

makes a request that a temporary waiver be granted for the purpose of exempting the requesting party from maintaining full compliance with the Order until the latter date identified by the requesting party.

- (27) The Commission finds that all the waiver requests which have, to date, been filed in this case should be dismissed since they are now rendered moot by our decision, today, to modify and clarify the June 12, 1996 version of our new disconnection policy to which they are addressed. As described in more detail below, the Commission will now establish a new effective date for its disconnection policy (including the necessary suspension of certain, specified, existing MTSS provisions), as revised and clarified by today's entry on rehearing. The Commission will also now establish a new schedule for the filing of temporary waiver requests by entities who would claim inability to comply with that policy by the new effective date.
- (28) The Commission believes that a grace period of four months seems appropriate in order to provide the affected Ohio telephone industry, as a whole, with sufficient time to implement the operational changes which may need to be made in order to ensure compliance with the new disconnection policy. Therefore, the new policy itself, as well as the corresponding suspension of the MTSS provisions, shall become effective on the 120th day after the date of the journalization of this entry on rehearing. Any entity which finds itself unable to comply with the policy by that date must file, at least 30 days prior to the effective date of the policy, a formal application for temporary waiver of the policy's application to such entity. Each application for waiver shall contain a detailed statement of the reason why the request is being made, as well as all supporting documentation which the movant expects the Commission to consider in evaluating its request. An affidavit, signed by a duly authorized representative of the movant, which attests to the truth of the documentation submitted, shall also be provided. The Commission will, on a case-by-case basis, consider the merits of each such waiver request filed and issue a ruling thereon. No request for permanent waiver shall be considered, and each request for temporary waiver shall include a detailed schedule of the steps which the movant is taking in order to come into compliance with the policy as quickly as possible, as well as date upon which compliance is expected to be achieved. Each request for

waiver should be served upon all interested parties of record in this case.

It is, therefore,

ORDERED, That, in accordance with the above findings, the applications for rehearing filed by Cleveland, Edgemont/APAC, and OCC are granted to the limited extent indicated in Findings (19) and (23), above. It is, further,

ORDERED, That, in accordance with the above findings, the second sentence of Rule 4901:1-5-25(A), O.A.C., the third sentence of Rule 4901:1-5-25(J), O.A.C., and the last sentence of Rule 4901:1-5-26(E), O.A.C., are among the existing MTSS provisions which shall be temporarily suspended on the effective date of the Commission's new disconnection policy. The temporary suspension shall continue, unless the Commission orders otherwise, pending the Commission's disposition of the MTSS generic docket. It is further.

ORDERED, That, in all other respects, the applications for rehearing filed by Ameritech, AT&T, Cleveland, Edgemont/APAC, OCC, and MCI are denied in their entirety, as set forth in this entry on rehearing. It is, further,

ORDERED, That, in accordance with the above findings, a new policy regarding disconnection of local telephone service, as fully set forth in Appendix A to this entry on rehearing, is hereby adopted and shall become effective, unless the Commission orders otherwise, upon 120 days of the date of the journalization of this entry on rehearing. It is, further,

ORDERED, That, in accordance with the above findings, upon the effective date of the new disconnection policy, certain provisions of Chapter 4901:1-5, O.A.C., as set forth in Appendix B to this entry on rehearing, shall be suspended, unless the Commission orders otherwise, pending the completion of the MTSS generic docket. It is, further,

ORDERED, That, in accordance with the above findings, any entity which finds itself unable to comply with the new disconnection policy must file, at least 30 days prior to the effective date of the policy, a formal application for temporary waiver of the policy's application to such entity, along with a statement in support showing good cause for granting such waiver. Each request for temporary waiver shall include a detailed schedule of the steps which the movant is taking in order to come into compliance with the policy as quickly as possible, as well as date upon which compliance is expected to be achieved. It is, further,

ORDERED, That all local service providers shall, by the effective date of our new disconnection policy, file or have in place a tariff which offers selective toll service to all toll service providers on a nondiscriminatory basis. It is, further,

