00 per month, whichever is left, until the arrearage is paid, plus the monthly phone bill.

AARP, in its initial comments, joined by the city of Cleveland in its reply comments, urges the Commission to, during the pendency of this case, stay any disconnections permitted under existing Commission policy. AARP argues that this would both "minimize the number of such disconnections" during the period, and would provide some Ohio-specific empirical data on the effect which prohibiting DNP would have on subscribership levels. According to AARP, costs associated with technologically implementing the staff's proposal, such as costs associated with design of new billing systems, are not jurisdictional facts for the Commission to consider. In its reply comments, AARP takes strong issue with those initial commenters who championed coin phones, cellular phones, and phones at one's place of employment as viable alternatives to local exchange service at home. AARP argues that, in many specific ways, the mere existence of these alternatives, which themselves are often beyond the physical or economic reach of those threatened with or experiencing a loss of local service, cannot dampen the devastating impact which disconnection of the local exchange service can wreak on a household. AARP thinks the Commission should require that customers be offered a menu of voluntary toll call limitation options, but says that an involuntary toll restriction program would be unreasonable and discriminatory. AARP argues that the method which Ameritech, in its initial comments, proposes for reducing uncollectibles, namely, increasing deposit levels and performing credit risk assessments on new service applicants and customers with large outstanding balances, raises privacy issues and may create an even bigger barrier to universal service than currently exists.

The city of Cleveland urges the Commission to prohibit DNP regardless of whether it is technologically or economically feasible or not. That is, the burden should be on the service provider to show that there are technological impediments which preclude such a prohibition in a given situation.

OCC argues, and notes as ironic, that the state of toll restriction technology, which in 1988 was so lacking as to drive Commission policy towards permitting DNP, has now, by 1996, advanced to the degree necessary to drive a change in that policy. The OCC submits that, allowing a firm to disconnect local service for nonpayment of other services provided by that firm will inevitably give a competitive edge to vertically integrated firms, in contravention to the state policy promoting competition set forth in Section 4927.02(A)(1), Revised Code. This is because, according to OCC, a firm which offers only toll services, or only enhanced (but not basic) local services, will not have the

ability to deny local access to enforce payment of customers' bills for those nonbasic services. OCC, like Edgemont, suggests that the language in the staff's proposal which says that service in any one category may not be reconnected unless and until all arreared charges in that category have been paid should be revised so that it has only company-specific application within each category. Otherwise, says OCC, the basic local exchange service bottleneck could be used to create an unfair competitive advantage vis-a-vis those firms who do not have the bottleneck as a collection tool.

The OAG filed initial comments which were fully supportive of all the staff recommendations. The OAG's office has ten years of experience dealing with unscrupulous service providers who have used the threat of disconnection of local service as a means to coerce customers and businesses to pay for services that they did not authorize or for which they were never advised that there would be a charge. Law is now in place which prohibits disconnection of a telephone subscriber's local service for nonpayment of pay-per-call services. It also prohibits disconnection for charges that occur as a result of calls placed to 800 numbers. However, according to the OAG, all of the abuses previously associated with 800 and 900 numbers are now continuing through use of tariffed charges on either domestic or international calls. The OAG's comments provide a description of some persisting scams, involving tariffed, though excessive, charges and explains that existing pay-per-call regulations are insufficient to counter them. As a result, the OAG urges the Commission to revise its rules and protect Ohio consumers and businesses by prohibiting DNP. The OAG states that the most effective measure that can be taken to combat these problems is to separate local from nonlocal service disconnection.

Summary of Initial and Reply Comments of Proponents for the Status Quo

In their initial and reply comments, the proponents for the status quo argue that the staff's proposal should be entirely rejected and that the Commission's existing local service disconnection policy should remain in place. There are some common themes among the comments:

(1) Proponents for the status quo argue that DNP is not a problem in this state since Ohio's existing telephone penetration rate is already quite high. While Pennsylvania's penetration rate is slightly higher than Ohio's, it is only one among several states which have already put in place a policy prohibiting DNP. Many of these states, quite unlike either Pennsylvania or Ohio, nonetheless have penetration rates which are below the national average. Besides, over the entire 11-year period in which Pennsylvania's "no disconnect" rule has been in place, Ohio's subscribership level has increased more so than did Pennsylvania's. Quite plainly, there are already a number of universal service programs in place in Ohio which, it is claimed, are working quite well.

(2) There are less intrusive ways of achieving universal service goals. Rather than now take the generic and potentially costly approach presented in the staff proposal, it would behoove the Commission to, instead, consider "much less drastic" plans for increasing subscribership levels which may come to be proposed by individual service providers on a company-specific basis.[3] In any event, before determining to fix something that is not broken, the Commission should recognize that achieving a 100 percent penetration rate is by no means an attainable goal.

