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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

OPPOSITION OF CINCINNATI BELL TELEPHONE COMPANY  
TO REQUEST FOR CLARIFICATION, OR IN THE ALTERNATIVE  
MOTION TO EXPAND SCOPE OF PROCEEDING

On March 21, 2001, a group of parties to this proceeding<sup>1</sup> filed a Request for Clarification, Or In The Alternative Motion to Expand Scope of Proceeding. Cincinnati Bell Telephone Company ("CBT") does not believe clarification is necessary and it opposes any expansion of the scope of this proceeding at this late date.

The Movants suggest that this proceeding should address intercarrier compensation for all "local traffic,"<sup>2</sup> including wireless and paging traffic. There is no basis for doing so. No wireless or paging carrier has suggested that the current compensation mechanisms are inappropriate. Quite to the contrary, the compensation or lack thereof for ISP traffic has been highly controversial. The underlying reason for this proceeding was to determine how ISP traffic should be treated in interconnection agreements when the parties to such an agreement cannot resolve the matter in their private negotiations. There is no evidence that carriers have been unable to agree on a compensation mechanism for any other form of traffic, such as paging or wireless.

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<sup>1</sup> The motion was filed jointly by 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., TCG Ohio, and WorldCom, Inc. (collectively "Movants").

<sup>2</sup> CBT would note that this proceeding is not about "local traffic" per se, but about ISP traffic. One of the open issues is whether ISP traffic is local traffic. CBT, therefore, objects at the outset to any suggestion that ISP traffic is merely a category of "local traffic" as it is a distinctive form of interstate access traffic.

The Movants base their case for expanding the scope of this proceeding on a comment in the Commission's January 13, 2000 Order that to the effect that this proceeding might also develop a generic position on compensation for "other principally one-way traffic with characteristics similar to ISP-bound traffic." However, Movants take a giant leap by assuming that either paging or wireless traffic fits that description.

Nothing about the ISP traffic controversy reopens paging issues. Other than being predominantly one-way traffic, paging calls bear no resemblance to ISP traffic. Paging calls are extremely short in duration. The points of origin and destination of a paging call are easily determined and the calls are rated as local or non-local based upon these points. The FCC has also determined that paging traffic is of a different character than other local traffic. *Paging carriers are not allowed to automatically charge reciprocal compensation by mirroring the ILEC's rates, but must demonstrate their own costs in order to charge LECs for transport and termination of calls.* Few, if any, paging carriers have carried that burden.

For different reasons, wireless traffic is also irrelevant to this proceeding. Wireless traffic is predominantly voice traffic and is of relatively short duration. The Commission has existing rules to distinguish local wireless traffic from non-local wireless traffic, based upon the location of the wireless customer at the time of origination of a wireless call. There have been no legal or jurisdictional disputes whether wireless traffic is appropriately treated as local traffic for purposes of reciprocal compensation.

Movants assert that LECs collect reciprocal compensation from paging and wireless carriers at out-of-balance rates. To the contrary, paging traffic tends to be one-way in the direction of the paging carrier. LECs do not earn any reciprocal compensation on paging traffic. With respect to wireless traffic, calling patterns are not so out of balance as Movants would

assert. Nevertheless, it is only the wireless carriers who would have standing to complain that the current compensation mechanism was unfair. CBT is not aware of any such complaints by wireless providers.

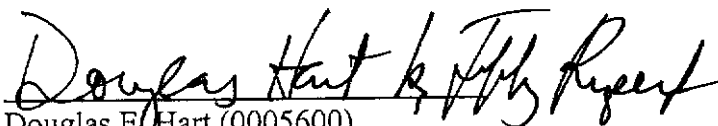
Unlike either paging or wireless traffic, ISP traffic is largely interstate in nature but the point of destination is not easily determined. ISP traffic carries with it complex legal issues that many of these parties have been debating nationally for several years. In their effort to expand the scope of this case, the Movants conclude that ISP traffic is local traffic subject to reciprocal compensation by assuming away many of the very issues that are to be determined in this proceeding. Contrary to the Movants' assertion, the FCC does not require that reciprocal compensation be paid on all traffic for which access charges are "not paid." The FCC actually stated that the reciprocal compensation provisions of section 251(b)(5) do not apply to interstate or intrastate interexchange traffic, regardless of whether access charges are paid on such traffic. First Report and Order, ¶ 1034. As the Commission is well aware, the longstanding switched access charge exemption for ISP traffic is at the heart of the problem. ISP traffic is interstate access traffic, but is exempt from switched access charges.

Movants argue that without expanding the scope of this proceeding, the Commission will not have available to it the option of a bifurcated rate (i.e., charging a flat rate for call setup and separate per minute charges based on call duration). *There is no connection between whether paging and wireless issues are considered in this docket and whether the Commission can or should adopt a bifurcated rate structure for local wireline traffic and/or ISP traffic.*

Perhaps most importantly, all of the parties necessary to resolve ISP traffic issues are already present in this case. The same cannot be said if the Commission expands this case to include paging and wireless issues. No paging or wireless carriers are parties to this case today.

The hearing in this matter is little more than a month away. If Movants' motion to expand the scope of this proceeding were to be granted, it would involve the addition of more parties, who have not been a part of this proceeding. Such parties would likely not be ready for a hearing on the schedule that has been adopted and would further delay the proceeding. The motion should be denied.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Douglas Hart" followed by a flourish that could be interpreted as "by [unclear]".

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was sent by ordinary U.S. mail, postage prepaid, to all of the following parties of record this 5<sup>th</sup> day of April, 2001.

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