



**Attorney General
Betty D. Montgomery**

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April 6, 2000

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St. S.W.
Portals II Building
Washington, D.C. 20554

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Re: *In the Matter of Federal State Joint Board
on Universal Service, CC Docket No. 96-
45 and Implementation of the Local
Competition Provisions of the
Telecommunications Act of 1996, CC
docket No. 96-98.*

Dear Ms. Salas:

Enclosed, please find the original and 15 copies of **the Petition for Waiver of the Public Utilities Commission** in the above referenced case. Please date stamp and return one copy in the enclosed, self-addressed stamped envelope.

Thank you for your consideration in this matter.

Respectfully submitted,

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
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Implementation of the Local Competition Provisions of the Telecommunications Act of 1996.)	CC Docket No. 96-98

THE PUBLIC UTILITIES COMMISSION OF OHIO'S
PETITION FOR WAIVER

INTRODUCTION

The Public Utilities Commission of Ohio (Ohio Commission) requests that the Federal Communications Commission (FCC) waive its May 1, 2000 deadline in order to allow the Ohio Commission sufficient time to establish the deaveraged UNEs for non-rural carriers. The FCC's current rule 47 C.F.R. § 51.507(f) requires that the state commissions establish deaveraged unbundled network element (UNE) pricing and interconnection rates for non-rural carriers by May 1, 2000. The Ohio Commission requests additional time to complete its review of the non-rural carriers' deaveraged UNEs.

The process to determine the deaveraged UNE rates is complex and time-consuming. Ohio has established deaveraged UNEs for Ameritech Ohio (Ameritech) and Cincinnati Bell Telephone Company (CBT). These proceedings expend significant PUCO resources and take a substantial amount of time to

complete. Each carrier presents a special set of circumstances that require a detailed analysis. For example, such factors as the economic lives of plant, the cost of capital, and many other factors must be considered for each carrier. A waiver extending the stay of the May 1, 2000 deadline, in light of the need for additional time, would serve the public interest.

The FCC has recognized that the “[s]tates may file waiver requests with the Commission seeking relief from the general [47 C.F.R. 51.507(f)] rule in light of their particular facts and circumstances.” *In the Matter of Implementation of the Local Competition Provision in the Telecommunications Act of 1996*, CC Docket No. 96-98, Paragraph 7 (August 28, 1999). Furthermore, the Code of Federal Regulations allows the FCC to suspend or waive application of its rules “for good cause shown.” 47 C.F.R. § 1.3 (West 2000).

DISCUSSION

The Ohio Commission believes that certain states, including Ohio, need additional time to implement the FCC's requirements regarding deaveraged UNEs for non-rural carriers. The Ohio Commission has issued Finding and Orders establishing deaveraged UNE rates for both the CBT and Ameritech. The processes for arriving at the UNE rates for these companies were lengthy and labor-intensive.

On October 9, 1996, Ameritech filed with the Ohio Commission an application in Case No. 96-922-TP-UNC (96-922) seeking authority to introduce deaveraged UNEs supported by total element long run incremental cost (TELRIC) studies. On June 19, 1997, the Ohio Commission issued an Opinion and Order addressing in detail Ameritech's proposed TELRICs for UNEs. The Ohio Commission's 96-922 decision addressed, among other things, methodological issues such as: economic

lives of plant, the cost of capital, annual charge factors, utilization factors, joint and common costs, non-volume sensitive costs, telephone plant indices, and labor rates. The Ohio Commission's 96-922 proceeding also addressed issues regarding non-recurring charges, service order charges, line connection charges, unbundled local switching billing and development charges, service coordination fees, unbundled local switching costs, unbundled tandem switching costs, unbundled loop costs, virtual and physical collocation charges, and cancellation charges, etc. The public hearings alone on Ameritech's proposed UNEs lasted over 30 days. Numerous interested parties participated in the hearing. Moreover, the hearing is only one part of the case process.

The Ohio Commission initiated its investigation into CBT's proposed TELRIC rates for UNEs (Case No. 96-899-TP-ALT) on May 15, 1997. On January 20, 2000, the Ohio Commission issued a Second Entry on Rehearing addressing CBT's proposed deaveraged UNEs. This decision deals with similar issues to those identified above for Ameritech's deaveraged UNEs. Additionally, the public hearings regarding CBT's proposed TELRICs included multiple interested parties and took place over 20 business days.

The Ohio Commission's decisions regarding Ameritech's and CBT's UNEs mandated three deaveraged rate zones. They also required a "rate true-up" between the incumbent carriers and interconnecting competitive local exchange carriers (CLECs). In particular, the Ohio Commission required that a "rate true-up" between the incumbent and CLECs that retrospectively reflects the difference between interim UNE rates adopted through negotiated agreements or arbitrations and the Ohio Commission-ordered permanent rates. The result of interim rates that

are ultimately subject to a true-up is that competition is fostered and the ability of a CLEC to enter the local exchange market is not delayed.

The Ohio Commission has not established permanent TELRIC UNEs for the two remaining non-rural carriers located in the state of Ohio: GTE and Sprint-United. The Ohio Commission staff is currently executing its review of Sprint-United's proposed UNE rates and corresponding cost studies (Case No. 99-238-TP-UNC). These cases will present the Ohio Commission with case-specific, special circumstances that require the Ohio Commission and its staff to carefully analyze each case on its own merits. Ohio has a large population and is served by numerous carriers, including four non-rural carriers. The Ohio Commission needs additional time to complete a comprehensive review of each company's UNEs and properly establish UNE costs.

Taking into consideration the circumstances surrounding Ohio's review of Sprint-United's and GTE's deaveraged UNEs, it is clear that the Ohio Commission will be unable to complete a comprehensive review of the companies' applications by May 1, 2000. As a result, the Ohio Commission requests that the FCC extend the stay of the deaveraging requirement until no earlier than May 2001.

This request for an Ohio-specific waiver is being made pursuant the FCC's April 28, 1999, decision *In the Matter of Implementation of the Local Competition Provision in the Telecommunications Act of 1996*, CC Docket No. 96-98, Paragraph 7 (August 28, 1999) that permits States to file for an extension of time to review the non-rural carriers' deaveraged UNEs.

CONCLUSION

In closing, the Ohio Commission wishes to thank the FCC for its consideration of our Petition requesting an extension of time in which to complete our review of Sprint-United's and GTE's deaveraged UNEs based on TELRIC.

Respectfully submitted,

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