(3) Local service competition is closer than ever to becoming a reality and, once here, may be expected to bring about service so inexpensive that "universal service will take care of itself". It is claimed that a competitive local market will further universal service objectives but prohibiting DNP will not. The parties argue that increasing the uncollectibles of new entrants, which arguably would be among the consequences resulting upon implementation of policy which prohibits DNP, may impair their ability to enter and/or compete in the local service market.

(4) Existing practices of Ohio's local service providers have previously been found to be, and today remain, adequate to assist customers who are having difficulty in meeting their financial obligations. The Commission has already found, within the very order[4] in which its current local service disconnection policy was adopted, that "current LEC procedures for such disconnection do not seem to be causing a major problem for subscribers". According to the proponents for the status quo, there is no evidence which puts at issue the widespread practice of DNP and, therefore, no significant change in circumstances which might warrant a change to existing disconnection policy. The mere existence of a technical ability to separate disconnection provides no reason to require it. Advancements in toll restriction technology do not alter the fact that a large number of customers benefit from economic efficiencies derived from allowing disconnection.

(5) These commentors state that toll restriction technology has still either not sufficiently advanced, or its widespread deployment has not so far occurred, to the extent necessary to

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3 GTE submits that its "Advanced Credit Management (ACM) Program" is an example of a more desirable method for increasing subscribership. Under the ACM Program, an outside credit-reporting service is used to determine whether a deposit is required and what limit, if any, is to be placed on toll charges.

4 See the Commission's April 14, 1988 Opinion and Order in the 85-1930 docket.

make implementation of the staff's plan at all practicable. Currently-deployed toll blocking technology, they argue, does not allow for completely restricting collect or third-party-billed calls. Also, they argue that it is either not possible, or as a practical matter it is prohibitively expensive, to deploy the switching and billing systems necessary to distinguish between various types of toll for blocking purposes (i.e., inter-LATA, intraLATA, interstate, intrastate).

(6) It is argued that implementation of the staff proposal would be both very costly and unwise for many reasons. Among their arguments are:

(a) Under the staff proposal, if implemented, LECs would stand to lose lucrative billing and collection contracts. This result would exert increased upward pressure on local and long distance service rates.

(b) It is argued that without disconnection as an available collection mechanism, bad debts, for both local service providers and IXCs, would greatly increase. It is claimed that the regional Bell Operating Company in Pennsylvania, Bell Atlantic, experienced a "400 percent increase in uncollectibles expenses" after that state's adoption of a "no disconnect" rule. Other LECs and IXCs operating in Pennsylvania have reported similar experiences with increased bad debt in that state. Significant increases in bad debt should be seen as exerting increased upward pressure on local service rates.[5]

(c) Implementation of the staff proposal would force local service providers to bear the costs of switch and system upgrades which would suddenly be needed to segregate toll, local, and discretionary services in the manner required under the staff proposal.

(d) The staff-proposed plan for categorization of services is unjustified, and would prove costly to implement and administer. It would also add to

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5 As the Pennsylvania PUC stated in its comments to the FCC on this issue, the affected LECs have not substantiated this claim with the Pennsylvania PUC and no rate increases attributable to the policy change has occurred during the 11 years of its existence.

customer confusion. The same is true of the proposed disconnection notices called for under the staff proposal. Ranking unregulated services last might force LECs to reconsider marketing them at all.

(e) Imposition of proposed limits on restoration of service charges would have a revenue impact on some companies, and might amount to a change of some companies' existing, filed rates -- something the Commission cannot do without first holding a hearing under Section 4905.26, Revised Code.

(f) Indefinite continuation of 9-1-1 service should not be mandated without closer examination of many questions, especially those relating to who should bear the administrative costs entailed.

(g) The staff proposal would encourage toll fraud, by allowing customers to switch to a new carrier rather than pay for services already rendered by the first carrier.

(7) According to the proponents for the status quo, the staff proposal amounts to a social welfare program. In any event, whether any public benefit would result from implementation of the staff's proposal is questionable. Meanwhile, the economic and technological burdens associated with it would be too great. On balance, a minimum increase in subscribership at a significant cost to other rate payers is not desirable or acceptable.

(8) The proponents of the status quo argue that a policy prohibiting DNP would negatively impact all customers who pay their bills, and would benefit, not the poor and the indigent who already have Lifeline assistance plans which meet all their needs, but rather only those who have chronic, uncontrollable "telephonitus", i.e., those who "choose" not to pay undisputed phone charges, who are chronically derelict in paying their bills, and/or who cannot control the calling habits of their households. Causing local service providers to expend millions of dollars on modifications to billing systems, network configurations, and collection efforts, all for the limited purpose of making access to phone service easier for that minuscule percentage of the population who do not

> pay their acknowledged debts, will hamper competition, reduce both LEC and IXC revenues, exert pressure on both toll and local rates, but fail to move the state significantly toward what amounts to an unattainable 100 percent subscribership penetration level.

