

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Local Competition and Broadband)	CC Docket No. 99-301
Reporting)	
)	
)	

**COMMENTS OF THE
OHIO CONSUMERS' COUNSEL AND THE
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES**

The Ohio Consumers' Counsel ("OCC") and the National Association of State Utility Consumer Advocates ("NASUCA") offer these comments in response to the Second Notice of Proposed Rulemaking ("Second Notice") released in this docket on January 19, 2001 and published in the Federal Register on February 15, 2001. The OCC is the statutory representative of Ohio customers of investor-owned public utilities.¹ NASUCA is an association of 42 consumer advocates in 39 states and the District of Columbia. NASUCA's members -- including the OCC -- are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts.

In the Second Notice, the Commission seeks "comment on how we might refine or improve the data gathering effort ... to assess the degree of deployment of broadband services and the development of local competition." Second Notice, ¶ 1. The OCC and NASUCA have at this juncture a single proposal for refining and improving the Commission's data-gathering effort: The Commission should replace the current

¹ See Ohio Rev. Code Chapter 4911.

“residential and small business” category on FCC Form 477 with separate “residential” and “small business” categories.²

This separation is necessary because the local exchange rate structures and rates that apply to residential customers are substantially different from those paid by small business customers. See 1999 Statistics of Common Carriers (August 2000) at Tables 5.6 and 5.7.³ Residential customers are also considerably more of a mass market.⁴ And, specifically, although there is concern over the level of competition for small business⁵, authorities throughout the nation have identified the current level of residential competition as an area of concern. As the Public Utility Commission of Texas has stated, “[T]he market for business customers in the large metro areas of Texas has strong potential for genuine competition.... Whether residential and rural customers will have sustainable competitive choices in the near future is less certain.”⁶

In the Second Notice, with regard to broadband issues, the Commission seeks “comment on whether we may miss important distinctions between residential and small business users by lumping them together.” Second Notice, ¶ 17. No such concern is

² See the March 30, 2000 *Report and Order* in this Docket, FCC 00-114 (“Report and Order”), Appendix B, “Local Competition and Broadband Reporting Form.”

³ Indeed, the rate structures for small business are different from those for large business. See, e.g., FCC Reference Book of Rates, Price Indices and Expenditures for Telephone Services (June 1999) at Table 1.2 (residential); Table 1.8 (single line business); Table 1.17 (business PBX).

⁴ See *id.* at Table 2.4 (nationally, of the 174 million switched access lines, 114 million are residential).

⁵ See, e.g., “Verizon proposes new price plan,” *State Telephone Regulation Report* (March 2, 2001) at 12 (“Some business groups voiced skepticism over the [Verizon New Jersey] plan to deregulate multiline business services, warning small businesses could expect substantial increases following deregulation because local competitors were targeting only the state’s business giants such as Johnson & Johnson.”).

⁶ Public Utility Commission of Texas, “Report to the 77th Texas Legislature: Scope of Competition in Telecommunications Markets of Texas” (January 2001) [“PUCT Report”], Executive Summary at xi (available at <http://www.puc.state.tx.us/telecomm/reports/scope/index.cfm>).

indicated with regard to local exchange competition. *Id.* ¶ 23. The OCC and NASUCA submit that, in both areas, there are important distinctions between residential and small business users that may be missed by lumping them together.

Notably, the Report and Order did not discuss why residential and small business customers were lumped together on Form 477. See Report and Order, ¶ 77.⁷ The First Notice that preceded the Report and Order had treated residential customers and business customers as separate categories.⁸

State regulators and local exchange carriers themselves treat residential customers separately from business customers.⁹ Further, most reports analyzing the state of local competition and broadband deployment have differentiated between residential and business customers. See, e.g., New York Public Service Commission, “Analysis of Local Exchange Service Competition in New York State; Reflecting company reported data and statistics as of December 31, 1999,” Executive Summary at 3 (available at <http://www.dps.state.ny.us/telanalysis.htm>); see also PUCT Report at, e.g., 28-30. This Commission’s nationwide reporting efforts should not take a different approach.

Thus the OCC and NASUCA recommend that Form 477 be revised to separate residential and small business statistics. This should apply both for the broadband information and the local competition information.

⁷ Residential and small business were lumped together as “mass market.” *Id.* n.206. As noted above, however, rate structure and rate levels distinguish between residential and small business services.

⁸ See Notice of Proposed Rulemaking, FCC 99-283 (rel. October 22, 1999) (“First Notice”), ¶ 55.

⁹ See, e.g., Annual Report of the Ohio Bell Telephone Company to the Public Utilities Commission of Ohio for the Year Ended December 31, 1999, Schedule 28; “Southwestern Bell provides state-of-the-art telecommunications services to business and residential customers throughout Texas, Missouri, Oklahoma, Arkansas and Kansas” (statement on SBC’s website at http://www.sbc.com/Product_Services/Markets/0,2951,4,00.html as of March 5, 2001).

Respectfully submitted,

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