



# TELECOMMUNICATIONS

## Introduction and overview

As 2009 drew to a close, telephone customers in Ohio were facing possible rate increases, weakened consumer protections, a reduction in low-income customer benefits and lower service quality standards.

The Office of the Ohio Consumers' Counsel (OCC) opposed state legislation introduced in 2009 – Senate Bill 162 and House Bill 276 – and helped form an alliance of consumer groups from across the state, Ohioans Protecting Telephone Consumers. Its purpose was to educate individuals, organizations and the news media about how the legislation would impact residential customers. *(More information about the OCC's opposition to SB 162 and HB 276 can be found in the Government Affairs section of this report.)*

The OCC also recommended consumer protections regarding mergers and acquisitions that were proposed to the Public Utilities Commission of Ohio (PUCO) in 2009. Despite the objections of the OCC, CenturyTel and Embarq received approval to merge without any state-level conditions. These two companies combined to form CenturyLink. There were neither local public hearings for customers to express their views nor an evidentiary hearing for interested parties to cross-examine telephone company officials.

Meanwhile, a proposed acquisition by Frontier Communications of local telephone lines owned by Verizon Communications, Inc. brought scrutiny from the OCC and the PUCO. The OCC initially opposed the transfer of lines, citing the lack of consumer benefits. Later, after benefits and protections were ensured for consumers, the OCC, PUCO staff and two companies reached a settlement to allow the acquisition.

AT&T, Cincinnati Bell and Embarq filed requests in 2009 for basic telephone service alternative regulation in specific exchanges. Several requests by AT&T and one by Embarq were approved, which would allow the companies to increase their monthly basic local rates by \$1.25 and the monthly price of basic caller ID by 50 cents each year. The PUCO said it approved the requests because the telephone exchanges were open to competition and residential customers had reasonably available alternatives. In all, AT&T Ohio has been granted basic local service alternative regulation in 176 of its 192 exchanges; Cincinnati Bell in

six of its 12 exchanges; Embarq in 38 of its 164 exchanges; and Verizon in 21 of its 244 exchanges.

The OCC argued for maintaining regulation in any exchange where companies cannot show there is competition for basic service. In its most recently filed basic local service alternative regulation case, AT&T requested basic service alternative regulation for its remaining 16 exchanges. The company proposed its own competitive test, as allowed under the PUCO's alternative regulation rules. The OCC objected to the test, which was not based on competition within the 16 exchanges. This was the first filing in Ohio in which a company had designed its own test. A PUCO decision on this application, as well as a Cincinnati Bell application involving two exchanges, was pending at the end of the year.

### Lifeline customers allowed to buy optional services from Embarq

In January 2009, the Public Utilities Commission of Ohio (PUCO) allowed Embarq to sell optional calling features, such as caller ID and call forwarding, to Lifeline customers on a trial basis. The decision was based on a June 2008 Embarq request.

The Lifeline program provides a monthly discount of \$13.50 off the price of basic local service to Embarq customers meeting income eligibility guidelines. Under PUCO rules, Embarq's Lifeline customers were restricted to basic local calling and call waiting unless they certified that additional services are necessary for medical or safety reasons. Any optional calling features are purchased at the full retail price.



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In August 2008, the Office of the Ohio Consumers' Counsel (OCC) opposed Embarq's request. The OCC asserted that the unrestricted marketing of optional services by the company would put low-income customers' local service at greater risk of disconnection by increasing the possibility that they could not afford their bill. The OCC recommended that if Embarq's request was approved, it should be on a trial basis and the impact on customers monitored.

The PUCO granted Embarq a trial waiver. During the trial period, Lifeline customers are permitted to buy optional services without having to certify a medical or safety need. The PUCO said it intends to monitor closely Embarq's Lifeline statistics to ensure that customers benefit from the granting of the waiver.

*Case No. 00-1532-TP-COI*

### **Verizon basic local service costs could increase**

Just three of 24 communities escaped potential rate increases for Verizon basic local services as a result of a decision by the Public Utilities Commission of Ohio (PUCO) in March 2009. The PUCO allowed Verizon the ability to increase rates for basic local services in 21 Ohio exchanges.

