



221 E. Fourth St.
P.O. Box 2301
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January 23, 2009

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PUBLIC SERVICE
COMMISSION

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602

2009-0029

RE: Application of Cincinnati Bell Telephone Company LLC For Declaration of Compliance

Dear Mr. Derouen:

Enclosed are an original and ten (10) copies of Cincinnati Bell Telephone Company's Application for Declaration of Compliance. A duplicate original copy of this letter is enclosed; please date stamp this copy as acknowledgement of its receipt and return it in the enclosed, self-addressed envelope. Questions regarding this filing may be directed to Scott Ringo at the above address or by telephone at (513) 397-1354.

Sincerely,

A handwritten signature in cursive script that reads "Mark A. Romito".

Mark A. Romito
Director - Government Relations

Enclosures

**BEFORE
THE PUBLIC SERVICE COMMISSION OF KENTUCKY**

In the Matter of the Application of)
Cincinnati Bell Telephone Company LLC)
For Declaration of Compliance With) No. 2009-
Directory Requirements Applicable to)
Electing Telephone Companies Pursuant)
to KRS 278.541 to 278.544)

**APPLICATION OF CINCINNATI BELL TELEPHONE COMPANY LLC FOR
DECLARATION OF COMPLIANCE WITH DIRECTORY REQUIREMENTS
APPLICABLE TO ELECTING TELEPHONE COMPANIES
PURSUANT TO KRS 278.541 to 278.544**

Cincinnati Bell Telephone Company LLC (“CBT”) is a telephone company serving customers in ten exchanges located in six northern Kentucky counties. Pursuant to KRS 278.543(1), CBT elected to be subject to KRS 278.541 to 278.544, effective July 12, 2006, making it an “electing utility” as defined in KRS 278.541(2).

As one of its recent corporate “green” initiatives, CBT has developed a more progressive and environmentally-friendly method of providing customers with directory listing information that is superior in several ways to the current printed directory. CBT makes this filing to seek confirmation from the Commission that CBT’s new directory plan is consistent with Kentucky law governing electing utilities.

I. As An Electing Utility, CBT Is Exempt From The Commission's General Rules Regulating Telephone Companies.

In 2006, the General Assembly enacted HB 377, which created KRS 278.541 through 278.544 and an elective form of alternative regulation. The new statute authorized telephone companies to elect to be regulated under the new statutory provisions by providing a written notification to the commission. CBT made the election pursuant to KRS 278.543 effective July 12, 2006.

Among other things, an electing utility is exempt from KRS 278.280 and any administrative regulations promulgated thereunder. KRS 278.280(2) empowers the commission to prescribe rules for the performance of any service furnished by a utility. In accordance with that authority, the Commission had promulgated 807 KAR 5:061, establishing general rules applicable to telephone utilities. These rules included 807 KAR 5:061, Section 5, which required that telephone companies annually supply their customers with a published directory.

CBT believes its election under KRS 278.543 preempts the application of this rule to CBT by virtue of KRS 278.543(6). CBT seeks confirmation that Section 5 of the telephone rules is not applicable to CBT.

II. CBT's New Directory Distribution Plan Conforms to the Directory Requirements of KRS 278.541.

As an electing utility, CBT is required to provide "basic local exchange service" at regulated rates to customers in its service area that desire basic service. KRS 278.541 defines the elements of "basic local exchange service" as follows:

- (1) "Basic local exchange service" means a retail telecommunications service consisting of a primary, single, voice-grade line provided to the premises of residential or business customers with the following features and functions only:
 - (a) Unlimited calls within the telephone utility's local exchange area;

- (b) Dual-tone multifrequency dialing; and
- (c) Access to the following:
 - 1. Emergency 911 telephone service;
 - 2. All locally available interexchange companies;
 - 3. Directory assistance;
 - 4. Operator services;
 - 5. Relay services; and
 - 6. A standard alphabetical directory listing that includes names, addresses, and telephone numbers at no additional charge.