In their reply comments, the proponents for the status quo responded to not only the staff proposal itself, but also to the specific issues raised in the initial comments filed by the proponents for change. For example, they all recognize the problem identified in the initial comments of the OAG. Ameritech describes it as "an apparent loophole in federal law which allows unscrupulous international calling scams to continue". However, they contend that to try to address this problem by adopting a policy prohibiting DNP would amount to inappropriate, ineffective, and overreaching state regulation. MCI's blunt assessment, for example, was not untypical: "prohibiting DNP is not a panacea that will cure the ills propagated by a few unscrupulous information service providers. The AG's suggested approach attempts to solve the problem with a meat ax when, in MCI's view, a scalpel is more appropriate." Ameritech propounded that the OAG "cannot reasonably argue that the staff's proposal will stop unscrupulous providers of 'dial-up' services". Rather, says Ameritech, the problem should be addressed by "revisiting the scope of the federal law and using international diplomacy to garner support for US policies in other countries." According to the proponents of the status quo, the only real solution is to effectively prosecute the perpetrators of fraud themselves, rather than to tamper with an existing disconnection policy which they disavow has created a climate for the exploitation of consumers and business.

According to GTE, in responding to the initial comments of the OCC, there is nothing inherently wrong with rewarding vertically integrated companies if they are more efficient. Anyway, says MCI, the OCC has not explained how DNP is anticompetitive where a vertically integrated local service provider treats itself the same as it treats other providers of similar services for purposes of DNP. According to the proponents of the status quo, permitting DNP does not constitute an illegal tying arrangement. Such arrangements involve a requirement that, in order to purchase a monopoly product, the customer must agree to purchase a non-monopoly product. No LEC requires a customer to purchase IXC service in order to avail themselves of the local exchange market.

MCI says that exchange and toll services are so interrelated and functionally inseparable that DNP is appropriate. The situation is completely different from one prohibiting disconnection of local service for nonpayment of credit cards, gas bills, and other unregulated services because those other services, unlike toll services, are unrelated to the provision of local service.

According to SCG, all service providers should be equipped with the same tools to aid in account collection. LECs currently enjoy an unfair advantage in that they are able to control the loss of collectibles utilizing the disconnection tool. The LECs also enjoy a competitive advantage over other billing and collection companies. Imposing the

same restrictions upon all billing and collection companies would eliminate this unfair advantage. SCG questions the wisdom of a separate billing arrangement for services based upon category. SCG posits that all services not covered by universal service guidelines should not be paid initially and should be considered discretionary services. Therefore, equal payments should be distributed among these discretionary services along with toll services. Information services should be defined and assigned to broad categories. Beyond this, no scale of priorities should be established for services, as it is a task both too cumbersome and too futile. SCG believes that the ability to block for collect calls should be offered for the provider. This type of call is not usually within the control of the billing carrier. SCG recommends that the Commission order the development of such a device through the LEC for blocking collect calls to the delinquent customer. SCG opposes revising Rule 4901:1-5-32, Ohio Administrative Code (O.A.C.), to have it include a list of insufficient reasons for disconnection of competitive services. The rule should protect basic services, but competitive and discretionary services should not be subject to such regulations. SCG contends that the usefulness of permanent 9-1-1 service is debatable and that an individual involved in a crisis will not recall that his/her disconnected phone may have access to 9-1-1 service.

IV. DISCUSSION

A. General

The staff proposal has provided a starting point from which to commence a public dialogue among all stakeholders concerned with the issues presented in this case. However, the Commission itself has decided to wait until now, upon a review of the complete record, to state its own formal position. The Commission will do so in this order. However, before we do, the Commission finds it necessary to discuss both the staff proposal itself, and the comments and reply comments which have been filed in this case.

First we must indicate our belief that the staff proposal in this case was, in certain respects, overbroad. However, in this docket, the Commission expects to fully address and resolve only one issue: whether and how a subscriber of local service may be able to obtain and maintain such service to the exclusion of other services. Moreover, though we agree with the staff's first premise that prohibiting DNP is appropriate policy, we conclude that, in many respects, the approach to enforcing this prohibition should be less complicated. Before moving further into a discussion of the Commission's new disconnection policy itself, however, we will first now briefly address and dispose of, for purposes of this case only and without reaching any final decision on the merits, various issues which we believe are beyond the scope of this limited generic proceeding.

B. Issues Other Than Whether To Prohibit DNP

As just indicated above, there are a number of issues which have been raised which we find we simply do not need to reach a decision on at this juncture, based both on the record before us, and in the context of the intended limited scope of the generic

docket at hand. For example, the staff proposal contained provisions aimed at requiring the continued provision of 9-1-1 service, by local service providers, for an indefinite time period beyond the occurrence of permanent disconnection of all other services offered to the customer. The Commission finds the staff's proposal regarding continual 9-1-1 service to be an interesting idea perhaps worthy of further exploration.[6] However, the Commission is not prepared to make any decision on this aspect of the staff's proposal based on the limited record before it in the case at hand. Rather, we find that the staff's 9-1-1 proposal could be more adequately addressed in a separate generic docket, which could be opened at some point in the future.

