

**REPLY DECLARATION OF
DANIEL P. RHINEHART
ON
BEHALF OF AT&T CORP.**

ATTACHMENT 7

1 TRANSCRIPT OF PROCEEDINGS
2 BEFORE THE
3 PUBLIC UTILITY COMMISSION OF TEXAS
4 AUSTIN, TEXAS
5
6
7 PETITION OF MFS COMMUNICATIONS)
COMPANY, INC., FOR ARBITRATION) DOCKET NO.
8 OF PRICING OF UNBUNDLED LOOPS) 16189
9 PETITION OF TELEPORT)
COMMUNICATIONS GROUP, INC. FOR) DOCKET NO.
10 ARBITRATION TO ESTABLISH AN) 16196
INTERCONNECTION AGREEMENT)
11
PETITION OF AT&T COMMUNICATIONS)
12 OF THE SOUTHWEST, INC. FOR)
COMPULSORY ARBITRATION TO) DOCKET NO.
13 ESTABLISH AN INTERCONNECTION) 16226
AGREEMENT BETWEEN AT&T AND)
14 SOUTHWESTERN BELL TELEPHONE)
COMPANY)
15
PETITION OF MCI)
16 TELECOMMUNICATION CORPORATION)
AND ITS AFFILIATE MCIMETRO) DOCKET NO.
17 ACCESS TRANSMISSION SERVICES,) 16285
INC. FOR ARBITRATION AND)
18 REQUEST FOR MEDIATION UNDER THE)
FEDERAL TELECOMMUNICATIONS ACT)
19 OF 1996)

20

(Tuesday, October 7, 1997)

21 VOLUME 2 PAGES 374 - 888

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1 TRANSCRIPT OF PROCEEDINGS
2 BEFORE THE
3 PUBLIC UTILITY COMMISSION OF TEXAS
4 AUSTIN, TEXAS
5
6 PETITION OF AMERICAN)
7 COMMUNICATIONS SERVICES, INC.)
8 AND ITS LOCAL EXCHANGE) DOCKET NO.
9 OPERATING SUBSIDIARIES FOR) 16290
10 ARBITRATION WITH SOUTHWESTERN)
11 BELL TELEPHONE COMPANY PURSUANT)
12 TO THE TELECOMMUNICATIONS ACT)
13 OF 1996)
14 PETITION OF SPRINT)
15 COMMUNICATIONS COMPANY OF L.P.)
16 FOR ARBITRATION OF) DOCKET NO.
17 INTERCONNECTION RATES, TERMS,) 16445
18 CONDITIONS AND PRICES FROM)
19 SOUTHWESTERN BELL TELEPHONE)
20 COMPANY)
21 PETITION OF MAN ACCESS NETWORK,)
22 INC. ARBITRATION WITH) DOCKET NO.
23 SOUTHWESTERN BELL TELEPHONE) 17065
24 COMPANY)
25 APPLICATION OF AT&T)
26 COMMUNICATIONS OF THE SOUTHWEST)
27 INC. FOR COMPULSORY ARBITRATION) DOCKET NO.
28 OF FURTHER ISSUES TO ESTABLISH) 17579
29 AN INTERCONNECTION AGREEMENT)
30 BETWEEN AT&T AND SOUTHWESTERN)
31 BELL TELEPHONE COMPANY)
32
33 (Tuesday, October 7, 1997)
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1 TRANSCRIPT OF PROCEEDINGS
2 BEFORE THE
3 PUBLIC UTILITY COMMISSION OF TEXAS
4 AUSTIN, TEXAS

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6 REQUEST OF MCI)
7 TELECOMMUNICATIONS CORPORATION)
8 AND ITS AFFILIATE, MCIMETRO) DOCKET NO.
9 ACCESS TRANSMISSION SERVICES,) 17587
10 INC. FOR CONTINUING ARBITRATION)
11 OF CERTAIN UNRESOLVED)
12 PROVISIONS OF THE)
13 INTERCONNECTION AGREEMENT)
14 BETWEEN MCIM AND SOUTHWESTERN)
15 BELL TELEPHONE COMPANY)

