

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
AUSTIN, TEXAS

ARBITRATION OF NON-COSTING )  
ISSUES FOR SUCCESSOR ) PUC DOCKET NO.  
INTERCONNECTION AGREEMENTS TO ) 28821  
THE TEXAS 271 AGREEMENT )

PREHEARING CONFERENCE/HEARING ON THE MERITS/OPEN MEETING  
WEDNESDAY, SEPTEMBER 22, 2004

BE IT REMEMBERED THAT at 8:43 a.m., on Wednesday, the 22nd day of September 2004, the above-entitled matter came on for hearing at the Offices of the Public Utility Commission of Texas, 1701 North Congress Avenue, William B. Travis Building, Commissioners' Hearing Room, Austin, Texas 78701, before TAMMY COOPER, ADMINISTRATIVE LAW JUDGE, and ANDREW KANG, ARBITRATOR; PAUL HUDSON, CHAIRMAN, AND JULIE PARSLEY AND BARRY SMITHERMAN, COMMISSIONERS, and the following proceedings were reported by Evelyn Coder and Kim Pence, Certified Shorthand Reporters of:

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1 turn out to be many, many, hundreds of thousands of minutes  
2 of use whereby it then becomes a significant financial  
3 difference between what would be considered bill and keep  
4 versus not bill and keep. So that threshold is a second  
5 tier for larger carriers that whereby a plus or minus 5  
6 percent may not be considered -- that might be considered  
7 more out of balance than for smaller carriers.

8 Q (Robertson) I have a question for Mr. Ricca. In  
9 your direct testimony -- I'm going to kind of paraphrase it  
10 here. Hopefully it's on target. You say the gross cap on  
11 ISP minutes is not in place from -- with SBC was not in  
12 place from January 1, 2004 to May 31, 2004 and that you  
13 compensated all the traffic at a below ISP remand order  
14 rate?

15 A (Ricca) That's correct.

16 Q (Robertson) Is that correct? Okay.

17 A (Ricca) That's correct.

18 Q (Robertson) And you say these minutes should not  
19 be counted towards the ISP remand order cap?

20 A (Ricca) That's correct.

21 Q (Robertson) Is that correct? Is that because  
22 they've already been compensated, or is it because MCI would  
23 be unable to calculate those minutes?

24 A (Ricca) There was no ISP/nonISP regime in place  
25 for those four months, five months. During that five-month

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1 MR. ROBERTSON: Okay. Thank you.

2 MS. THOMAS: This is Meena Thomas from staff.

3 Q (Thomas) My first few questions have to do with  
4 transit service, and especially with traffic that does not  
5 have CPN on it, and this is a question for SBC. I think  
6 Mr. McPhee is the right witness, would it be? Whoever is  
7 the qualified witness can answer it.

8 Would SBC be able to identify who the  
9 originating carrier is on transit traffic that does not have  
10 CPN attached to it based on your arrangement with the  
11 originating carrier for transit functions?

12 A (Neinast) My name is Mark Neinast. I'll go ahead  
13 and try to answer that for you. We do provide records to  
14 CLECs, either Category 11 or Category 92. We do have the  
15 originating carrier based on the trunk group. We don't have  
16 the CPN. Therefore, you can't jurisdictionize the traffic,  
17 but you can identify the carrier. So there could be lost  
18 access revenue, which many times there is, but you can  
19 identify the carrier. The problem is getting that money  
20 back from the carrier.

21 Q (Thomas) Okay. And is that also true if you can  
22 identify the originating carrier based on the trunk group  
23 that you receive the traffic on as a transit carrier in?

24 A (Neinast) I'm sorry. Say again, please.

25 Q (Thomas) Can you identify the originating carrier

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1 period, everything was just considered a minute, which  
2 ultimately, I would hope, that's the way everything goes.  
3 But for local minutes, there was no such thing as an ISP  
4 minute and a local minute or VFX minute. All minutes were  
5 compensated according -- despite the language of the FCC's  
6 ISP remand order and despite the language of the FX order of  
7 this Commission.

8 Both parties specifically acknowledged those  
9 orders in the 13-state agreement. Both parties agreed to  
10 compensate all of those minutes. So there was no  
11 classification, and to go back and somehow now try to  
12 reclassify it seems to me to be holding one party or the  
13 other hostage. I don't know how else to say it.

14 Q (Robertson) Would it be possible for MCI to  
15 calculate those minutes?

16 A (Ricca) I don't think it would, for one reason.

17 The billing -- to determine the one in the three-to-one  
18 ratio requires that we take a look at originations that were  
19 UNE-P originations, and our billing system does that for a  
20 monthly billing cycle and does not retain that in the  
21 archives. It just does that as part of the calculation, and  
22 then it continues on. So my understanding would be, no,  
23 going backwards it would not be possible to get the UNE-P  
24 originations into our own to calculate the three-to-one  
25 ratio.

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1 for traffic without CPN based upon the originating trunk  
2 group that the traffic arrives on?

3 A (Neinast) Yes, you can.

4 Q (Thomas) You can.

5 This is a question for AT&T. If you -- if  
6 all they can -- if they can actually tell you who the  
7 originating OCN is, the originating carrier, but cannot tell  
8 you what the CPN is and tell you what the appropriate --  
9 what kind of traffic it is, how -- what is the justification  
10 on billing the transit carrier for that traffic?

11 A (Schell) We would not bill the transit carrier.

12 Q (Thomas) You would not bill the transit carrier?

13 A (Schell) No.

14 Q (Thomas) So all you need is information on  
15 the originating carrier -- who the originating carrier is?

16 A (Schell) Yes.

17 A (Neinast) The problem actually gets further  
18 exacerbated because sometimes the calls get passed through  
19 multiple carriers where we only have the carrier before us.  
20 So if the call went through multiple carriers, it may also  
21 be impossible to determine the true original carrier, which  
22 does sometimes happen, especially in out state areas where  
23 you have multiple ILEC tandems that are strung together  
24 over -- to complete those calls. So there is a possibility  
25 of multitandem calls to actually lose the total origination