Likewise, the Commission reaches a similar conclusion in now disposing of, at least for purposes of further consideration in this docket, all issues surrounding the staff-proposed procedure under which local service providers could be obligated to extend a "soft-dial tone" or "warm-line" service during a 30-day minimum period of "temporary disconnection". In essence, this aspect of the staff proposal would have required local service providers to continue providing to their delinquent-paying customers, for up to 30 days before final disconnection could legally occur, access to both incoming calls and also to the local service provider's business office. The Commission is aware that at least one company, CBT, has, on a trial basis, presently included a "soft dial tone" service among its tariffed service offerings. As a matter aside from any issue which the Commission will decide today and in this case, the Commission is interested in receiving more information about the overall impact which service offerings of this type may have on companies, on customers, and on local service competition. It expects that companies which, either now or in future, decide to offer such services should be prepared to report on them, at the request of the Commission. Beyond this, however, the Commission finds that a final determination on the merits is not presently required on any policy under which local service providers might be required to provide any services at all during a 30-day period of "temporary disconnection" as proposed under the staff proposal.

For essentially similar reasons, the Commission will also not be further addressing in this docket the staff-initiated proposals concerning placement of a ceiling on the amount which local service providers may charge for either a "universal" blocking service, or for service reconnection fees. In dismissing these particular issues, the Commission would also explain its recognition that, as comments by the proponents for the status quo have suggested, these proposals might entail requiring some companies to change their existing rates: something the Commission could only do following a hearing brought under Section 4905.26, Revised Code. Thus, the Commission does not reasonably envision addressing generically the "fee ceiling" proposal at any foreseeable future time. This is not to say, however, that similar, though company-specific, issues might not be presented in the context of complaints brought under Section 4905.26, Revised Code, wherein the complainant alleges, and eventually proves, that he or she is

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[6] The Commission also notes with keen interest that on March 26, 1995, the Florida Public Service Commission launched its own inquiry, Docket 960371, into whether to require local service providers to provide 9-1-1 capability to disconnected telephone numbers. The Commission intends to track the progress of this Florida docket as it unfolds

a party aggrieved by a company's existing rates or practices which must, for some reason, be found to be unreasonable or unlawful.

Again, for the reason that they cannot be considered issues which the Commission feels it must also decide now, while engaged in the process of disposing of the one issue which the Commission has expressed an intention to resolve in this docket, the Commission chooses not to address in any substantial way, some of the specific requests for Commission action made by various commentors in this docket. Among these are: Edgemont's suggestion that the Commission should establish standard criteria which must be adhered to when companies and their customers negotiate late-payment arrangements; AARP's suggestion that the Commission should require that customers be offered a menu of voluntary toll restriction options; and SCG's suggestion that the Commission should, by order, require LECs to develop and make available to all types of billing carriers, a device for blocking the collect calls of a delinquent customer.

The Commission rejects the suggestion by AARP and the city of Cleveland, that the Commission should, for a period covering the pendency of this docket, issue a stay of all disconnections which would otherwise occur. Nothing stated in support of the requests provides counterweight to the Commission's express determination, set forth in the August 31, 1995 entry, that no change in its existing disconnection policy should occur, if at all, until at least after a comment and reply comment period had transpired, and that a complete record in this case had been gathered and reviewed. In any event, the issue is now moot, in that the case has proceeded to the point at which the Commission is, today, issuing an order which calls for the implementation of a new local service disconnection policy in the state of Ohio.

Although today the Commission, as described in more detail below, has decided to prohibit local service providers from disconnecting local service for the nonpayment of toll charges, it sees no reason to encumber this policy by adopting some of the still more complicated aspects of the staff's proposal that we have not already discussed. Specifically, the staff proposal calls for separating various services into a set of distinct categories, each categorization having a significant impact on the manner in which billing, partial payment collection, temporary disconnection, permanent disconnection, and reconnection of the service may occur. The Commission views all this categorization and categorized regulatory treatment as unnecessary, and potentially very costly to the industry. Rather, the Commission's policy is much simpler. For purpose of local service disconnection, from now on there are only to be two categories of service: toll service (which includes toll service provided by the local service provider and toll service for which the local service provider bills and collects and for which it purchases the accounts receivable) and local service (which is defined as every regulated service provided by the local service provider other than toll service).[7] Under the Commission's

[7] This does not, however, include 900 and 976-like services. The Commission's August 16, 1988 Supplemental Finding and Order in Case No. 85-1930-TP-COI, *In the Matter of the Commission's Investigation Into the Disconnection of Local Exchange Service for Failure to Pay Message Toll Charges,*

plan, local service is either disconnected or it is not: the various billing, collection, and reconnection complications implicit in the staff-proposed concept of "temporary disconnection" are all eliminated. The Commission sees no reason to distinguish between LEC-provided toll, IXC-provided toll, or between discretionary services on similar grounds. The Commission believes a much simpler formula will suffice. If a customer pays for local service, the customer's local service can not be disconnected. If a customer does not pay for local service, it can be disconnected. Likewise, if a customer does not pay for toll service, the customer's access to toll service can be denied.