Verizon can raise basic rates annually through alternative regulation, the PUCO said. Under alternative regulation, a telephone company can increase its monthly basic local rate by \$1.25 each year, and the monthly price of basic caller ID by 50 cents each year. Alternative regulation allows telephone companies the ability to raise rates if the PUCO decides an exchange is open to competition and residential customers have reasonably available alternatives. As 2009 ended, Verizon had not raised rates.

The Office of the Ohio Consumers' Counsel (OCC) opposed alternative regulation in 22 of the 24 exchanges in Verizon's proposal. The OCC asserted in legal filings before the PUCO that the company had not demonstrated residents have competitive choices for basic local telephone services.

Exempt from the Verizon increases are Lifeline customers, who receive a monthly discount price for basic local telephone service if they meet income eligibility guidelines.

*Case No. 08-989-TP-BLS*

### **Embarq requested waiver from out-of-service requirements**

Though telephone customers are entitled to a full month's credit if an out-of-service condition is not

repaired within 72 hours, one company was granted an additional 48 hours to make repairs.

In the aftermath of a September 2008 windstorm, the Public Utilities Commission of Ohio (PUCO) allowed Embarq to add two days to its repair schedule without giving customers credit. Ohio's Minimum Telephone Service Standards set the 72-hour limit. It also allows companies to request a grace period in cases of severe weather conditions. The PUCO granted the extension for Embarq in April 2009.

The Office of the Ohio Consumers' Counsel (OCC) asserted that Embarq had not met the standards for timely restoration of service in communities affected by outages. The OCC said 55 exchanges did not qualify for a grace period for most of the days requested, because Embarq did not meet its burden of proof to justify such a waiver. The OCC also asked the PUCO to examine normal levels of outage reports for several exchanges to determine whether they met the waiver threshold.

The PUCO granted grace periods in most of the requested exchanges. The PUCO did, however, limit the number of days that qualified for the grace period in many exchanges.

The OCC asked the PUCO to reconsider its decision as it applied to four exchanges – Kidron, Chesterville, Holmesville and Fredericktown. The PUCO accepted the OCC's arguments that Embarq did not meet the necessary tests under the PUCO's rules to be granted grace periods for the Kidron and Chesterville exchanges.

*Case No. 08-1118-TP-WVR*

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**OCC BENEFITS FOR LOW-INCOME CONSUMERS IN 2009:** Lifeline customers, who receive a monthly discount price for basic local telephone service if they meet income eligibility guidelines, were exempted from basic rate increases approved by the PUCO in 21 Verizon exchanges.

Leader Voice Mail provided people in 24 counties in northwest Ohio without access to telephone service a reliable, secure and anonymous way to receive messages. They can use the service as they search for or maintain a job, find housing or stay in contact with family, medical professionals or social service agencies.

**CenturyTel and Embarq merged to form CenturyLink**

In February 2009, the Public Utilities Commission of Ohio (PUCO) approved the merger of CenturyTel and Embarq without the conditions the Office of the Ohio Consumers' Counsel (OCC) asserted were necessary. Prior to the merger, CenturyTel had about 48,000 residential access lines in Elyria and surrounding areas, while Embarq had about 297,000 residential access lines in all or part of 50 Ohio counties.

Under state law, the PUCO cannot approve a merger unless the companies demonstrate the transaction promotes the public convenience and will result in adequate service at reasonable rates.

The OCC asserted the PUCO should place consumer protection conditions on the merger including: a requirement that broadband be available throughout the companies' entire Ohio service areas within four years; elimination of CenturyTel's antiquated \$1.65 monthly touch-tone charge; and the elimination of Embarq's \$4.10 monthly Intrastate Access Fee.

Among its findings, the PUCO decided service standards would be adequate because the merged company would be larger. The PUCO granted the merger application without the OCC's proposed conditions, which would have benefited Ohioans.

*Case No. 08-1267-TP-ACO*

**AT&T and Cincinnati Bell limited delivery of white pages directories**

AT&T and Cincinnati Bell are no longer required to distribute residential white pages telephone directories to homes. The Public Utilities

Commission of Ohio (PUCO) approved the companies' plans requiring phone book distribution only to customers who specifically requested a copy. The companies plan to include business white pages listings in their yellow pages directories.

Under Ohio's Minimum Telephone Service Standards (MTSS), Ohio's local telephone companies must provide customers with free white pages directories or opt to provide their customers with free directory assistance.