16
17 ARBITRATION HEARING ON THE MERITS
18 (Tuesday, October 7, 1997)

19 BE IT REMEMBERED THAT at
20 approximately 9:15 a.m., on Tuesday, the
21 7th day of October 1997, the above-entitled
22 Arbitration came on for hearing at the
23 Public Utility Commission of Texas, 1701
24 North Congress Ave., William B. Travis
25 Building, 7th Floor, 78701, before CHAIRMAN
26 PATRICK HENRY WOOD III and COMMISSIONER
27 JUDY WALSH, with KATHLEEN HAMILTON,
28 Administrative Law Judge, presiding; and
29 the following proceedings were reported by
30 William C. Beardmore, Lou Ray, Randall N.
31 Finch and Aloma J. Kennedy, Certified
32 Shorthand Reporters of:

33 VOLUME 2 PAGES 374 - 888

1 NON-RECURRING COSTS/CHARGES _____

2 (Continued)

3

4 CROSS-EXAMINATION _____

5 BY MR. DAWSON: _____

6 Q Mr. Moore?

7 A (Moore) Yes, sir.

8 Q Would you agree with me that

9 nonrecurring charges should be developed

10 according to TELRIC principles?

11 A (Moore) Yes, I would.

12 Q Now, in the nonrecurring charges

13 for which you are responsible, you have not

14 attempted to determine the nonrecurring

15 costs associated with combinations of

16 network elements, have you, sir?

17 A (Moore) The nonrecurring charges

18 I have developed are for the individual

19 elements.

20 Q Okay. So they're not, for

21 example, for the combination of a loop and

22 a port, are they, sir?

23 A (Moore) No, they are not.

24 Q Now, in the loop you have a

25 nonrecurring charge for the loop alone. Is

1 that correct?

2 A (Moore) That is correct.

3 Q And we've been over this in your
4 deposition, but you have assumed for every
5 unbundled loop that the loop would be
6 processed through the Southwestern Bell
7 organization known as CPC. Is that
8 correct, sir?

9 A (Moore) That is Circuit
10 Provisioning Center, and that is correct.

11 Q All right, sir. And that's for
12 certain administrative work that you
13 contend is necessary for providing an
14 unbundled loop. Is that correct, sir?

15 A (Moore) Well, it's administrative
16 work, and it's preparing a work document
17 that then is distributed to the necessary
18 field forces in order for them to know
19 which cable pair and so forth is associated
20 with that unbundled element.

21 Q Okay. Are you aware, Mr. Moore,
22 that we deposed Rick Townsend, who is the
23 head of your CPC organization?

24 A (Moore) I am aware you deposed
25 Rick Townsend. I'm not sure he's the head

1 of the CPC organization --

2 Q Certainly you would agree with me
3 he works in the CPC organization, does he
4 not?

5 A I would certainly agree with
6 that.

7 Q And were you aware that he was
8 designated by Southwestern Bell as the
9 person was most knowledgeable about the CPC
10 organization in response to a request from
11 the Petitioners? Were you aware of that?

12 A (Moore) Yes, I was.

13 Q Have you incorporated any of
14 Mr. Townsend's testimony into your cost
15 study, sir?

16 A (Moore) Well, Mr. Townsend
17 provided his information into our cost
18 study, so...

19 Q All right. Let me hand you a
20 copy of Mr. Townsend's deposition if I
21 could, sir, and ask you to turn to Page 78.

22 A (Moore) Page 78.

23 Q Do you see where Mr. Townsend
24 says, and I quote: "The times that we are
25 involved in is when we are --" Excuse me,

1 let me restate that.