C. The Issue of Whether to Prohibit DNP

At last we come to the issue which the Commission is most interested in addressing in this docket, namely whether to prohibit DNP. The Commission has considered not only the staff proposal and recommendations on this issue, but also the initial and reply comments submitted in this case. It is actually quite striking that there are clearly two, but really only two, "sides" to this debate. Either you happen to believe that the status quo must be upheld because there is "no problem in need of a solution", or else you side with the proponents of change who claim that, if ever there once was, then at least now, there clearly no longer exists any justification for allowing a threatened disconnection of local phone service to be used as the hammer by which to enforce payments on debts owed for toll telephone service. The Commission has considered the arguments on both sides of the issue. On balance, we believe the time has come to prohibit the use of local telephone service disconnection as a tool used to enforce payment on uncollected debt for toll services.[8]

The Commission is convinced that the state of toll restriction technology, and its deployment throughout Ohio, has greatly advanced since the time, in 1988, when our existing local service disconnection policy was established. Certainly that technological change alone does not now justify a change in regulatory policy. The Commission is not interested in fashioning a change in regulatory policy simply for change's sake. We are justifiably concerned that any change in existing policy should inure to the general benefit of, and not prove unduly costly to, Ohio's telephone service consumers considered as a whole. Nevertheless, it is important to remember that it was the Commission's perception of a then-existing state-wide general lack of enhanced development and deployment of toll restriction technology which to a large degree provided justification for the disconnection policy which was established nearly a decade ago. Quite simply, in the Commission's view, that justification no longer exists. Unlike a

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and 976 Service and 900 Service Charges, still applies and should be considered as unaffected by the Commission's disposition of Case No. 95-790-TP-COI.

8 It should be noted than an existing Commission rule, namely Rule 4901:1-15-32(D), O.A.C., prohibits the disconnection of local service for nonpayment of nonregulated service charges, such as those for Yellow Pages advertising, or cable TV services. The continued applicability of this provision is not at issue in this case. Likewise, as already noted in a previous footnote, the Commission's established policy pertaining to disconnection of 900 and 976-like services still applies, unaffected by today's decision in Case No. 95-790-TP-COI.

decade ago many, if not most, local service providers operating in Ohio include toll-blocking features among their tariffed service offerings. The Commission believes the increase since 1988 in the availability and deployment of toll restriction service offerings has been so substantial as to indicate that no longer should technology be seen as an impediment to allowing the provision of local service to continue, without threat of its disconnection for nonpayment of toll charges, while the continued provision of toll service to a customer delinquent in paying for toll service is barred.

In making its recommendation in this case, as set forth in Appendix A to the August 31, 1995 entry, the Commission's staff cited an FCC preliminary finding[9] that switching technology has advanced to the point where there may be, for all practical purposes, no technical barrier to selective blocking of long distance calls, or the provision of local, but not long distance services. Upon review of all the comments and reply comments filed in this case, this Commission is on solid ground in reaching this same finding, taking into consideration the findings of the FCC which comport with our own. Thus, the Commission finds no merit in the contention espoused by some of the proponents for the status quo that it is not possible to deploy switching and billing systems which distinguish between various types of calls for blocking purposes. Whether it is prohibitively expensive to do so is a separate issue which we will address next.

Even assuming that a policy allowing for DNP may no longer be justified on technological grounds, there remains the separate, though perhaps related, issue of whether the implementation of a policy prohibiting DNP could also be sustained in terms of a cost/benefit analysis. The proponents of the status quo have failed to convince this Commission that the costs they would be forced to bear in implementing a policy prohibiting DNP are so great as to negate the public benefit which adoption of such a policy may be expected to engender. This is true for several reasons. First and foremost, the arguments put forth by the proponents of the status quo concerning the excessive cost burdens which LECs and IXCs (and allegedly all of their customers ultimately) would be forced to bear in order to comply with the specific regulatory plan proposed by the staff were not significantly more persuasive than the contrary arguments espoused by the proponents for change.