With respect to local exchange carriers, basic local exchange service also shall include any mandatory extended area service routes accessible as a local call within that exchange area on or before July 12, 2006. Basic local exchange service does not include any features or functions other than those listed in this subsection, nor any other communications service, even if such service should include features and functions listed herein;

With regard to directories, the only requirement applicable to electing utilities is found in KRS 278.541(1)(c)6, which requires “access to” “a standard alphabetical directory listing that includes names, addresses, and telephone numbers at no additional charge,” but which has no specific requirements as to how “access” is to be given. CBT has developed a new plan for providing access to directory listings to its customers and requests that the Commission confirm that its plan is compliant with the statute.

The traditional method of distributing a published directory to Kentucky customers has been to print an alphabetical listing of all customers and to automatically deliver a copy to every individual customer location (with multiple copies to businesses). This system did little or nothing to assess the usefulness of such directories, which have more or less been taken for granted, or the efficiency of this practice, which annually consumes millions of pages of paper,

gallons of ink, and the associated energy to create those materials, print the directories and distribute them to customers.

CBT periodically reviews its services and tries to make changes to adapt them to current technology. CBT has also been investigating various “green” initiatives to look for ways to conserve energy and other natural resources. A natural target of this program was the printed directory. CBT believes that most customers seldom use the White Pages directory and that a sizeable and growing number of customers find the paper directory unnecessary. It does not make a lot of sense to print and distribute directories to customers who do not want or use them. Significant resources could be saved if, instead of automatically providing all customers with a printed directory, customers were automatically provided access to an electronic directory with the option to request a paper directory. And, an electronic directory has several significant advantages over a printed book. Until HB 337, this may not have been an option without permission to deviate from the Commission’s telephone rules.¹

In the modern information age, an annually printed telephone directory is somewhat of an anachronism. The book is out of date before it is even published because of changes to subscriber listings between the date that the directory closes (usually in March) and the time the books are delivered to customers (usually in June). The book grows more and more dated as the year goes on. People have become increasingly accustomed to obtaining their information needs online nearly instantaneously. Customers already use Internet search tools to locate telephone numbers. CBT believes that most customers use the printed White Pages directory infrequently,

¹The Commission rule applicable to non-electing utilities requires a telephone company to “publish” and “distribute” a directory to all subscribers. 807 KAR 5:061, Section 5(1), (2). This is to be contrasted with providing “access to” a “directory listing” under KRS 289.541(1)(c)6. CBT intends to discontinue automatic physical delivery and to make an electronic directory the preferred method of providing access to directory listings absent a customer request for a printed directory. Printed directories will still be made available to any subscriber who requests one, free of charge.

if at all. Customers are more likely to use the Yellow Pages (an unregulated advertising directory which also includes alphabetical business listings) to find business listings than the White Pages. With changes in technology and more widespread Internet access, many customers prefer having directory listings in electronic form, which is not only up to date on a daily basis, but searchable. If printed directories are going largely unused, distributing a printed directory to every customer every year is causing an enormous waste of paper, contributing to the premature exhaustion of landfills and, even for those who do recycle the books, is still wasting considerable energy and other resources to create and distribute books, only to recycle them and repeat the process the next year.

Because of natural inertia, most customers would not take affirmative action to stop the delivery of a paper directory even if they did not want to receive it. And, the way directories are currently distributed by automatically delivering one to every location in the service territory and many copies to businesses, it is not practical to “suppress” delivery to only select locations. CBT plans to make an electronic directory the preferred option for delivering directory listings. Printed directories will no longer be delivered automatically. Customers who do not really want or need a paper directory are unlikely to affirmatively request one. That way, resource usage will be paired more efficiently with customer needs and desires—only those who want paper directories will request and receive them, avoiding the unnecessary waste of paper, energy and other resources that are consumed to produce, distribute, discard and/or recycle hundreds of thousands of books. And customers will get to choose how they want their directory provided.

CBT believes it has come up with improved options to fit customers’ needs with respect to directories. CBT will provide an electronic version of its White Pages directory that will be available free to anyone over the Internet. This directory will be updated daily, just like the

directory assistance database, so that it is always current. The online directory will also contain all of the Customer Guide information that is currently included in the printed directory.² In addition to being environmentally friendly, the electronic directory will also be superior to the printed book in several other ways: it will always be current as of the previous business day, while the printed book never is totally current; it is searchable electronically, while the printed book can only be consulted manually by reviewing alphabetical listings; it is accessible anywhere there is Internet access, even over cell phones and PDAs, while the printed directory is bulky and heavy and not convenient to carry around; and, to keep directory size manageable the print has to be kept small, while an electronic directory allows the customer to enlarge the type as much as desired.

