

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of SBC)
Ohio to Modify the General Terms and) Case No. 03-1149-TP-ZTA
Conditions Related to Toll and Long)
Distance Availability Limits.)

In the Matter of the Amendment of the)
Minimum Telephone Service Standards as) Case No. 00-1265-TP-ORD
Set Forth in Chapter 4901:1-1-5 of the Ohio)
Administrative Code.)

FINDING AND ORDER

The Commission finds:

- (1) On May 14, 2003, as subsequently modified on November 19, 2003, SBC Ohio filed an application, Case No. 03-1149-TP-ZTA (03-1149), with the Commission seeking authority to modify the general terms and conditions of PUCO No. 20 in order to include application of a Toll and Long Distance Availability Limit Plan (TRIMS plan). The TRIMS plan is intended to assist residential customers in avoiding disconnection of their toll and long distance service and as an enhancement to SBC Ohio's credit and collections policy. According to SBC Ohio, the TRIMS plan sets a toll and long distance availability limit of \$200 on residential customers deemed to be a credit risk for reasons including, but not limited to, poor credit history with the company and no prior credit history with the company. Only toll and long distance charges from toll and long distance providers that participate in the TRIMS plan will be included in the calculation of the account's cumulative toll and long distance charges.

When the TRIMS plan is instituted, existing residential customer accounts that are deemed unsatisfactory credit risks (Account Class 1-Unknown Risk and Account Class 4-Known Risk) will be placed on the TRIMS plan and customers will be notified in writing of their toll and long distance availability limit at least 30 days prior to its implementation. Existing residential customer accounts that subsequently are reclassified as unsatisfactory credit risks will be placed on the TRIMS plan

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and customers will be notified verbally and in writing of their toll and long distance availability limit when they are placed on the TRIMS plan. New residential customers whose account will be subject to the TRIMS plan will be so advised at the time their application for new service is processed as well as in writing via a fulfillment letter.

Under the TRIMS plan, once a customers' usage reaches \$160, SBC Ohio will make two attempts to notify the customer of their status via a telephone call. Once usage reaches \$200, all further toll and long distance calling will be restricted. Customers who have reached the limit will be directed to an announcement informing the customer that they are currently unable to make toll or long distance calls because they have reached the toll and long distance availability limit. The message will further direct the customer how to have service restored and give the customer the opportunity to speak with a customer representative about the toll and long distance availability limit or to make a payment that brings the customers limit to \$150. The Toll and Availability Limit Service Center will be staffed 24 hours per day and 365 days per year so that affected customers subject to the TRIMS plan may speak with a live customer service representative as well as access to the Toll and Long Distance Inquiry System via an Interactive Voice Response system. SBC Ohio approximates that only 14 percent of its residential customer base would even be subject to the toll cap proposal. Moreover, SBC Ohio explains that the \$200 toll cap is significantly higher than either the average per month toll charges for customers in Account Class 1 (no prior credit history) and Account Class 4 (known risk) of \$80 and \$103, respectively.

- (2) Coincident with the filing of the TRIMS application in 03-1149, SBC Ohio also filed for waivers of minimum telephone service standards (MTSS) Rules 4901:1-5-13(A)(3)(a) and 4901:1-5-17(J)(2)(b), Ohio Administrative Code (O.A.C.) and competitive retail service Rule 4901:1-6-17(A), O.A.C. Such requests for waivers tolled the application's automatic approval time frame pursuant to Rule 4901:1-6-06(C), O.A.C. On May 20, 2003, at Staff's request, SBC Ohio refiled the waiver requests in the MTSS docket, Case No. 00-1265-TP-ORD (00-1265).

