

**FILE**

PIC 04-795-TP-CSS

**FORMAL COMPLAINT FORM**

RECEIVED-DOCKETING DIV  
2004 MAY 25 AM 8:40  
PUCO

Richard J. Herrick  
(YOUR NAME)

AGAINST

SBC (THE COMPANY)

**MY COMPLAINT IS:**

See attached. This complaint deals with what I believe to be improper and restrictive interpretation of Tariff 20 as it relates to SBC's offering for flat-rate local usage on ISDN Primes.

**NOTE: ADDITIONAL INFORMATION MAY BE ATTACHED**

*RJ Herrick*  
SIGNATURE

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HERRICK & ASSOCIATES  
CONSULTANTS

May 10, 2004

Public Utilities Commission of Ohio  
Formal Complaint Attachment

Subject Area: Telecommunications; SBC Incorporated

Issue: Terms and Conditions associated with the ordering of the Flat-Rate Local Usage Option for SBC customers with existing ISDN Prime service.

Relevant Tariff 20 Text: Pricing, Part 17, Page 10.1; IOC UTW

Term Payment Plans, Part 17, Section 2, Sheet 13.2  
"Conversions to and from Unlimited Local Usage Option"  
Paragraph 2.

Terms and Conditions, Part 17, Section 2 Sheet 3 Rev 3  
Paragraph 3.

Related language for AILCVP, Part 4, Section 2, sheet 19.2  
"Ameritech ISDN Local Calling Value Plan", Terms and  
Conditions", paragraph 2.

#### Background

I am an independent telecommunications consultant in the Cleveland area. I work with large business customers to assist them in optimizing quality and minimizing the cost for local service connections with SBC. Last summer I began a consulting process with ISG Cleveland who has two SBC Primes. We looked at his calling patterns and concluded that he could generate some modest savings by ordering the flat-rate option for his ISDN Primes as described in the tariff. I proceeded to work with SBC sales representatives to effect that change.

The customer had been under the Completelink discount program, and the contract was in force at the time of the flat-rate discussions. I was advised by SBC sales people that if the customer were to order the flat-rate option for his Primes, the monthly cost of the Prime circuits would cease to contribute to the MARC requirements under Completelink. As a result of this decision, the customer's contributory amounts toward the MARC in the aggregate would fall below his MARC obligations. This would result in an annual payment penalty to him to cover the difference between his authorized contributions to the MARC and the contracted MARC obligation. These calculations meant that the client could not economically migrate to the flat-rate option.

#### The Debate

I contested this interpretation with the SBC sales people referencing the relevant Tariff 20 citations above. No where in these paragraphs does it state that the monthly cost of the Prime circuits would cease to contribute to MARC. I tried to work through diplomatic channels at SBC hoping to get

either a reversal in this position or at least a definitive statement by SBC as to which Tariff 20 paragraphs support their position. I was unsuccessful, and when I pressed for their chapter-and-verse defense, they cited Part 17, Section 2, Sheet 3, Rev 3, paragraph 3, 4/24/2003. This is the text of that paragraph ...

“Customers may choose the Unlimited Local Usage **option** in lieu of paying Local Measured Rate Usage Charges. This **option** allows customers to pay a flat rated monthly charge for usage, rather than Local Measured Rate Usage Charges as described in Part 4 of this Tariff. This usage payment **option** applies only to Local Service Areas as defined in Part 4 Section 1 of this Tariff. **It** does not apply to Local Calling Plus exchanges. In addition, **it** may not be combined with Ameritech ISDN Local Calling Value Plan, CompeteLink, EasyLink, ValueLink, or any other optional calling plans and/or packages.”

I have highlighted the words “option” and “it” in this paragraph because this paragraph refers entirely to the flat-rate “option” only. It does not refer to the Primes upon which the option is exercised. It is quite logical that the cost of the flat-rate option would NOT contribute to MARC as the customer will be paying no local usage charges as a result of taking the option. Thus “ ‘It’ may not be combined with ... CompleteLink ... or any other optional calling plans and/or packages.” The “IT” in this paragraph and sentence refers to the flat-rate option and not the Prime.

I offered this position statement to SBC people in Chicago who are responsible for this tariff language, but they would not budge. I had no alternative but to take my case to the PUCO. For about 4 months I have been working with Doug Wile of the PUCO in an effort to get the matter resolved but not merely for ISG Cleveland. I wanted to generalize the decision for all potential clients because it is a Tariff 20 interpretation issue applying to all Ohio business customers.

Mr Wile was very helpful in an effort to mediate the disagreement, but no resolution has come. Indeed, SBC came up with a *new* interpretation of this *same section* in the tariff which goes beyond their original position. They are now saying that this paragraph actually means that if a customer merely HAS CompleteLink in *any form* and *at any MARC*, he his ineligible to order the flat-rate option for his Primes. I do not have this latest position in writing from SBC, but I am sure Mr. Wile can confirm that this is what was stated to him.

