

File

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-DOCKETING DIV

98 AUG -4 PM 4:19

PUCO

In the Matter of the Complaint of ICG)
TELECOM GROUP, INC.,)

Complainant,)

v.)

AMERITECH OHIO,)

Respondent.)

Case No. 97-1557-TP-CSS

In the matter of the Complaint of)
MCI metro ACCESS TRANSMISSION)
SERVICES, INC., to compel payment of)
Reciprocal compensation,)

Complainant,)

v.)

AMERITECH OHIO,)

Respondent.)

Case No. 97-1723-TP-CSS

In the Matter of the Complaint of)
TIME WARNER COMMUNICATIONS)
OF OHIO, L.P.,)

Complainant,)

v.)

AMERITECH OHIO,)

Respondent.)

Case No. 98-308-TP-CSS

TIME WARNER COMMUNICATIONS OF OHIO, L.P.'S
NOTICE OF SUPPLEMENTAL AUTHORITY

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician *SW* Date Processed *8-5-98*

Time Warner Communications of Ohio, L.P., dba Time Warner Telecom ("Time Warner Telecom") respectfully submits the following Supplemental Authority in each of the referenced complaint proceedings, for the Commission's review of recent developments on the issue of reciprocal compensation. Attached to this notice is a copy of the following:

The National Association of Regulatory Utility Commissioners (NARUC) Resolution on Reciprocal Compensation for Calls to ISPs, passed on July 29, 1998, during the 1998 Summer Meetings convened in Seattle, Washington.

The Executive Committee resolved that reciprocal compensation arrangements, including those for calls to ISPs, are subject to state authority without the need for the FCC to intervene or otherwise act on this matter.

Respectfully submitted,

TIME WARNER COMMUNICATIONS OF
OHIO, L.P.

Leigh A. Reardon

Roger P. Sugarman (0012007)

Leigh A. Reardon (0019879)

KEGLER, BROWN, HILL & RITTER

A Legal Professional Association

65 East State Street, Suite 1800

Columbus, Ohio 43215

(614) 462-5400

Marsha Rockey Schermer

Marsha Rockey Schermer (0005883)

Vice President, Regulatory

Midwest Region

Time Warner Communications

65 East State Street, Suite 1800

Columbus, OH 43215

614-358-4002

CERTIFICATE OF SERVICE

I hereby certify that a copy of TIME WARNER COMMUNICATIONS OF OHIO, L.P.'s NOTICE OF SUPPLEMENTAL AUTHORITY was served upon the following parties, or their counsel of record to these actions, via ordinary U.S. mail, postage prepaid, this 4th day of August, 1998:

Michael T. Mulcahy, Esq.
Ameritech Ohio
45 Erieview Plaza, Room 1400
Cleveland, OH 44114

Judith B. Sanders, Esq.
Bell, Royer & Sanders
33 South Grant Avenue
Columbus, OH 43215-3927

Daniel R. Conway, Esq.
Mark S. Stemm, Esq.
Porter, Wright, Morris & Arthur
42 South High Street
Columbus, OH 43215

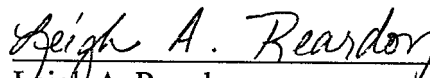
Bruce J. Weston, Esq.
Law Office
169 West Hubbard Avenue
Columbus OH 43215-1439

Boyd B. Ferris, Esq.
Muldoon & Ferris
2733 W. Dublin-Granville Rd.
Columbus, OH 43235-2798

Douglas W. Trabaris
Teleport Communications Group
233 South Wacker Drive, #2100
Chicago, IL 60606

Matthew H. Berns, Esq.
MCI Telecommunications Corporation
205 N. Michigan Avenue
Chicago, IL 60601

Sally Bloomfield, Esq.
Bricker & Eckler
100 South Third Street
Columbus, OH 43215-4291



Leigh A. Reardon

Reciprocal Compensation for Calls to ISPs

WHEREAS, The Federal Communications Commission ("FCC") has been urged to find that calls to Internet service providers ("ISPs") involving the exchange of traffic between carriers within the same local calling area are within the FCC's exclusive jurisdiction and outside of state responsibility under Section 252 of the Telecommunications Act of 1996; and

WHEREAS, The court decisions to date support that the states have regulatory oversight for these reciprocal compensation arrangements, including calls to ISPs, which must not be disregarded by the FCC in the course of resolving interconnection proceedings; and

WHEREAS, The National Association of Regulatory Commissioners ("NARUC") has previously adopted a resolution at its 1997 Fall Meeting that "at least as long as the FCC's current rule regarding ISP traffic remains in effect, such traffic should continue to be treated as subject to state jurisdiction in interconnection agreements or tariffs" and "be governed by the same legal authority of the applicable state commission that applies to all such interconnection agreements or tariffs;" and

WHEREAS, At least 19 state reciprocal compensation decisions demonstrate that the states are adequately and appropriately carrying out their responsibilities in overseeing the provision of local telecommunications service in situations that involve new demands on local networks by ISPs; and

WHEREAS, Carriers that have concerns about either the rates to be charged for any intrastate telecommunications service or compliance with any state regulations, should seek relief at the state commissions, rather than requesting the FCC to upset the regulatory balance achieved in the Act by asserting federal jurisdiction or otherwise intervening; and

WHEREAS, The broader issue of the jurisdictional treatment of Internet access over the public switched network (PSN) has arisen not only in reciprocal compensation disputes, but also in:

- ◆ SBC and GTE filings at the FCC to offer their xDSL services exclusively under interstate tariffs,
- ◆ Filings under S. 706 of the Act by Bell Atlantic Corp., Ameritech Corp. and US WEST Communications, Inc. for treatment of advanced services as unregulated or exempt from various sections of the Act,

- ◆ The NECA petition for freezing or averaging separations factors to avoid large year to year shifts due to Internet access traffic,
- ◆ The FCC's ongoing investigation of Internet usage over the PSN; now, therefore, be it

RESOLVED, That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC), convened at its 1998 Summer Meetings in Seattle, Washington, holds that reciprocal compensation arrangements, including those for calls to ISPs, are subject to state authority without the need for the FCC to intervene or otherwise act on this matter; and be it further

RESOLVED, That if the FCC intervenes regarding the broader jurisdictional issues of Internet access over the PSN, it should work cooperatively and expeditiously with the states, to consider under what circumstances and through what mechanisms this traffic may be treated as interstate, intrastate, or jurisdictionally mixed; and be it further

RESOLVED, That the NARUC General Counsel be directed to file and take any appropriate actions to further the intent of this resolution.

Sponsored by the Committee on Communications