- (3) On June 6, 2003, the Ohio Consumers' Counsel (OCC) filed a motion to intervene and opposition to SBC Ohio's TRIMS proposal in 03-1149. OCC objects to SBC Ohio's proposal to place toll caps on residential customers who are direct billed by their long distance providers. OCC notes that the Commission rejected this proposal previously. OCC also argues that SBC Ohio's proposal runs counter to Commission rules which require that SBC Ohio can only enforce toll caps of other long distance providers if the toll cap is contained in the long distance provider's Commission-approved tariffs and SBC Ohio has a billing and collection contract with that long distance provider that provides for such enforcement.
- (4) SBC Ohio filed a memorandum contra the OCC's motion to intervene and opposition on June 13, 2003.
- (5) OCC filed a reply to SBC Ohio's memorandum contra on June 23, 2003.
- (6) SBC Ohio revised its proposed tariff on November 19, 2003, to address the concerns that were raised by OCC in its June 16, 2003 motion opposing SBC Ohio's application.
- (7) This application has been filed pursuant to Section 4909.18, Revised Code, and the Commission finds, as the applicant alleges, that this application is not for an increase in any rate, joint rate, toll, classification, charge or rental and does not appear to be unjust or unreasonable. Therefore, the application is approved. Inasmuch as we have found that the SBC Ohio's application is not for an increase in rates and does not appear to be unjust or unreasonable, the application is approved without a hearing.
- (8) OCC has sought intervention in 03-1149 pursuant to Section 4903.221, Revised Code. Upon consideration, the Commission finds that cause to grant intervention under Section 4903.221, Revised Code, has not been shown. Furthermore, given the nature of this case, we find that a hearing is not necessary to conduct an evaluation of the application, and granting intervention is not necessary for the Commission to fully consider the comments and arguments presented in this case. Intervention in 03-1149 is, therefore, denied.

- (9) As previously noted, SBC Ohio refiled its application seeking waivers of two MTSS rules and one competitive retail service rule on May 20, 2003, in 00-1265. SBC Ohio claims that a waiver from Rule 4901:1-5-13(A)(3)(a), O.A.C., is necessary in order to permit the company to use the TRIMS plan as a method of extending limited credit to certain customers. SBC Ohio claims it does not require its residential customers to pay a toll deposit and that it is not worth the significant expense involved to force the company to implement a separate toll deposit so that the company can offer the TRIMS toll limitation plan.

Next, SBC Ohio submits that, to the extent that the Commission believes a waiver is necessary, the company also seeks a waiver of the disconnection notice requirements set forth in MTSS Rule 4901:1-5-17(J)(2)(b), O.A.C. Such a waiver, if necessary, is warranted, according to SBC Ohio, because the proposed TRIMS plan will provide adequate notice to customers under the plan.

The final waiver sought by SBC Ohio is a waiver of competitive retail service Rule 4901:1-6-17(A), O.A.C. This rule typically requires that notice be sent to customers in a zero-day tariff case at least 15 days prior to filing of the application. In place of the 15-day advance customer notice of the application, the company proposes to place "tombstone" newspaper ads throughout its service area to inform customers about the TRIMS plan once it is approved. Additionally, once approved, customers subject to the TRIMS plan will be given 30 days actual notice prior to imposition of the toll and long distance limits on their residential accounts. Thus, SBC Ohio submits that the alternative methods of notice the company proposes to use satisfies the purpose underlying the notice provision of Rule 4901:1-6-17(A), O.A.C.

- (10) In support of its waiver request, SBC Ohio points out that a deposit requirement would force customers to pay a deposit up front and would deprive customers of those funds for a minimum of six months. SBC Ohio maintains that the toll cap proposal, on the other hand, does not require the customer to pay any amount up front, provides the customer immediate access to toll service, establishes a generous toll cap limit for the

credit risky customer, enables the customer to manage their toll calling without putting the customer or the company at significant financial risk, and helps the customer avoid eroding their credit rating further.

- (11) In its memorandum contra filed in 00-1265 on May 29, 2003, OCC submits that, through adoption of the TRIMS plan, SBC Ohio would deprive customers with bad or unknown credit of the option of establishing creditworthiness for toll service through all the methods authorized in Commission rules. Stating that the company's proposal represents just one more attempt by SBC Ohio to further its position that acceptance of deposits should be at the company's option not the customer's, OCC urges the Commission to once again reject the company's effort as the Commission did in a May 29, 2001, finding and order in this docket.
- (12) SBC Ohio filed a reply to the OCC's memorandum contra on June 9, 2003.
- (13) After thoroughly reviewing the pleadings submitted in this matter, the Commission finds that SBC Ohio's request for a waiver of Rule 4901:1-5-13(A)(3)(a), O.A.C., is warranted. The pleadings reveal that today, SBC Ohio does not have the necessary systems in place in order to collect a cash deposit for toll and long distance service separate from a cash deposit for local service. Rather than expend the significant funds necessary to develop and implement such changes to its billing system, SBC Ohio desires, through this waiver request, to institute toll caps and to forgo the involved expense of systems changes necessary to collect a toll deposit from a relatively small segment of its customer base. In lieu of requiring cash deposits, SBC Ohio is proposing a toll cap that is approximately double the average toll and long distance bill of its most credit challenged customers. In granting this waiver, we reaffirm that in order to enforce a toll cap, the local service provider must establish the toll cap plan in its tariff or, if the local service provider proposes to enforce the toll cap of a separate toll provider, the toll cap must be 1) a credit policy of the separate toll provider and established within that provider's tariff, 2) the local service provider must act pursuant to a contract obligating it to enforce the tariff-established credit and deposit