CBT will conduct an extensive informational campaign for its customers to educate them on the availability of the electronic directory. CBT will use bill inserts and billing messages to promote its new, easy to use, "green" edition of the directory. CBT will also send e-mail messages to its Internet service customers and text messages to its wireless affiliate's customers. Information will be posted on the Cincinnati Bell website and in retail stores. Customers will be made well aware of how to access and use the on-line electronic directory. CBT believes that many customers will be pleased to have this new means of accessing directory listings.

Of course, CBT understands that certain customers will still want or need a paper directory, which will not be eliminated. CBT will continue to make printed directories available to any customer who requests one free of charge. The preferred method of distributing printed directories to those who request copies would be for the customer to visit a CBT retail store to pick one up. For those customers who cannot visit a retail store, an alternative method of

² Prior to CBT's KRS 278.543 election, this information was mandated by 807 KAR 5:061, Section 5(4).

shipping or delivering the printed directories will be used to get the customer a book upon request.

Unlike Kentucky, which has deregulated many aspects of the telephone business for electing utilities, Ohio still has a rule governing the distribution of printed directories. In order to implement its new directory plan, CBT first had to obtain the approval of the Public Utilities Commission of Ohio ("PUCO") to make the electronic directory the primary means for distributing directory information. The PUCO recently granted CBT's request for a waiver of the Ohio rule, so CBT is no longer required to automatically deliver a printed directory to each customer in Ohio. See *Finding and Order*, Case No. 08-1197-TP-WVR (Jan. 7, 2009) (copy attached). The PUCO conditioned its approval upon CBT providing notice to customers that they will no longer automatically be provided a printed directory and providing directions on how customers who wish to receive a free printed directory may obtain one. An annual notice and a notice to new customers to the same effect are also required. The PUCO authorized CBT to distribute printed directories to those who wish to receive them by stocking them in retail stores (including non-CBT retail outlets) or by delivering printed directories to customers who request that a directory be delivered to them, free of charge.

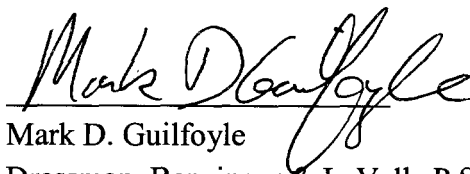
CBT intends to use the same method for making directories available to customers throughout its service area. Thus, it intends to follow the same practices in Kentucky as it does in Ohio, where the majority of its telephone customers are located. It is important for market continuity and consistency of operational processes that CBT follow the same business practices in both Kentucky and Ohio.

CBT intends to implement the new directory access plan for the 2009 directory, so it is important to have prompt resolution of this issue. Traditionally, CBT closes its directories for

purposes of accepting listing changes in March of each year in order to publish its directories in June. To be able to plan its directory production and distribution processes for 2009, it would be very helpful to have resolution of this issue as promptly as possible.

Wherefore, CBT requests that the Commission confirm that its plan: 1) to make an electronic directory its principal method of providing access to directory listings; 2) not to automatically deliver a printed directory to each customer; and 3) to only provide a printed directory to Kentucky customers upon their specific request is compliant with KRS 278.541.

Respectfully submitted,



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Attorney for Cincinnati Bell Telephone
Company LLC

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Cincinnati)
 Bell Telephone Company LLC for Waiver of)
 Certain Minimum Telephone Service) Case No. 08-1197-TP-WVR
 Standards As Set Forth in Chapter 4901:1-5,)
 Ohio Administrative Code.)