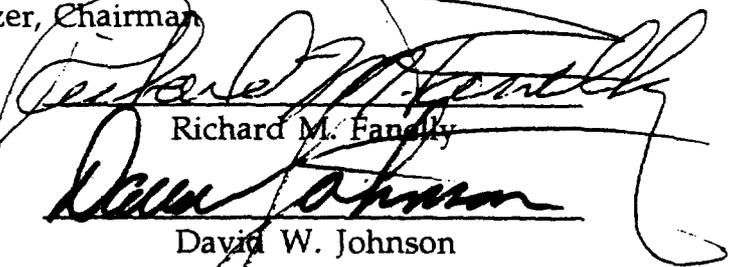
ORDERED, That a copy of this entry be served upon all local exchange companies, all interexchange carriers, and all radio common carriers certified to operate in the State of Ohio; the Ohio Telephone Association; the Office of Consumers' Counsel; the Ohio Attorney General; the Ohio Department of Aging, the American Association of Retired Persons, the Ohio Cable Television Association, the Legal Aid Society of Cleveland, the Legal Aid Society of Dayton; the cities of Akron, Cincinnati, Cleveland, Columbus, Dayton, and Toledo; and all interested persons of record in Case No. 95-790-TP-COI.

THE PUBLIC UTILITIES COMMISSION OF OHIO



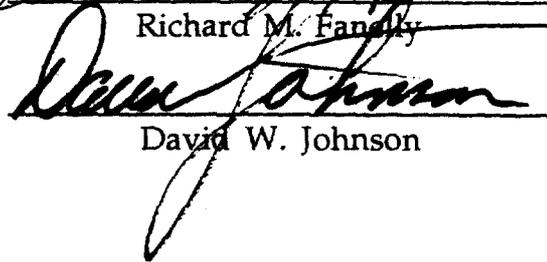
Craig A. Glazer, Chairman

see separate opinion
* *Jolynn Barry Butler*
concerning in part
Jolynn Barry Butler *dissenting in part*



Richard M. Fanelly

* *see separate opinion*
Ronda Hartman Fergus



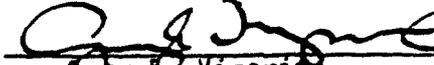
David W. Johnson

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Entered in the Journal

OCT 16 1996

A True Copy



Gary E. Vigorito
Secretary

APPENDIX A

Statement of Policy

For purposes of this policy, all regulated telephone services provided by a local service provider, except toll service, shall be defined as local service. 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 required to provide selective toll blocking service to all other toll service providers, on a nondiscriminatory basis, pursuant to tariff. Local service providers who also provide toll service, when they disconnect their own toll service customers for nonpayment of toll service charges, must utilize the same tariffed selective toll blocking service which they offer to all toll service providers. Absent Commission approval pursuant to the limited waiver process established in Case No. 95-790-TP-COI, no local service may be permitted to "universally" block access to all toll service for the nonpayment of toll charges owed to any particular toll service provider or group of toll service providers. Neither purchase of the toll provider's accounts receivable by the local service provider, nor a requirement that the local service provider shall be the billing and collection agent for the toll provider, shall be established as a necessary precondition imposed by the local service provider in connection with its tariffed selective toll blocking service offering.

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 to applicants for local exchange service and to subscribers of local exchange service under Chapter 4901:1-5, O.A.C., as pertains to billing, establishing credit/deposits, and to disconnection, shall also inure to applicants for toll service and to subscribers of toll service, regardless of whether such toll service is provided by a local exchange company or a interexchange carrier. This requirement that the billing, credit/deposit, and disconnection standards now applicable to the provision of local exchange service by local exchange companies should, for now, also have equal application to the provision of toll service by all toll service providers amounts to an interim policy which shall remain in place, unless the Commission orders otherwise, pending the Commission's ultimate disposition of its forthcoming generic docket addressed to the need for wholesale revisions to Chapter 4901:1-5, O.A.C.

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, this 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.

As regards local service disconnections, the disconnection notice which a local service provider is required to provide, pursuant to Rule 4901:1-5-34(C)(3), O.A.C., must inform the subscriber of the total amount which the subscriber would need to pay in order to avoid disconnection of local service. Such notice must also inform the subscriber of the local service provider's legal obligation to provide "only local" service to customers whose outstanding local service charges are paid, even while their toll service is disconnected for nonpayment of outstanding toll debt.