In an October 2008 filing, Cincinnati Bell asserted customers prefer an electronic directory and residential white pages directories are seldom used. The Office of the Ohio Consumers' Counsel (OCC) countered that Cincinnati Bell did not provide any factual data to support that conclusion. Also, the OCC pointed out that not all customers can access an electronic directory.

According to Connect Ohio, a public-private partnership that works with businesses, government and universities to accelerate technology in the state, 30 percent of Ohioans do not have Internet access. Also, 25 percent of Ohioans do not have a computer. For those customers, the only option if they do not have the white pages is to call directory assistance and pay an unregulated fee.

In filings before the PUCO, the OCC said that under the company's proposal, the

preferred method of obtaining a directory would be to visit a Cincinnati Bell retail store. That is not a convenient option to many consumers, particularly customers with mobility and transportation limitations.

The OCC asked the PUCO to require Cincinnati Bell to provide an information campaign and a two-year transition for consumers before delivery of residential white pages directories stopped.

The PUCO modified and approved Cincinnati Bell's request. In addition to printed residential directories being available at the company's retail locations, the PUCO recommended directories also be available at grocery stores, banks and pharmacies. The PUCO required Cincinnati Bell to conduct an extensive information campaign, provide more notifications to customers and provide clear and explicit instructions to customers who wish to receive a free printed



*Telecommunications Analyst Kathy Hagans and OCC Attorney Terry Etter review a case file.*

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residential directory. After the PUCO's decision, Cincinnati Bell increased the rates customers have to pay for local, national and reverse directory assistance by 17.5 percent. Reverse directory assistance is a way to determine an individual's name and address by using a telephone number.

“To allow telephone companies to take money out of the pockets of low-income Ohioans, when the money may not be needed, is not good public policy, and is not good for Ohioans across the state. In these hard economic times, the last thing low-income Ohioans need are increasing utility bills.”

*Noel Williams  
President, Columbus NAACP  
Dec. 1, 2009 testimony before  
House Public Utilities Committee*

In February 2009, AT&T filed a request to limit its obligation to distribute residential white pages directories. The AT&T request failed to propose as extensive an informational campaign and customer notification process as Cincinnati Bell's proposal. In addition to similar arguments made in the Cincinnati Bell case, the OCC objected to the inadequate customer notice proposed by AT&T.

Nevertheless, the PUCO granted AT&T's request. The PUCO said directory listings will be available electronically with a printed residential directory available upon request.

After the AT&T decision, several competitive providers serving AT&T's service area filed waiver requests, arguing they rely on AT&T to publish and distribute residential white pages directories to their customers. The OCC objected, but the PUCO granted each of the competitive providers' requests.

*Case Nos. 09-0042-TP-WVR,  
08-1197-TP-WVR, 09-156-TP-WVR,  
09-157-TP-WVR, 09-158-TP-WVR,  
09-159-TP-WVR, 09-160-TP-WVR*

### **Frontier proposed acquisition of Verizon's local telephone lines**

The quality of customer service was at risk from a proposed acquisition of local telephone lines in 2009. The impact could have affected 435,000 residential customers in 77 Ohio counties.

The Office of the Ohio Consumers' Counsel (OCC) initially opposed the deal allowing Frontier Communications to obtain the local telephone lines of Verizon Communications, Inc. in Ohio. Nationwide, the acquisition would add 4.8 million Verizon wire lines in 14 states to Frontier's business, including approximately 2.3 million lines in 24 states. The transaction does not involve Verizon's wireless operations.

The OCC opposed the merger, citing the lack of consumer benefits and potential pitfalls of the transfer. Notably, the OCC questioned Frontier's financial ability to maintain and improve residential customers' service. In Ohio, Frontier served just 480 residential customers in Williams County. Customers expressed their views at hearings in different parts of the state.

The OCC noted that the lines Frontier was acquiring have had problems in the past under Verizon's ownership. The PUCO imposed a \$250,000 penalty on Verizon in 2008 for its failure to restore customers' service outages within 24 hours at least 85 percent of the time in each of its four Ohio districts.