2 "The time that we are not
3 involved is when we are providing
4 a loop and switch termination to
5 a customer. They use the words
6 POTS. If it's a POTS service we,
7 referring to CPC, are not
8 involved."

9 Do you see that, sir?

10 A (Moore) That is correct. If it's
11 a 1-FB or 1-FR, they are not involved.

12 Q Okay. So none of your 1-FB or
13 1-FR service is processed through CPC. Is
14 that correct, sir?

15 A (Moore) No, because that bundled
16 service is provisioned under a POTS
17 environment.

18 Q All right. Now, you have assumed
19 that all your Centrex customers would be --
20 all loops associated with Centrex customers
21 would be provisioned through CPC in the
22 NRCs that you have developed in this
23 docket. Is that correct, sir?

24 A (Moore) (No response)

25 Q Do you want me to restate it? It

1 wasn't a very good question.

2 A (Moore) Please.

3 Q All right. In the nonrecurring
4 costs that you have developed, you have
5 assumed, for example, for a Centrex
6 customer that any loops associated with
7 that customer would be provisioned through
8 the CPC organization. Correct?

9 A (Moore) Let me think for a
10 minute.

11 Q I think it follows if you've done
12 it for all loops, it would apply for loops
13 applicable to Centrex customers. Correct?

14 A (Moore) That is correct. That's
15 why I'm trying to wonder what...

16 Q Okay. Well, let's look at
17 Page 79, beginning at Line 2 of
18 Mr. Townsend's deposition. And I asked the
19 question, quote:

20 "What if a Centrex customer
21 switched to a new local service
22 provider and used the existing
23 loops and ports already in place,
24 would they require work by your
25 group,"

1 referring to the CPC.

2 And Mr. Townsend's response is,

3 quote,

4 "Centrex is a service that some

5 of them are what I call design.

6 Some of them have involvement in

7 my group and some of them do not,

8 and basically depending on what

9 type of service is ordered."

10 Continuing.

11 "Okay. How would they distinguish the

12 ones that are involved with your group

13 and the ones that are not involved in

14 your group?

15 "Answer: The distinction is --

16 and I'm not sure what the

17 terminology is -- but there's a

18 condition Centrex which means

19 that we are going to guarantee

20 that the loop does not exceed I

21 think it's four and a half dB.

22 I'd have to look at that number."

23 And then he goes on to say:

24 "Question: Is it fair to say

25 that for Centrex customers that

1 are not conditioned as you've
2 described it, your group would
3 not be involved?"

4 And his answer was, "That's
5 correct."

6 And continuing on Page 80, Line
7 4, Mr. Townsend says:

8 "And you've gone over with
9 Mr. Holman a number of activities
10 that would be required if your
11 group were involved in a new
12 customer or change to an existing
13 customer. Correct?"

14 "Answer: Right."

15 Continuing at Line Page 13 -- or
16 Line 13:

17 "So for example, if we went back
18 to your POTS customer, the
19 various changes -- excuse me, the
20 various costs that you've
21 discussed with Mr. Holman would
22 not be applicable to a POTS
23 customer. Is that correct?"

24 "Answer: That's correct."

25 JUDGE HAMILTON: Mr. Dawson,

1 do you have quite a lot more --

2 MR. DAWSON: No, two more
3 lines, two more lines.

4 JUDGE HAMILTON: I'd prefer
5 if you have long excerpts let's go ahead
6 and get that page in.

7 MR. DAWSON: Okay. We can
8 do it that way.

9 BY MR. DAWSON: _____

10 Q And just finishing up:

11 "It's similarly for any Centrex
12 customer where your group was not
13 involved for non-conditioned
14 Centrex customer."

15 "That's correct.

16 Did I read that correctly?

17 A (Moore) I believe you did.

18 Q Okay. And have you incorporated
19 that information into the cost study, sir?

20 A (Moore) No, because what we are
21 looking at is an unbundled loop and we are
22 treating that unbundled loop in accordance
23 with the provisioning process that's to be
24 required for unbundled loops.