APPENDIX B

Suspension of Existing MTSS in Conflict with the New Disconnection Policy

The disconnection policy established in Case No. 95-790-TP-COI, stands in conflict, or potential conflict, with certain already-established provisions of the Minimum Telephone Service Standards ("MTSS"), as set forth in Chapter 4901:1-5, O.A.C. The Commission intends to rectify this situation by, eventually, 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 the 95-790 docket. Rather, 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 in the 95-790 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 the 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 it must be suspended in order to give precedence to the new disconnection policy.

Rule 4901:1-5-24(A)(2), O.A.C.

This rule needs to be suspended only to the extent it refers to another suspended rule, namely Rule 4901:1-5-26(E), O.A.C.

Rule 4901:1-5-25(A), O.A.C.

This rule needs to be suspended to the extent it would allow toll charges to be included in calculating the amount of deposit required to establish local-only service for nonresidential customers. The second sentence of this subsection needs to be suspended to the extent that it establishes, as pertains to deposit policies, any distinction in treatment as between those toll service providers who do and those toll service providers who do not rely on a local service provider (to whom they sell their accounts receivable in advance of billing) as their principal billing agent.

Rule 4901:1-5-25(I), O.A.C.

This rule needs to be suspended only to the extent it makes no distinction, as the new policy would, between unpaid charges for local service and unpaid charges for toll service.

Rule 4901:1-5-25(J), O.A.C.

This rule needs to be suspended to the extent it would allow toll charges to be included in calculating the amount of deposit required to establish local-only service for

nonresidential customers. The third sentence of this subsection needs to be suspended to the extent that it establishes, as pertains to deposit policies, any distinction in treatment as between those toll service providers who do and those toll service providers who do not rely on a local service provider (to whom they sell their accounts receivable in advance of billing) as their principal billing agent.

Rule 4901:1-5-26(E), O.A.C.

This rule needs to be suspended to the extent it would allow toll charges to be included in calculating the amount of deposit required to establish local-only service for residential customers. The last sentence of this subsection needs to be suspended to the extent that it establishes, as pertains to deposit policies, any distinction in treatment as between those toll service providers who do and those toll service providers who do not rely on a local service provider (to whom they sell their accounts receivable in advance of billing) as their principal billing agent.

Rule 4901:1-5-31, O.A.C.

This rule needs to be suspended only to the extent it permits disconnection of local service for nonpayment of nonlocal service.

Rule 4901:1-5-34(C)(3), O.A.C.

This provision mandates that a disconnection notice must inform the subscriber of actions which must be taken in order to avoid disconnection, including the total amount required to be paid. It will not need to be suspended. However, the Commission takes this opportunity to clarify its practical application, considered in conjunction with the new disconnection policy: the total amount required to be paid in order to avoid a local service disconnection would, under the new policy, necessarily entail only outstanding local service charges.

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

SEPARATE OPINION OF RONDA HARTMAN FERGUS AND JOLYNN BARRY BUTLER
CONCURRING IN PART AND DISSENTING IN PART

We concur in part and dissent in part from the action taken by the majority on rehearing today. We continue to believe, as does the majority, that a local service provider should no longer be able to threaten the loss of a customer's basic local telephone service for the nonpayment of charges for long distance service provided by another telephone company. Where we disagree with the majority is on the issue raised on rehearing as to whether, when disconnecting long distance service for nonpayment of long distance charges, the local service provider may disconnect a customer's access to all long distance service or disconnect access only to the long distance company which has not been paid.

The majority concludes that a local service provider may disconnect access only to the long distance company which has not been paid. This policy is grounded in a desire to move the Ohio telephone industry into a position in which its debt collection activities no longer rely on the traditional monopoly collection techniques, but instead reflect normal business practices in private industry. In other words, just as a customer cannot be denied an opportunity to shop at Lazarus, when he/she has unpaid debt at Marshall Field's, a telephone customer should, according to the majority, no longer be denied an opportunity to subscribe to MCI's long distance service, for example, solely because he/she has not paid a debt owed to AT&T. Under this policy, it will be up to the individual creditors to decide whether they are willing to take on a risky debtor as a customer.