In December, as a direct result of the OCC's advocacy on behalf of the public, the two companies, the OCC and PUCO staff reached an agreement that will provide public benefits. The merger agreement requires Frontier to:

- ▶ Deploy broadband facilities in 85 percent of Verizon's current Ohio service area by the end of 2013 based on a plan to be developed by Frontier, the OCC and PUCO staff;
- ▶ Commit to a cap on basic local telephone rates until broadband deployment reaches 85 percent;
- ▶ Invest in service upgrades in each of the next three years;
- ▶ Submit reports detailing the company's annual service performance, including how it handles outages; and
- ▶ Commit to ensuring a smooth transition of Verizon customers to Frontier's operations.

*Case No. 09-454-TP-ACO*

### **OCC and partners brought critically needed free voice mail service to northwest Ohio**

Many community service organizations were overwhelmed in 2009 by the number of people seeking assistance during a difficult economy. Consumers faced job losses, home foreclosures, financial difficulties and health needs.

For Ohio citizens without access to telephone service, voice mail can be a helpful tool to maintain contact with necessary vital services. Social service agencies can be more efficient serving displaced Ohioans if they have the ability to leave messages for them. The Office of the Ohio Consumers' Counsel (OCC) recognized the potential for voice mail to help Ohioans in crisis or transition.

Leader Technologies Inc., a developer and marketer of merged voice and Web communications products, contacted the OCC about sponsoring voice mail services. The OCC partnered with the company and the Ohio Association of Second Harvest Food Banks, a nonprofit organization, to launch Leader Voice Mail on July 21, 2009, in northwest Ohio.

For Ohioans in 24 counties within the 419 area code without access to telephone service, Leader Voice Mail provides a reliable, secure and anonymous way to receive messages. It assists consumers as they search for or maintain a job, find housing or stay in contact with family, medical professionals or social service agencies. Users receive a personal telephone number in the 419 area code and a wallet-sized card containing basic information needed to access messages. Messages can be retrieved through a toll-free number from any touch-tone telephone or by using the Internet.

Individuals apply for service through participating social service agencies. Eligibility is determined by individual need, and the service is available as long as needed. As of December 2009, nearly 300 consumers had signed up for Leader Voice Mail.

The OCC provided 70 training sessions to social service agencies in the 419 area code to teach their staffs how to enroll clients. The OCC expects to work with Leader in the future to expand the service throughout the state in areas where access to free voice mail is not yet available.

The concept of voice mail for people in need is part of a nationwide effort initially made available in 2000 to Ohioans in Cuyahoga and Lorain counties through Community Voice Mail, a national nonprofit organization. Recently, Community Voice Mail expanded its Ohio efforts to include Summit County.

### **TracFone allowed to offer Lifeline**

Prepaid wireless reseller TracFone was granted the ability to provide Lifeline service in Ohio by the Public Utilities Commission of Ohio (PUCO) in May 2009. Lifeline provides discounted service to low-income consumers and is funded by a charge on local and long-distance telephone bills.

TracFone can receive federal funding to offer eligible Ohio consumers a free handset and 68 free calling minutes per month. Additional usage can be purchased for 20 cents a minute.

The Office of the Ohio Consumers' Counsel (OCC) filed comments with the PUCO on behalf of residential consumers regarding TracFone's proposal. TracFone, as a wireless carrier, is not subject to Ohio's Minimum Telephone Service Standards, a set of rules and consumer protections which traditional telephone companies follow. Also, many customers under TracFone's proposed program would inevitably need more than the 68 free minutes. The OCC said customers could end up paying more overall than if they were with a different carrier or had a different plan. The OCC recommended the PUCO conduct a hearing about TracFone's application to ensure approval would be in the public interest. The OCC's request for a hearing was denied.

The PUCO granted TracFone's application on a one-year interim basis and imposed some conditions. For example, the OCC advocated for, and the PUCO required, TracFone to establish safeguards to prevent its customers from receiving multiple Lifeline benefits at the same address. It must provide customers with basic and enhanced 9-1-1 access regardless of the activation status and minute availability. The PUCO also agreed with the OCC that it needed to find whether TracFone's request was in the public interest.

TracFone objected to the interim designation and some of the conditions, and applied for rehearing of the PUCO's order. On rehearing, the PUCO clarified portions of its original order and upheld most of its conditions.

*Case No. 97-632-TP-COI*