

FILE

RECEIVED-COMMUNICATIONS
01 APR 12 PM 2:53
PUCO

7

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Commission Investigation)
Into the Treatment of Reciprocal) Case No. 99-941-TP-ARB
Compensation for Internet Service Provider)
Traffic)

REPLY MEMORANDUM

The Association of Communications Enterprises ("ASCENT"), AT&T Communications of Ohio, Inc., Focal Communications Corporation of Ohio, ICG Telecom Group, Inc., KMC Telecom III, Inc., Sprint Communications Company, L.P. TCG Ohio, and United Telephone Company of Ohio, d/b/a Sprint, WorldCom, Inc. (hereafter jointly referred to as "Ohio CLECs"), by their undersigned attorneys hereby reply to the memoranda contra filed by Ameritech Ohio ("Ameritech"), Verizon North, Inc. ("Verizon"), and Cincinnati Bell Telephone Company ("CBT"). For the reasons stated in the original motion to expand, or alternatively clarify the scope of this case, as well as herein, the Ohio CLECs request that the Commission clarify that the scope of the above-captioned case allows an examination of all issues relating to intercarrier compensation for all local traffic, including wireless and paging traffic. If the instant case does not allow such an examination, the Ohio CLECs request an expansion of the scope of this proceeding to properly include consideration of all issues related to inter-carrier compensation for all local traffic, including wireless and paging traffic.

Ameritech, Verizon and CBT filed in opposition to the motion, but a close examination of their pleadings reveal that Ameritech, and to a lesser degree, Verizon, actually *support* the CLECs' request. Ameritech repeatedly contends that the current proceeding is broad enough to examine a

This is to certify that the above document is an accurate and complete reproduction of a hard file document delivered in the regular course of business.
Technician js Date Processed 4-12-01

full range of reciprocal compensation rate structures, including those encompassing all local traffic. (Ameritech Mem., p. 2; Verizon Mem., pp. 4-5). That is all the Ohio CLECs want: an opportunity to present reciprocal compensation mechanisms that apply to local traffic, and not be limited to ISP-bound calling.

Ameritech and CBT assert that expanding the scope of this case to include local calls to wireless carriers is inappropriate since these entities did not intervene in this case. (Ameritech Mem., pp. 3 and 8; CBT Mem., pp. 1, 3). This contention is wrong. AT&T and Sprint are affiliates of Sprint PCS and AT&T Wireless, two of this nation's largest wireless providers. Moreover, WorldCom provides wireless and paging services. AT&T and WorldCom consulted their affiliates in the preparation of the motion to expand the scope of this case. Indeed, AT&T plans to use AT&T Wireless data in this case.

Ameritech, Verizon, and CBT argue the merits of the case, and attempt to distinguish ISP-bound calling from paging and wireless traffic. (Ameritech Mem., pp. 7-8; Verizon Mem., pp. 3-4; CBT Mem., pp. 2-3). These factual assertions support the need to expand the scope of this proceeding, since the Ohio CLECs only seek an opportunity to present evidence that any change to the existing reciprocal compensation mechanism should apply to all local traffic, including local-billed calls to ISPs, wireless and paging customers. The three ILECs, of course, stridently oppose such an expansion, since they are today enjoying a huge imbalance of traffic, and therefore want to keep the revenues. Certainly, if a purported imbalance of traffic is somehow "unfair" to ILECs where they *pay* money to competitors, it is equally unfair where ILECs *collect* money from other carriers. This need for fundamental fairness and for a comprehensive examination of the complicated reciprocal compensation issue, more than anything, shows the need to expand the case

to allow for a measured and fair examination of reciprocal compensation in the local telephone market.