Some, but by no means all, of the proponents of the status quo submitted what purport to be estimates of the amount of costs which the staff-proposed disconnection policy would force them to bear. The claims of high costs are not supported in any meaningful way. By way of example, the estimates submitted by some of the IXCs were projections, allegedly extrapolated from the carriers' "experiences" in other states which have already adopted a "no disconnect" rule, of the percentage by which "Ohio bad debt" would increase if a similar policy were adopted in Ohio. There is little, if anything, in the way of material proof provided in the record at hand to support the premise that the "no disconnect" policies of these other states actually have had a direct causal connection with bad debt "experiences" described. Besides, even if the reliability of the

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9 See: *In the Matter of Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network,* CC Docket 95-115. (Notice of Proposed Rulemaking adopted July 13, 1995 and released July 20, 1995.)

cost/debt estimates themselves were not at issue, the Commission finds merit in the arguments of the proponents for change to the effect that a prohibition against DNP does nothing more than put affected telephone companies on equal footing with most other businesses, i.e. businesses in general throughout the state of Ohio, who must follow "normal business practices" in the collection of uncollectible arrearages owed to them. Thus, even if substantial increases in uncollectible expenses are, in fact, one predictable result of a policy which removes a no-longer-justified collection tool currently available uniquely to telephone companies but typically not to any other Ohio businesses, such increases should be seen as restoring "normal costs of doing business", i.e., a cost undertaken by the telephone industry (now that competition is burgeoning) in the normal course of doing business, i.e., without resort to the monoplistic business privilege which DNP entails.

The argument raised by most of the proponents for the status quo, to the effect that the tremendous costs entailed in complying with a "no disconnect" rule in Ohio will surely exert upward pressure on both toll and local service rates here, has a rather hollow ring to it. There is no evidence that the "experiences" shared by most of these proponents of the status quo, in the various existing "no disconnect" states (and most notably their shared 11-years of experiences in Pennsylvania), has ever included the filing of formal rate cases in order to recover such costs there. The Pennsylvania Commission's comments to the FCC confirm this.

The Commission does not really doubt that there will be costs to be borne by the industry as our new disconnection policy is put into place in Ohio. However, on balance, the Commission is convinced that such costs do not outweigh the public benefit which we envision being served by such a policy. Then too, some of the policy implementation costs which were identified in the comments and reply comments of the proponents of the status quo are attributable only to those components of the staff's proposal which the Commission has determined that it will not be addressing at this time. Unquestionably, many aspects of the staff proposal would prove quite costly to implement, most notably the categorization of various services for purposes of separate treatment as regards billing, partial payment collection, temporary disconnection, permanent disconnection, and reconnection of the service. The Commission is convinced that, with elimination of many of the more complicated components of the staff's proposal, a corresponding reduction in the cost of compliance with the new policy actually being adopted today should be achieved as compared to those estimated in the comments and reply comments of the proponents for the status quo. Thus, we do not need to presently concern ourselves with the impact which the broader staff proposal would have had on companies' equipment, personnel, administrative, and other costs.

On a related note, we hereby affirm that we would be open to the establishment of reasonable late payment charges for the toll and local portions of customer bills. Such charges should help to offset some of the alleged costs associated with DNP and encourage prompt payment of toll bills rendered by either the local service provider or the toll service provider.

There remains the question of specifically how the public would be expected to benefit if the Commission were to adopt a new disconnection policy prohibiting DNP. There are chiefly three benefits. First, the Commission believes that such a policy will create fairness: the proverbial "level playing field" if you will. This is in keeping with the state's official commitment, codified under Section 4927.02, Revised Code, to both ensuring the availability of adequate basic local exchange service and to recognizing the continuing emergence of a viable competitive telecommunications marketplace in Ohio. As already mentioned, there is certainly fairness and, therefore, merit in moving the entire Ohio telephone industry into a position where its debt collection activities must comport with normal business practices generally, and away from one in which the disconnection of a monopoly-provided utility service may be used as a threat to enforce payment on debts owed for other, unrelated, competitive, but nevertheless regulated, telephone utility services. Under such a policy, for the first time, all providers of service telephone service will be equipped with the same set of tools to aid in account collection. No longer will local service providers enjoy a competitive advantage over other companies who conduct billing and collection activities, including those who engage in such work exclusively. This competitive equilibrium will result from a diminution in the number of weapons which had heretofore been available within the collection arsenal of local service providers. It may, indeed, leave no business entity holding a collection device which matches DNP's proven efficiency, power, and effectiveness. Most important, however, among the trade-offs for this loss will be the fact that, for the first time, customers who remain current in paying for the local telephone service they receive can no longer be threatened with loss of that service for nonpayment of unrelated debt. The Commission believes that the societal costs of restoring such basic fairness to local service customers who pay for such service in a timely manner are not out of proportion with the public benefit to be derived therefrom.