### The Complaint

1. SBC is interpreting it's own tariff language in way which cannot be defended from the text of the relevant paragraphs for the flat-rate option.
2. As a result of this interpretation, my client is being denied an opportunity to reduce his costs. Indeed, the potential for reducing local calling costs is the implied purpose for offering the option.
3. As a result of this interpretation, any of my future clients would similarly be denied the opportunity to exercise the flat-rate option on ISDN Primes simply because the customer has CompleteLink “or any other optional calling plans and/or packages.” Indeed, CompleteLink and similar products have been heavily marketed by SBC and its Authorized Distributors in an effort to cement long-term relationships with those customers. If SBC's position is that the mere presence of these discount plans prevents access to the flat-rate option, very few customers would ever be able to take advantage of the option. So why was it put in the tariff in the first

place? The reason was to provide a competitive response to aggressive CLEC's offering Primes with included local usage. By this SBC interpretation, it's hardly a competitive response.

4. I have cited the paragraphs for AILCVP for a reason. This optional rate structure for ISDN Primes and ISDN Direct results in greatly reduced local usage costs. If a customer elects the AILCVP, the resulting usage does NOT contribute to MARC under CompleteLink, however the Prime or BRI still does. The paragraph reads as follows ...

"AILCVP cannot be **combined** with any other local usage calling plan. The customer's selection of an AILCVP OUP is in lieu of all other company **discounts**, including those automatically provided by the Company for this usage."

Please note the use of the words "combined" and "discounts." In this paragraph, we see that AILCVP cannot be combined with "discounts" like CompleteLink. This word "combined" is also used in context for the Prime flat-rate option. However, SBC allows the Prime to contribute to MARC with AILCVP, but it will NOT allow Primes to contribute to MARC when the flat-rate option is taken. This is contradictory interpretation and another basis for arguing that the SBC position cannot be supported by Tariff 20.

#### Conclusion and Request for Relief

SBC is interpreting Tariff 20 language regarding the flat-rate option for Primes in a way which simply cannot be supported by the language in the relevant paragraphs.

SBC's interpretation also conflicts with similar language related to AILCVP and "other company discounts."

SBC's interpretation of the relevant language has had two versions ...(1) Primes don't contribute to the MARC and (2) flat-rate isn't offered if Completelink is present. The latter position is more restrictive, and neither is supported by Tariff 20 language.

I request that the PUCO work with SBC and me to resolve this matter not merely for ISG Cleveland but as a matter of tariff interpretation to applied universally. Unless SBC can show specific language in Tariff 20 which supports either of these two restrictive provisions, I ask the PUCO to compel SBC to follow the language as it exists: A customer who desires to take the flat-rate option for Primes will lose the cost of the flat-rate *option* as a contributor to MARC under CompleteLink or any other SBC discount plan. The cost of the Prime shall remain as MARC contributory.

Yours truly,



Richard J. Herrick, P. E.

1. AMERITECH ISDN PRIME SERVICE (cont'd)

(N)

**F. PRICES (cont'd)**

3. Payment Plans (cont'd)

• Term Payment Plans (cont'd)

Moves (cont'd)

3. At the option of the Company, and where technology and regulations permit, customers may elect to change the physical location of their ISDN Prime service to a different serving central office area, yet retain the ISDN Prime service out of the existing location by converting to Foreign Exchange (FX) service. Termination charges are not applicable when the customer retains the current TPP term or converts to a new TPP term having an expiration date which is beyond that of the current. Non-recurring charges for the redesign of the ISDN Prime service will apply. The customer will experience some down time on the ISDN Prime service during the physical move of the transport element.

Conversions to and from Unlimited Local Usage option

1. Customers may convert existing ISDN Prime service from Measured Rate usage to the Unlimited Local Usage option; however the current ISDN Prime TPP contract will be terminated. Termination charges are not applicable when the customer converts to a new TPP term having an expiration date which is beyond that of the current. Otherwise, termination charges will apply.
2. Customers may convert existing ISDN Prime service from the Unlimited Local Usage option to Measured Rate usage. Customers doing so may elect to retain their current TPP, or sign a new TPP contract. Customers retaining their current TPP will pay Termination charges on the Unlimited Local Usage rate element only. Termination charges are not applicable when the customer converts to a new TPP term having an expiration date which is beyond that of the current. Otherwise, termination charges will apply.

(N)

Issued: April 24, 2003

Effective: April 24, 2003

In accordance with an Order issued by the Public Utilities Commission of Ohio, dated January 6, 2003, Case No. 02-3069-TP-ALT.