Ameritech and Verizon both point to a recent decision by the Illinois Commerce Commission (“ICC”), and contend this ruling supports their position. (Ameritech Mem., pp. 1-2 and Ex. A; Verizon, p. 5). Such reliance is misplaced. While it is true the ICC denied a similar motion to expand the scope of that state’s parallel proceeding examining reciprocal compensation, the reason for the ruling was:

Our Initiating Order was then, and is now, totally appropriate for the task at hand. It sets out the problem and permits the Commission [ICC] to consider anything and everything relevant to addressing that problem. *It is intended to ensure that all reasonable solutions – however broad or innovative – are eligible for our consideration so long as they address the real problem at hand. If relevant to a solution of the problem, it matters not that a proposal also affects or implicates reciprocal compensation rates or rate structures applicable to all traffic.* (See, Ex. A to Ameritech Mem., p. 4) (emphasis supplied).

The ICC therefore allowed for the exact same kind of broad examination of reciprocal compensation for all local traffic, including wireless calling that the Ohio CLECs seek here. That is why the request of the Ohio CLECs was also styled as a motion for clarification, and if the Commission clarifies the scope of the instant case in the same manner as the ICC did, the Ohio CLECs would be satisfied with the result.

WHEREFORE, for the reasons set forth above as well as in the original motion, the Commission should enter an order clarifying that the instant case allows an examination of reciprocal compensation issues for all local traffic. In the alternative, if the instant case does not allow such a review, Movants request that the Commission expand the scope of this proceeding to include an examination of the reciprocal compensation mechanism for all local traffic, including wireless

calling.

Dated: April 12, 2001

Respectfully submitted,

THE ASSOCIATION OF COMMUNICATIONS
ENTERPRISES

By: Andrew Isar
Andrew Isar *by Stephen M. Howard*
Director – State Regulatory
7901 Skansie Avenue, Suite 240
Gig Harbor, WA 98335

ICG TELECOM GROUP, INC.

By: Boyd B. Ferris
Boyd B. Ferris *by Stephen M. Howard*
Carlile, Patchen & Murphy LLP
366 E. Broad Street
Columbus, Ohio 43215
(614) 628-0845

AT&T COMMUNICATIONS OF OHIO, INC.
TCG OHIO

By: Douglas W. Trabaris
David J. Chorzempa *by Stephen M. Howard*
Douglas W. Trabaris
AT&T Corp.
222 West Adams Street, Ste. 1500
Chicago, Illinois 60606
(312) 230-3503/2561

WORLDCOM, INC.

By: Evan Siegel
Evan Siegel *by Stephen M. Howard*
WorldCom, Inc.
205 North Michigan Avenue
Suite 3700
Chicago, IL 60601
(312) 470-4784

Benita A. Kahn
VORYS, SATER, SEYMOUR AND PEASE, LLP
52 East Gay Street, P.O. Box 1008
Columbus, Ohio 43216-1008
(614) 464-6487

Judith B. Sanders
BELL, ROYER & SANDERS CO., LPA
33 S. Grant Avenue
Columbus, Ohio 43215
(614) 228-0704

**Attorneys for AT&T Communications
of Ohio, Inc. and TCG Ohio**

Attorneys for WorldCom, Inc.

KMC TELECOM III, INC.

By: Boyd B. Ferris
Boyd B. Ferris *by Stephen M. Howard*
Carlile, Patchen & Murphy
366 E. Broad Street
Columbus, Ohio 43215
(614) 628-0845

UNITED TELEPHONE COMPANY OF OHIO
d/b/a SPRINT AND SPRINT
COMMUNICATIONS COMPANY L.P.

By: Joseph R. Stewart
Joseph R. Stewart (Ohio Reg. No. 0028763)
Senior Attorney *by Stephen M. Howard*
Sprint
50 W. Broad Street, Suite 3600
Columbus, OH 43215
(614) 220-8625
(614) 224-3902 (FAX)

FOCAL COMMUNICATIONS
CORPORATION OF OHIO

By: Paul Rebey
Paul Rebey *by Stephen M. Howard*
Focal Communications Corporation
200 N. LaSalle, Ste. 1100
Chicago, IL 60601
(312) 895-8491

Boyd B. Ferris
Carlile, Patchen & Murphy
366 E. Broad Street
Columbus, Ohio 43215
(614) 628-0845

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Reply Memorandum** was served by U.S. mail, postage prepaid, and via electronic mail except as designated otherwise, on all parties on the attached service list, this 12th day of April, 2001.