FINDING AND ORDER

The Commission finds:

(1) On October 31, 2008, the applicant, Cincinnati Bell Telephone Company LLC (Cincinnati Bell or CBT), a local exchange company (LEC), filed an application by which it seeks a waiver of Rule 4901:1-5-03(B), Ohio Administrative Code (O.A.C.), which is the provision of the Commission's minimum telephone service standards (MTSS) that pertains to the manner in which LECs are to supply directories to their customers. Rule 4901:1-5-03(B), O.A.C., which will be referred to in this finding and order as MTSS Rule 3(B), reads:

(B) Local exchange companies (LECs) shall annually supply their customers with directory information through one of the following means:

(1) A printed directory(ies) that must include, at a minimum, all published telephone numbers in current use within the ILEC local calling area. Upon a customer's request, each LEC shall provide, free of charge, an applicable directory(ies) for all exchanges which are within the ILEC local calling area, including any exchanges that are within the local calling area as a result of extended area service. The printed directory shall be provided free of charge to customers. LECs may give customers the option to request an electronic directory, where available, but if they make this option available, LECs must, in this instance, provide the electronic directory at no charge.

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- (2) Free directory assistance for all published telephone numbers in current use within the ILEC local calling area. In addition, the LEC shall include on its web site the printed information required by paragraph (C) of Rule 4901:1-5-03 of the Administrative Code. An annual notice shall also inform customers that, in lieu of a printed directory, they will be provided free directory assistance for all telephone numbers in current use within their local calling area.

Thus, the rule provision from which CBT seeks a waiver currently requires that LECs supply their customers with directory information through one of two means: either through a printed directory, or through free directory assistance.

- (2) By way of background, CBT's waiver application in this case has followed upon the company's investigation into various "green" initiatives, by which it has sought to conserve energy and other natural resources. CBT claims that, in order to keep abreast of the latest in technology and customer service, it periodically reviews how customers actually use services and what changes they might like to see in the future. In this context, CBT has recently considered ways to improve the White Pages telephone directory. The company notes that the current system of providing customers with directory information, which consists of automatically delivering a printed directory to every individual customer location (with multiple copies to business customers), "annually consumes millions of pages of paper, gallons of ink, and the associated energy to create those materials, print the directories, and distribute them to customers" (CBT Waiver Application at 2). CBT believes that most customers seldom use the White Pages directory and that a sizeable and growing number of customers find the paper directory unnecessary. According to CBT, it does not make a lot of sense to print and distribute directories to customers who do not want or use them. Significant resources could be saved if, instead of automatically providing all customers with a printed directory with the option to request an electronic directory, customers were automatically provided access to an electronic directory with the option to request a paper directory.

- (3) In this case, CBT seeks to have the Commission authorize CBT to provide its customers with automatic access to an electronic directory with the option to request a paper directory. This practice is currently not an express option under the MTSS rules which, in contrast, contemplate that the company should automatically provide all customers with a printed directory with the option to request an electronic directory.

While the current rule allows a LEC to give customers the option to request an electronic directory in lieu of a printed directory, it requires the customer to affirmatively request an electronic directory first. Because of natural inertia, argues CBT, most customers will not take affirmative action to stop the delivery of a paper directory even if they do not want to receive it. Through its waiver application, CBT seeks to make an electronic directory the preferred option for delivering directory listings. Under CBT's proposal, no printed directories would be delivered automatically. Customers who do not really want or need a paper directory, says CBT, are unlikely to affirmatively request one. Instead, only those who want paper directories will request and receive them. In this way, customers will choose how they want their directory provided, while resource usage will be paired more efficiently with customer needs and desires. Unnecessary waste of paper, energy, and other resources that are consumed to produce, distribute, discard and/or recycle hundreds of thousands of books will be avoided (*Id.* at 3).

- (4) Further explaining the rationale behind its proposed rule waiver application, CBT indicates:

In the modern information age, an annually printed telephone directory is somewhat of an anachronism. The book is out of date before it is even published because of changes to the subscriber listings between the date that the directory closes (usually in March) and the time the books are delivered to customers (usually in June). The book grows more and more dated as the year goes on. People have become increasingly accustomed to obtaining their information needs online nearly instantaneously. Customers already use internet search tools to locate telephone numbers. CBT believes that most customers use the printed White Pages directory infrequently, if at all. Customers are more likely to use

the Yellow Pages ... [than the White Pages] to find business listings.... With changes in technology and more widespread Internet access, many customers prefer having the telephone directory in an electronic form, which is not only up to date on a daily basis, but searchable (*Id.* at 3-4).