25 Q And you've already told me that

1 that administrative work is not necessary
2 in a loop and port combination, is it, sir?

3 A (Moore) Administratively we have
4 basically two processes. You have a
5 process involving telephone numbered
6 circuits, POTS 1-FRs, 1-FBs, multiline
7 circuits. You have another administrative
8 process that involves non-telephone
9 numbered circuit ID'd services. That's so
10 that when a customer reports a case of
11 trouble, they can report a case of trouble
12 against a particular circuit ID, and all of
13 the people within the telephone company
14 know what is associated with the provision
15 of that service.

16 Q Can I interrupt --

17 A (Moore) If there's no telephone
18 number, if there's no port associated with
19 a telephone number -- or with a circuit,
20 there is no telephone number associated
21 with that circuit, and consequently that
22 circuit has to be identified via a special
23 service circuit ID. And that -- and
24 special service circuit ID'd services go
25 through the Circuit Provisioning Center.

1 They're the ones that issue the necessary
2 work documents to the field.

3 Q And you've already told me in
4 deposition that the work associated with
5 the CPC is not necessary in a loop and port
6 combination. Isn't that correct, sir?

7 A (Moore) Well, in a loop and port
8 combination that's identified by a circuit
9 number where that's a -- that bundled
10 service, then there is no Circuit
11 Provisioning Center involvement.

12 Q Thank you -- that's all --

13 A (Moore) Where you're providing an
14 unbundled element in connection with a
15 port, the unbundled elements have to be
16 identified separately and then combined.
17 And so there is Circuit Provisioning Center
18 involvement.

19 Q Mr. Lundy, you were sponsoring
20 the service order studies in this docket.
21 Correct?

22 A (Lundy) That is correct.

23 Q And just so we're clear, there
24 are three service order studies. Correct?

25 A (Lundy) Yes, that is correct.

1 MR. LYNOTT: MLT is reactive.
2 PREDICTOR is proactive. There's -- there's
3 two different tests, two different tests they
4 perform, PREDICTOR and MLT. MLT is a reactive
5 test.

3:55P 6 MR. MOORE: Can I -- can I --

7 MR. PARISH: Mr. Moore wants
8 to say something, he's been wanting to say
9 something for a while.

10 MR. MOORE: I'm going to --
11 I'm going to pick up on something that
12 Ms. Parker said. The assumption that was
13 made, I think by AT&T, is that you have an
14 existing service, an existing IFB customer,
15 and that customer is converting over to an
16 unbundled element. That is -- that is not the
17 assumption that we have made in our unbundled
18 loop study.

19 Our approach has been that an
20 unbundled loop can be purchased for whatever
21 reason. It can be purchased to be used
22 eventually on a private line service. It can
23 be purchased to be cross-connected to an
24 inter -- transport to a different location.
25 And consequently, our study in looking at a

1 transport -- at an unbundled loop, is that
2 it's a stand-alone element. And what is the
3 cost to provide that unbundled loop as a
4 stand-alone element? It has nothing to do
5 with making some conversion from an existing
6 IFB or IFR customer to a series of unbundled
7 elements purchased by AT&T or MFS or MCI or
8 any other LSP to -- to replace our IFR or IFB
9 service.

10 There's no restriction that I'm
11 aware of that says an unbundled loop can only
12 be used in connection with providing IFR or
13 IFB service. That unbundled loop can be used
14 for whatever the other party wants to use it.
15 And that's the approach that we have taken in
16 developing our cost. And that's why we don't
17 have a lot of -- there's no testing assumed in
18 our study because we're assuming that these
19 tests -- these loops are sitting there on the
20 frame, spare in -- in some instances, and can
21 therefore be cross-connected to anything that
22 the customer wants or the -- the LSP -- the
23 LSP wants to use. So there is a basic
24 difference in what is an unbundled loop to be
25 used for.