By Connie Browning, President, Cleveland, Ohio

PART 17 - ISDN Services  
SECTION 2 - ISDN Prime Services

3rd Revised Sheet No. 3  
Cancels  
2nd Revised Sheet No. 3

1. AMERITECH ISDN PRIME SERVICE (cont'd)

**C. TERMS AND CONDITIONS**

1. Ameritech ISDN Prime is offered only from central offices where the Telephone Company has arranged facilities for such service. Ameritech ISDN Prime may be extended to central offices within the same Local Access Transport Area (LATA) through the application of Ameritech DS1, DS3, OC-3, OC-12 Service or other suitable services. This arrangement is not available in Independent Telephone Company serving areas.
2. The availability, functionality and capabilities of Ameritech ISDN Prime service features may vary based on the serving central office. (C)
3. Customers may choose the Unlimited Local Usage option in lieu of paying Local Measured Rate Usage Charges. This option allows customers to pay a flat rated monthly charge for usage, rather than Local Measured Rate Usage Charges as described in Part 4 of this Tariff. This usage payment option applies only to Local Service Areas as defined in Part 4 Section 1 of this Tariff. It does not apply to Local Calling Plus exchanges. In addition, it may not be combined with Ameritech ISDN Local Calling Value Plan, CompleteLink, EasyLink, ValueLink, or any other optional calling plans and/or packages. (N)
4. The entire ISDN PRI service for the same customer of record furnished at the same premises must be uniformly on the same usage rate basis. Combinations of usage rate methods are not allowed. (N)

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By Connie Browning, President, Cleveland, Ohio

**SBC**  
**Tariff**

Not Approved

PART 17 - ISDN Services  
SECTION 2 - ISDN Prime Services

6th Revised Sheet No. 10.1  
Cancels  
5th Revised Sheet No. 10.1

1. AMERITECH ISDN PRIME SERVICE (cont'd)

**F. PRICES (cont'd)**

1. Service Elements (cont'd)

Description /Billing Code/	Non- recurring Charge	Monthly	Monthly Payment			
			Term Payment Plans			
			12 Months	36 Months	60 Months	
ISDN Calling Name ID - per trunk group /NM1PG/	\$200.00	\$75.00	\$75.00	\$75.00	\$75.00	
2 B Channel Transfer, - per trunk group /2BTPG/	150.00	60.00	60.00	60.00	60.00	
Redirected Number - per ISDN Prime /RN4PQ/	150.00					
Selective Class of Call Screening, - per trunk group /HMBPG/	150.00	30.00	30.00	30.00	30.00	
Network Ring Again - per trunk group /ZRA/	400.00	75.00	75.00	65.00	55.00	
Network Name Display - per trunk group /ZNN/	400.00	75.00	75.00	65.00	55.00	
Unlimited Local Usage <sup>/1/</sup> - per ISDN Prime /UTW/	0.00	1,000.00	925.00	750.00	650.00	(N) (N)

/1/ See Sheet 3 of this Tariff, Terms and Conditions, for applicable usage areas.

(N)  
(N)

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In accordance with an Order issued by the Public Utilities Commission of Ohio, dated January 6, 2003, Case No. 02-3069-TP-ALT.

By Connie Browning, President, Cleveland, Ohio

PART 4 - Exchange Access Services  
SECTION 2 - Exchange Lines and Usage

Original Sheet No. 19.2

1. MONTHLY EXCHANGE SERVICES (cont'd)

1.1 AMERITECH ISDN LOCAL CALLING VALUE PLAN (AILCVP) (cont'd)

(T)

**B. DEFINITIONS (cont'd)**

Optional Usage Packages (OUP)

Minute of Use quantity levels with corresponding price options, which represent the subscriber's commitment under the plan.

Program Subscriber (Subscriber)

A person or entity who has elected to purchase a specified quantity of local ISDN "B" Channel usage for a specific length of time, through the signing of an AILCVP contract.

**C. TERMS AND CONDITIONS**

1. AILCVP is available to all Ameritech ISDN Direct Service, Ameritech Centrex Service with ISDN and Ameritech ISDN Prime Service "B" Channel customers on a month-to-month or contract basis. Prices are applicable per Account Group, and are distance and time-of-day insensitive.
2. AILCVP cannot be combined with any other local usage calling plan. The customer's selection of an AILCVP OUP is in lieu of all other Company discounts, including those automatically provided by the Company for this usage.
3. ISDN "B" Channels to be included in each AILCVP Account Group must be identified for each OUP option selection, at the time of commitment. "B" Channels added to or removed from established Account Groups will not alter the existing AILCVP contract terms.

(T)

Material formerly appeared in Part 17, Section 1, Sheet Nos. 26-29.

Issued: January 9, 1997

Effective: January 9, 1997

In accordance with Case No. 96-1311-TP-ATA, issued December 9, 1996.

By J. F. Woods, President, Cleveland, Ohio