CBT points out that the online, electronic directory that it proposes to make the preferred option for delivering directory listings, in addition to being environmentally friendly, will also be superior to the printed book in several other ways: it will always be current as of the previous business day; it will be searchable electronically; it is less bulky and easier to carry around than the phone book and is accessible anywhere there is Internet access, even over cell phones and PDAs; and would allow the customer individual control over the print size of the listings.

- (5) Explaining, from an operational standpoint, its proposal to provide automatic access to an electronic directory with the option to request a paper directory, CBT states:

CBT believes it has come up with improved options to fit customers' needs with respect to directories. Later this fall, CBT will launch an electronic version of its White Pages directory that will be available free to anyone over the Internet. The directory will be updated daily, just like the directory assistance database, so that it is always current. The online directory would contain all of the Customer Guide information that is required to be included in the printed directory ... [under MTSS Rule 3(C)]....

CBT will conduct an extensive informational campaign for its customers to educate them on the availability of the electronic directory. CBT will use bill inserts and billing messages to promote its new, easy to use "green" edition of the directory. CBT will also send e-mail messages to its Internet service customers and text messages to its wireless affiliate's customers. Information will be posted on the Cincinnati Bell website and in retail stores. Customers will be made well aware of how to access and use the online electronic directory.

CBT believes that many customers will be pleased to have this new means of accessing directory listings.

Of course, CBT understands that certain customers will still want or need a paper directory, which would not be eliminated. CBT would continue to make printed directories available to any customer who requests one. The preferred method of distributing printed directories to those who request copies would be for the customer to visit a CBT retail store to pick one up. For those customers who cannot visit a retail store an alternative method of shipping or delivering the printed directories will be used to get the customer a book promptly upon request.

- (6) On January 6, 2009, the office of the Ohio Consumers' Counsel (OCC), through a pleading that also included OCC's comments on CBT's application, filed a motion to intervene in this proceeding. In its motion, OCC asserts that it is the state agency that represents Ohio's residential utility consumers and that it seeks intervention in order to ensure that CBT's residential customers receive all the protections of the MTSS, including with regard to the availability of the white pages directory. OCC adds that it satisfies the intervention standard in Section 4903.221, Revised Code, because Ohio's residential customers may be adversely affected by this case, especially if the consumers were unrepresented in a proceeding that would give CBT the authority to provide electronic directory information in lieu of a printed directory. OCC also asserts that its role as a residential utility consumer advocate complies with the standards set forth in Rule 49091-1-11(A), O.A.C., which require that a party must have a real and substantial interest in a proceeding to intervene.
- (7) OCC's motion to intervene is reasonable, and should be granted.
- (8) OCC's comments on CBT's waiver application in this case are summarized in this finding. CBT's proposal, says OCC, is based on a mere belief that customers do not want a white pages directory. CBT has produced no factual data to support its claim, argues OCC. Therefore, according to OCC, CBT has not stated good cause for a waiver and its application should be denied as not in the interest of Ohio consumers.

OCC additionally submits that, in order to review the need for CBT's proposal, the Commission should require CBT to conduct a two-year promotional campaign to inform customers of their current ability to "opt out" of receiving a printed directory, with an assessment of the campaign and stakeholder input at the end of the two-year period. OCC submits that, to protect consumers through a gradual transition, the Commission should, at a minimum, provide for CBT to defer the "opt in" aspect of its proposal, so that consumers continue to be provided directories automatically for at least two years into the future. During the transition period, says OCC, CBT should be providing notice and information to customers about the potential upcoming change regarding the distribution of directories and inviting public comment to the Commission and OCC.

Additionally, OCC points out that CBT's proposal does not address how new customers would be notified of the availability of printed directories, and does not specify (but should, according to OCC) that customers requesting a printed directory would not be charged for delivery of a printed directory to their homes. Finally, OCC submits that the Commission should ensure that the consumer protections found in the MTSS should be maintained with regard to all alternative methods by which the company provides directory information. For example, says OCC, any customer notice should state whether CBT will provide directory assistance over the telephone free of charge (OCC Comments at 2-3).

- (9) Upon review, the Commission finds that CBT has adequately demonstrated sufficient reason for granting its waiver application and that, indeed, such application should be granted, so long as customers' interests are protected as regards obtaining information regarding the policy change contemplated by grant of the waiver, obtaining essential information regarding a telephone customer's rights and responsibilities, and as regards a customer's right and ability to go about requesting and obtaining free annual printed directories.