Second, the outcome of today's Commission's decision is embraced within the initial comments filed by the OAG. In the OAG's opinion, prohibition of DNP by this Commission may be the most effective measure that can be taken to combat the large number of pay-per-call service scams (involving use of unreasonably high, though tariffed, charges on both domestic and international calls) which continue to plague Ohio residential and nonresidential telecommunications consumers alike. We see no reason to challenge the OAG's opinion in this regard. The reply comments filed in response to the OAG's position, to the effect that engaging in international diplomacy and attempting to expend greater energy enforcing existing legal sanctions against fraud represent an adequate, or perhaps more appropriate course of action for dealing with the scam perpetrators are, in the Commission's view, much less persuasive. These recommendations, unlike those made to us by Ohio's chief law enforcement attorney, seem to provide little more than an excuse for this Commission to take little or no action at all at this time to protect Ohioans from such scams. Besides, considered only in relation to the effect it might have curbing the scams, there appears no reason why the recommendation of both the OAG and those who feel that such frauds should be addressed in other forums cannot be pursued simultaneously. We consider the fact that the OAG would find our prohibition of DNP to be a most useful tool in fighting phone fraud as it exists today in Ohio to be a legitimate reason for adopting a policy prohibiting DNP. By no means is it

our sole reason for adopting such a policy. Certainly, the public benefit derived whenever illegal fraud is deterred is something both real but also intangible. Nevertheless, in determining which public policy reasons may exist for adopting our new policy, and in analyzing it from a cost/benefit perspective, this intangible public benefit provides valid, solid support in favor of the policy.

Third comes the key issue of whether a policy prohibiting DNP should be expected to foster any significant rise in Ohio's telephone subscribership penetration level. The comments of record in this case make only one thing abundantly clear: that the members of the industry and the consumer advocacy groups who participated in this docket are unlikely to ever reach a single consensus viewpoint on this question. Upon consideration of the record as a whole, however, the Commission believes that its new disconnection policy prohibiting DNP will enhance the state of Ohio's ability to achieve its universal service objectives. For one thing, there is little reason to doubt that the policy would significantly improve the ability of low income residential customers to obtain and maintain local telephone service. Common sense dictates that, if the amount of a deposit required to initiate local service is calculated as a percentage of an average monthly bill for local service, only then, the affordability of obtaining local service is in no way diminished and, in most instances, will be significantly enhanced. Likewise, inasmuch as the provision of local service to a customer is typically paid for by that customer in advance, and is generally available either under relatively affordable flat-rates, or under usage-based rates which are generally lower than those established for long distance service, it follows that a customer's ability to retain local service will be enhanced if local service is retained so long as payment of local service charges are kept current.

The proponents of the status quo have not provided real support for their claim that the group who would truly benefit under "no disconnect" policy would not be the poor, but instead, those who "choose" to be "chronically delinquent" in paying their bills. Such an argument is not only unsupported of record and thus entitled to no weight, but it is, in fact, a demeaning insult to those who are truly indigent, since they face only such choices as their destitution allows. It occurs to the Commission that those who are truly indigent may, at times, be forced to "choose" not to pay a bill unless and until they have the means to do so. For similar reasons, the Commission rejects the arguments that a disconnection policy such as we are adopting would not serve impoverished families so well as it would serve "those who cannot control calling habits of their households" and those who have chronic, uncontrollable "telephonitus". The Commission has recognized in granting EAS, particularly in areas where local exchange calling boundaries are limited, that toll calling is sometimes for necessities, and not just simple, discretionary conversaion. Moreover, the plain fact is that the new policy being adopted by the Commission today will create <u>no</u> incentive for <u>any</u> customer to <u>avoid</u> or <u>delay</u> payment of charges willfully incurred for local telephone services rendered by a telephone company. Indeed, since customers will lose access to toll services for nonpayment of toll, customers still certainly have an incentive to pay their toll charges. Nor does the policy in any way limit a telephone company's ability to seek collection on outstanding charges, inasmuch as it allows for disconnection of local service when

charges for local service have not been paid and for disconnection of toll service when charges for toll service have not been paid. Instead, the policy is intended to protect local service customers from disconnection of local service so long as all charges for local services are kept in balance.

Such a policy does not amount to a social welfare program. The Commission is authorized, and need usurp no legislative prerogative, to make a finding that local telephone service subscribers should not be threatened with disconnection of any service which, in fact, they have appropriately ordered, used, and paid for, particularly given that we are allowing the company to "disconnect" toll services for nonpayment of those services.

The interesting claim made by the proponents of the status quo, that Ohio's subscribership level has increased more so than did Pennsylvania's during the period in which Pennsylvania's "no disconnect" policy has been in place, is, in our view, a deceiving one. In any event, we do not believe it foretells of an assured futility of our present endeavor to increase Ohio subscribership levels by adopting a new disconnection policy in this state, today. One must bear in mind that Pennsylvania's subscriber penetration rate was already quite high before its present policy was implemented and, in any event, has continued to climb upward since. Compared with Pennsylvania's penetration rates throughout the entire period, Ohio's subscribership levels, while still above the national average, have always shown the greater room for more noticeable improvement. The record shows that overall telephone penetration in Ohio is 94.8 percent, leaving approximately 218,000 households without phones.[10] In their reply comments, APAC and Edgemont have cited statistics which indicate that lower telephone subscribership levels are characteristic among households below the federal poverty level, among low-income renters, and among both African-American and Hispanic households as compared to white households. Indeed, among female-headed households with three or more children, the nationwide penetration level is 74.9 percent.[11] By removing the local service provider's ability to disconnect local phone service in those instances where the customer is able to and does pay for that service separately from all others, the Commission's new policy will, perhaps for the first time, send the right economic signals to low-income households concerning the true affordability of obtaining and maintaining local service. For that reason, the Commission is confident that the policy will positively contribute not only to increases in overall Ohio subscribership levels, but especially to increases in the subscribership levels of these just-mentioned key subgroups among whom such increases are both most sorely needed and also most likely to occur once the policy is in place.