policies of the separate toll provider, and 3) the local service provider must act in a just and reasonable manner. In other words, SBC's toll cap plan may be enforced only on behalf of SBC's toll customers and customers of other toll providers for whom SBC bills and collects and whose commission-approved tariffs include trims.

- (14) Regarding Rule 4901:1-5-17(J)(2)(b), O.A.C., the TRIMS plan does not result in disconnection from the network such as in the case of a nonpayment of toll but rather, once the limit is reached, serves as a restriction from making certain toll and long distance calls until a payment is made. For disconnection purposes, SBC Ohio will continue to fully comply with the applicable provisions of Rule 4901:1-5-17, O.A.C. Therefore, we find that SBC Ohio's request for a waiver of Rule 4901:1-5-17(J)(2)(b), O.A.C., is unnecessary and need not be granted.
- (15) As a final matter, the Commission determines that SBC Ohio's request for a waiver of competitive retail service Rule 4901:1-6-17(A), O.A.C., should be granted. In granting this request, we agree with SBC Ohio that the alternative methods of notice the company has said it will give customers upon approval of this application is sufficient to satisfy the spirit of Rule 4901:1-6-17, O.A.C. Since affected customers will be no worse off through the alternative means of notice proposed by the company and owing to the uncertainty of knowing whether modifications to the application as originally filed would be made as well as when the Commission would rule on its request since the filing of waivers tolled the time frames under which zero-day tariff filings are normally made, SBC Ohio's waiver request is reasonable. SBC Ohio should proceed to provide notice in accordance with this waiver.

It is, therefore,

ORDERED, That the application, as revised and filed in Case No. 03-1149-TP-ZTA, is approved in accordance with finding 7. It is, further,

ORDERED, That OCC's motion to intervene in Case No. 03-1149-TP-ZTA is denied in accordance with finding 8. It is, further,

ORDERED, That a waiver of MTSS Rule 4901:1-5-13(A)(3)(a), O.A.C., is granted in accordance with finding 13. It is, further,

ORDERED, That a waiver of MTSS Rule 4901:1-5-17(J)(2)(b), O.A.C., is unnecessary as set forth in finding 14. It is, further,

ORDERED, That the waiver of Rule 4901:1-6-17(A), O.A.C., sought by SBC Ohio is granted in accordance with finding 15. It is, further,

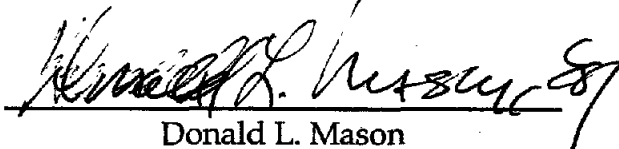
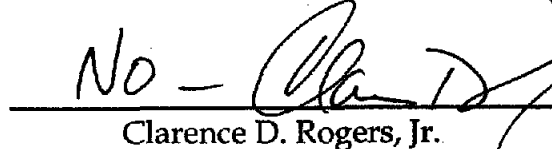
ORDERED, That Case No. 03-1149-TP-ZTA is closed of record. It is, further,

ORDERED, That a copy of this Finding and Order be served upon all interested persons of record in this proceeding.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman


Ronda Hartman Fergus
Judith A. Jones
Donald L. Mason
Clarence D. Rogers, Jr.

JRJ/vrm

Entered in the Journal

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Renee J. Jenkins
Secretary