As mentioned above, one method by which CBT has proposed to distribute free printed directories to those who request copies would be to have the requesting customer visit a CBT retail store to pick one up. The Commission finds this to be an acceptable practice that would be specifically authorized under the waiver we grant today. However, it would also be acceptable to the

Commission, and the waiver we grant today shall be considered as authorizing CBT, if the company chooses to do so, to make free printed directories available not only in CBT retail stores, but also in other retail outlets or public venues that customers might likely visit on a more frequent basis, such as grocery stores, banks, or pharmacies. Also, CBT has pledged to deliver or ship the free directories to customers who wish to receive them in that way, rather than by picking up their copies by visiting a CBT retail store. The Commission understands this to mean that, as part of its waiver request, CBT has pledged that there would be no shipping or delivery charge associated with this optional way for customers to receive their free printed directories and finds that its grant of the waiver is contingent upon CBT fulfilling this pledge not to impose or apply any shipping or delivery charges. Additionally, we note that, for those customers who choose not to receive a printed directory, such customers will still have access to emergency telephone numbers and telephone numbers of utility companies through other sources such as the yellow pages and information services. Accordingly, we find that CBT's request for a waiver of MTSS Rule 3(B) is granted, subject to the following conditions:

- (A) The extensive informational campaign described in CBT's waiver application, by which the company will educate customers on the availability of the electronic directory, must include notice to customers that they will no longer automatically be provided annually with a printed directory and also provide clear and explicit directions that those customers who wish to obtain a free printed directory should follow in order to obtain one. The company must offer each customer who requests a directory the ability to choose between picking up a free directory by visiting a CBT retail store or, alternatively, receiving a directory that the company either ships or delivers to the customer without charge.
- (B) In addition, CBT must provide an annual customer notice to all of its customers that includes the following:
 - (i) An explanation to customers that they will no longer automatically be provided annually with a printed directory, although they may still request and obtain, free of

charge, a printed directory published by CBT for use during the year in which the request is made. The notice must also include explicit directions explaining all the means by which those customers who wish to obtain a free printed directory may request and obtain one.

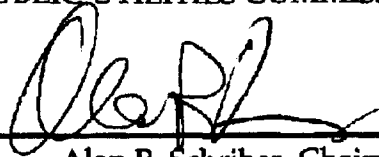
- (ii) A verbatim printing of the telephone customer rights and responsibilities as set forth in the Appendix to Rule 4901:1-5-03, O.A.C.
- (C) New CBT customers, at the time they initially enroll for telephone service from CBT, must be provided with all of the same information regarding CBT's methods of providing directory information as provided in the annual notice required under paragraph (B) of this finding.
- (D) CBT must deliver or ship the free printed directories to customers who wish to receive them in that way, rather than by picking up their copies by visiting a CBT retail store, and CBT must do so, when customers exercise this optional way of receiving the free printed directory, without imposing or applying any shipping or delivery charges.

It is, therefore,

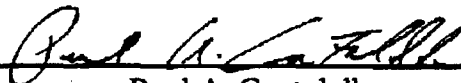
ORDERED, That in accordance with the above findings, CBT's application for waiver for MTSS Rule 3(B), submitted in this case on October 31, 2008, is granted subject to all of the conditions set forth in Finding (9). It is, further,

ORDERED, That a copy of this finding and order be served upon CBT, as well as all other parties and interested persons of record.

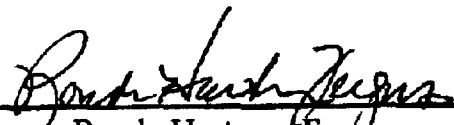
THE PUBLIC UTILITIES COMMISSION OF OHIO



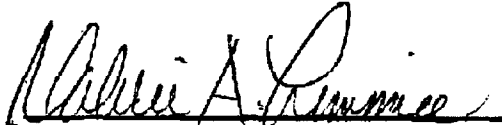
Alan R. Schriber, Chairman



Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie



Cheryl L. Roberto

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Renee J. Jenkins
Secretary