

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of ICG)
Telecom Group, Inc.,)
)
Complainant,)
)
v.) Case No. 97-1557-TP-CSS
)
Ameritech Ohio,)
)
Respondent.)

ENTRY

The attorney examiner, pursuant to the authority granted in Rule 4901-1-14, Ohio Administrative Code (O.A.C.), finds:

- (1) On November 26, 1997, ICG Telecom Group, Inc. (ICG) filed a complaint with the Commission against Ameritech Ohio (Ameritech). The complaint alleges that Ameritech has wrongly refused since July 1997 to pay certain bills that ICG has submitted pursuant to the parties' interconnection agreement.
- (2) On December 15, 1997, the attorney examiner scheduled a settlement conference on January 5, 1998 for this matter. The attorney examiner further determined that the Commission will endeavor to process this matter within the 180-day time frame set forth in Local Service Guideline XVIII.C.1.
- (3) On January 5, 1998, the prehearing conference was held as scheduled. A settlement was not reached, but the parties agreed to try to develop stipulations of fact.
- (4) A second conference was held on January 29, 1997, to determine if the parties were able to agree upon the facts involved with this case. The parties had not agreed upon all of the facts involved with this case at that time.
- (5) In accordance with the expedited treatment afforded this case and with the previous discussions with the parties, the examiner confirms that the evidentiary hearing will begin at 9:00 a.m., on February 17, 1998, at the offices of the Commission.

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technician *[Signature]* Date processed

- (6) In Commission proceedings, the complainant has the burden of proving the allegations of the complaint. Thus, at the hearing it shall be the complainant's responsibility to appear and be prepared to present evidence in support of the complaint. The complainant is reminded that, in accordance with Rule 4901-1-8, O.A.C., corporations must be represented by an attorney-at-law.
- (7) Any party intending to present direct, expert testimony should file and serve such upon all parties no later than February 10, 1998.
- (8) The examiner would also like the record to reflect that she has instructed the parties that, if they choose to undertake any additional discovery in preparation for the hearing, such discovery requests should be served on or before February 4, 1998. Responses to those discovery requests must be completed (and, if those responses are in the written format, served) by February 9, 1998.
- (9) Finally, the examiner would like the record to reflect that she has addressed, during the January 29, 1998 conference, the motion for clarification of Time Warner Communications of Ohio, L.P. (Time Warner), filed on January 29, 1998. In that motion, Time Warner requested clarification of the Commission's January 22, 1998 entry, in which the Commission denied Time Warner's motion to intervene in this proceeding, but granted Time Warner (and others) *amicus curiae* status. Time Warner was unclear as to: (a) the permissible level of its participation in this proceeding (e.g., in discovery, at the hearing); (b) the collateral estoppel effect of this proceeding upon it; and (c) the admissibility or inadmissibility of evidence relating to Time Warner.

The record should reflect that the examiner explained that Time Warner was not a party to this proceeding and, thus, cannot participate further in discovery or at the hearing. The Commission's January 22, 1998 ruling granted *amicus* status to Time Warner so that it could address the legal issue, namely, whether the traffic in question constitutes local traffic or exchange access traffic for compensation purposes. The examiner also explained that this proceeding involves ICG and Ameritech and the admissibility or inadmissibility of evidence will be addressed at the hearing. Finally, the

examiner noted that the schedule for briefs (including the *amicus* briefs) would be established at a later time. The examiner encourages all entities that have been granted *amicus* status to consider the submission of a joint brief, to the extent that is possible. With these explanations, Time Warner stated that it better understood the nature of the *amicus* status that had been granted to it.

It is, therefore,

ORDERED, That a public hearing be conducted in this matter on Tuesday, February 17, 1998, beginning at 9:00 a.m., at the offices of the Commission, as set forth in Finding (5). It is, further,

ORDERED, That the parties comply with the discovery schedule set forth in Finding (8). It is, further,

ORDERED, That any party intending to present direct, expert testimony file such on or before February 10, 1998. It is, further,

ORDERED, That a copy of this Entry be served upon each party of record, the entities that were granted *amicus curiae* status, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Entered in the Journal
FEB 03 1998

A True Copy
Gary E. Vigorito
Gary E. Vigorito
Secretary

Gretchen L. Petrucci
By: Gretchen L. Petrucci
Attorney Examiner

RRC/pdc

SERVICE NOTICE

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CASE NUMBER 97-1557-TP-CSS
CASE DESCRIPTION ICG TELECOM/AMERITECH OHIO
DOCUMENT SIGNED ON February ³~~A~~, 1998
DATE OF SERVICE 2-4-98

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