While moving toward private business collection techniques as we approach a more competitive telecommunications world is certainly a commendable goal, we are concerned with moving in that direction at this time. The fact of the matter is that telephone companies are not in the same situation as a Lazarus or Marshall Field's. We are only now just beginning to transition to a competitive environment, which someday may look more like normal private business. But, today, we are not there. Local service is still regulated and, for the most part, a monopoly service. This is important to recognize because to the extent that some local service will remain uncompetitive for some time to come, any costs to local service providers as a result of a new policy may ultimately come back to the monopoly customers. Additionally, long

distance service is not like other competitive services in private business. Long distance service is necessarily linked to the provision of local service, by virtue of the fact that, once a customer has local service, the customer can automatically access long distance service through various means, in some cases, even if a company is "blocked". Because of this, long distance companies cannot, like other Ohio businesses, fully protect themselves against providing additional services to customers who fail to pay for previously received services.

Given this very different situation for telephone companies, we would only support movement in the direction of that propounded by the majority, if, in the end analysis, the benefits to be obtained by ratepayers from such a policy outweigh any costs associated with implementing a new policy. In other words, is this policy in the public interest?

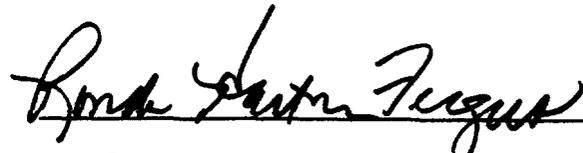
HOW MUCH DOES IT COST? The record clearly indicates that there will be some costs involved in moving to this new policy. Long distance companies, which have previously contracted with local service providers for billing and collection services, will now either have to purchase selective blocking, to the extent a local service provider has that capability, or establish and maintain its own database to restrict access to customers who have not paid for previously billed calls. If the long distance company must establish a database, it will have to train personnel to administer the database. Billing and collection contracts will need to be renegotiated. Indeed, if the long distance company has to maintain its own database for protection against bad debt anyway, the long distance company may choose to no longer use the local service provider as a billing and collection agent. This, in turn, could lead to lost revenues for local service providers. It is also possible that abuse of toll service could increase, resulting in additional collection costs, since there will no longer be an incentive for a customer to pay for his/her bad debt. Further, uncollectibles could increase under this policy. Bottom line is there will be some costs - they may be lower than expected; they may be higher than expected. But, there will be some costs.

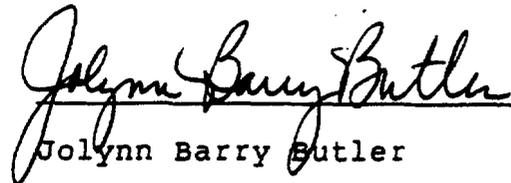
WHO BENEFITS? It is important to note that, under the policy adopted by the majority and the policy which we support, customers cannot be disconnected for the failure to pay any amount which is in bona fide dispute. The Commission also has rules which allow reconnection of service upon agreement that the customer pay according to a deferred payment plan. Thus, the customers we are talking about benefiting, in adopting the majority's policy, are customers who do not dispute their bills, but nevertheless do not pay them. Currently, only a very small fraction of Ohio's customers actually fall into this category. The vast majority of Ohio's customers do pay their bills every month or make special payment arrangements.

WHERE'S THE PUBLIC INTEREST? How is it a public benefit to create a system which allows people who do not pay their bills to move from carrier to carrier leaving debts to stack up along the way? How is it in the public interest to create a system which could

encourage customers to be fiscally irresponsible, or to engage in toll fraud? How is it in the public interest to create a system in which the small percentage of customers who do not dispute their bills and do not pay their bills are permitted to do so at the expense of the vast majority who do pay their bills?

We conclude that the answer is, "It is not". We believe that the local disconnect policy which best serves the public is one which would allow local service providers to disconnect all access to long distance service for nonpayment of long distance charges. That policy, in our view, would have provided an appropriate balance between allowing customers to stay connected to the local network, when long distance charges have not been paid, while at the same time allowing long distance companies to protect themselves against toll fraud and bad debt in the environment in which they operate.

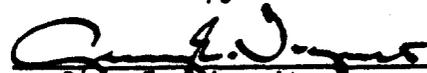

Ronda Hartman Fergus


Jolynn Barry Butler

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Secretary