In summary, the Commission will reiterate once more that the promotion of universal service goals is only one of the purposes which serve to support the action we

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[10] This figure was cited in the reply comments jointly filed by APAC and Edgemont based upon 4,185,000 households in Ohio. (Bureau of the Census, Abstract of the United States 1994).

[11] Jorge Reina Schement 1994. Beyond Universal Service, Characteristics of Americans Without Telephones 1980-1993. Benton Foundation, Washington D.C. at 4

are taking in this docket today. Perhaps even more important is the restoration of fairness, as regards disconnection of local service, to those who are able to keep current in their payments on charges for such service. Then too, there is the additional bonus of realizing that our new disconnection policy can be expected to contribute to a reduction in fraudulent pay-per-call scams.

V. CONCLUSION

A. Statement of Policy

Upon thorough review of the record as whole, the Commission has reached the conclusion that it should immediately adopt a new policy pertaining to the disconnection of local telephone service in the state of Ohio. Our new policy is quite limited in scope and may be plainly stated, as follows:

> For purposes of this policy, all regulated telephone services provided by a local service provider, except toll service, shall be defined as local service. For purposes of this policy, the definition of toll service shall be limited to that provided directly by a local service provider and that for which a local service provider is providing billing and collection service and for which the local service provider has purchased the accounts receivable. This policy shall apply for both residential and nonresidential customers.
>
> Local service providers shall be permitted to disconnect a customer's local service for nonpayment of charges incurred for local service pursuant to the minimum telephone service standards currently established in Chapter 4901:1-5, O.A.C. (except to the extent these are specifically suspended by the Commission) and as they may come to be amended by the Commission in the future.
>
> Local service providers shall be permitted to disconnect a customer's access to toll service for nonpayment of charges incurred for toll service.
>
> Local service providers shall not be permitted to disconnect a customer's local service for nonpayment of charges incurred by the customer for toll service.
>
> Partial payments must be apportioned to regulated local service charges first before being applied by a local service provider to any toll charges.

> The procedural and substantive safeguards which are afforded, under Chapter 4901:1-5, O.A.C., to subscribers of local service, as pertains to disconnection of the subscriber's local service, shall also inure to subscribers to the extent they face disconnection of access to toll service for nonpayment of charges incurred by the subscriber for toll service.

Essentially, this policy will protect the ability of local service providers to disconnect any specific service: local service, when charges for local service have been incurred but have not been paid by the subscriber; or toll service, when charges for toll service have not been paid. However, the new policy, by segregating local and toll service, will also ensure that customers who pay for local service in an appropriate and timely manner will no longer be threatened with disconnection of local service for nonpayment of toll charges.

The Commission finds that, wherever it is technically feasible to do so, local service providers shall offer potential or existing subscribers the choice of subscribing to local-only service, as opposed to a combination of local service with toll service. Where such local-only service options exist, certain policy considerations should apply. First, an initial deposit required, if at all, of a local-only service applicant, shall be based on an estimated (or actual) bill for local service only, rather than on a bill for local service in combination with toll service. Second, an applicant's or existing customer's inability to meet an initial or additional deposit requirement for toll service shall not be considered in determining that applicant's or customer's ability to subscribe to or retain local-only service. Third, deposits for local service shall not be applied against debts for toll service.

B. Suspension of Existing MTSS in Conflict with the Policy

This new policy stands in conflict, or potential conflict, with certain already-established provisions of our Minimum Telephone Service Standards ("MTSS"), as set forth in Chapter 4901:1-5, O.A.C. The Commission intends to rectify this situation by revising such provisions of the MTSS as may be necessary to implement the new disconnection policy. However, the Commission will not propose any formal rule revisions in this docket at this time. The Commission will soon open a separate docket (hereinafter referred to as the MTSS generic docket) for the purpose of considering wholesale revisions to Chapter 4901:1-5, O.A.C. The Commission will make such formal rule revisions as may be necessary in order to implement its new disconnection policy within the context of the MTSS generic docket. In the meantime, it will adopt and put in place its new disconnection policy today, in this docket and, at the same time, suspend, pending final disposition of the MTSS generic docket, those provisions of Chapter 4901:1-5, O.A.C., which conflict with this new policy. What follows is a list of those MTSS provisions which are to be suspended, along with a brief explanation of the reason why the Commission believes the suspension is necessary in order to give precedence to the new disconnection policy.