Douglas W. Trabaris
Douglas W. Trabaris *by Stephen M. Howard*

Mark S. Stemm
Craig R. Carlson/Daniel R. Conway
Porter Wright Morris & Arthur
Attorneys at Law
41 South High Street
Columbus, Ohio 43215

Thomas J. O'Brien, Esq.
CoreComm Newco, Inc.
450 West Wilson Bridge Road, Ste. 100
Worthington, Ohio 43085

Boyd B. Ferris
Carlile Patchen & Murphy LLP
366 E. Broad Street
Columbus, Ohio 43215

Lee Lauridsen
Senior Attorney
Sprint Communications Company L.P.
8140 Ward Parkway
Kansas City, MO 64114

Pamela H. Sherwood
Time Warner Telecom of Ohio LP
4625 W. 86th Street, Ste. 500
Indianapolis, IN 46268

Thomas E. Lodge, Esq.
Scott A. Campbell
Thompson Hine & Flory LLP
One Columbus
10 West Broad Street, Suite 700
Columbus, Ohio 43215-3435

Douglas E. Hart
Jack B. Harrison
Frost & Jacobs LLP
2500 PNC Center
201 E. Fifth Street
Cincinnati, Ohio 45202

Sally W. Bloomfield/Julia L. Dorrian
Bricker & Eckler
100 South Third Street
Columbus, Ohio 43215

William H. Keating*
Attorney at Law
5994 Whitecraigs Ct.
Dublin, Ohio 43017

Joseph R. Stewart
Sprint
50 W. Broad Street, Suite 3600
Columbus, Ohio 43215

Roger P. Sugarman*
Kegler, Brown, Hill & Ritter
65 East State Street, Suite 1800
Columbus, Ohio 43215-4294

David A. Turano/William P. Hunt III
Harris, Turano & Mazza
941 Chatham Lane, Suite 201
Columbus, Ohio 43221

Douglas Kinkoph
VP Regulatory and External Affairs
XO Ohio Inc.
Two Easton Oval, Ste. 300
Columbus, Ohio 43219

Stephen M. Howard/William S. Newcomb
Vorys, Sater, Seymour and Pease LLP
52 E. Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008

Michael Mulcahy
Calfee Halter & Griswold
1400 McDonald Investment Center
800 Superior Avenue
Cleveland, Ohio 44114

David J. Chorzempa/Douglas W. Trabaris
AT&T Communications of Ohio, Inc.
222 W. Adams St., Ste. 1500
Chicago, IL 60606

Judith B. Sanders
Bell, Royer & Sanders Co., LPA
33 S. Grant Avenue
Columbus, Ohio 43215

Prince I. Jenkins
Intermedia Communications, Inc.
3625 Queen Palm Drive
Tampa, FL 33619

Rich Rindler
Robin L. Redfield
Swidler, Berlin, Sheriff & Friedman LLP
3000 K Street, NW, Ste. 300
Washington DC 20007-5116

David C. Bergmann
Dirkan D. Winkler
Ohio Consumers' Counsel
10 West Broad Street, Ste. 1800
Columbus, Ohio 43266-0550

John W. Bentine/Todd Rodgers
Chester, Willcox & Saxbe
17 S. High Street, Suite 900
Columbus, Ohio 43215

Christopher J. Wilson
Cincinnati Bell Telephone Company
201 East Fourth Street, 6th Floor
Cincinnati, Ohio 45201

Evan Siegel
Worldcom, Inc.
205 North Michigan Avenue, Ste. 3700
Chicago, IL 60601

Joan Veri
Attorney Examiner
4331 Shire Landing Rd.
Hilliard, Ohio 43026

Andrew Isar*
Director – State Regulatory
7901 Skansie Avenue, Suite 240
Gig Harbor, WA 98335

Paul Rebey*
Focal Communications Corporation
200 N. LaSalle, Ste. 1100
Chicago, IL 60601

*was not served via electronic mail