**REPLY DECLARATION OF
DANIEL P. RHINEHART
ON
BEHALF OF AT&T CORP.**

ATTACHMENT 8

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DEPO OF J. MICHAEL MOORE

PUC DOCKET NO. 16189, ETC.

COMPRESSED TRANSCRIPT

WEDNESDAY, OCTOBER 1, 1997

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**DEPO OF J. MICHAEL MOORE
PUC DOCKET NO. 16189, ETC.**

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**COMPRESSED TRANSCRIPT
WEDNESDAY, OCTOBER 1, 1997**

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2 BEFORE THE

3 PUBLIC UTILITY COMMISSION OF TEXAS

4 AUSTIN, TEXAS

5

6

7 PETITION OF MFS COMMUNICATIONS } DOCKET NO.
8 COMPANY, INC., FOR ARBITRATION } 16189
9 OF PRICING OF UNBUNDLED LOOPS }

10 PETITION OF TELEPORT } DOCKET NO.
11 COMMUNICATIONS GROUP, INC. FOR } 16196
12 ARBITRATION TO ESTABLISH AN }
13 INTERCONNECTION AGREEMENT }

14 PETITION OF AT&T COMMUNICATIONS } DOCKET NO.
15 OF THE SOUTHWEST, INC. FOR } 16226
16 COMPULSORY ARBITRATION TO }
17 ESTABLISH AN INTERCONNECTION }
18 AGREEMENT BETWEEN AT&T AND }
19 SOUTHWESTERN BELL TELEPHONE }
20 COMPANY }

21 PETITION OF MCI } DOCKET NO.
22 TELECOMMUNICATION CORPORATION } 16285
23 AND ITS AFFILIATE MCDMETRO }
24 ACCESS TRANSMISSION SERVICES, }
25 INC. FOR ARBITRATION AND }
REQUEST FOR MEDIATION UNDER THE }
FEDERAL TELECOMMUNICATIONS ACT }
OF 1996 }

20 ORAL DEPOSITION OF J. MICHAEL MOORE
Wednesday, October 1, 1997

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1 TRANSCRIPT OF PROCEEDINGS

2 BEFORE THE

3 PUBLIC UTILITY COMMISSION OF TEXAS

4 AUSTIN, TEXAS

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7 REQUEST OF MCI } DOCKET NO.
8 TELECOMMUNICATIONS CORPORATION } 17587
9 AND ITS AFFILIATE, MCDMETRO }
10 ACCESS TRANSMISSION SERVICES, }
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13 PROVISIONS OF THE }
14 INTERCONNECTION AGREEMENT }
15 BETWEEN MCI AND SOUTHWESTERN }
16 BELL TELEPHONE COMPANY }

14 ORAL DEPOSITION OF J. Michael Moore
Wednesday, October 1, 1997

15

16 ANSWERS AND DEPOSITION OF J.
17 Michael Moore, a witness produced at the
18 instance of AT&T Communications of the
19 Southwest, came on for deposition at
20 approximately 8:10 a.m., on Wednesday, the
21 1st day of October 1997, at the offices of
22 Southwestern Bell Telephone Company, 1616
23 Guadalupe, Suite 600, Austin, Texas 78701;
24 and the following proceedings, pursuant to
25 the Texas Rules of Civil Procedure and the
agreement of counsel, were reported by
William C. Beardmore, a Certified Shorthand
Reporter of:

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1 TRANSCRIPT OF PROCEEDINGS

2 BEFORE THE

3 PUBLIC UTILITY COMMISSION OF TEXAS

4 AUSTIN, TEXAS

5

6 PETITION OF AMERICAN } DOCKET NO.
7 COMMUNICATIONS SERVICES, INC. } 16290
8 AND ITS LOCAL EXCHANGE }
9 OPERATING SUBSIDIARIES FOR }
10 ARBITRATION WITH SOUTHWESTERN }
11 BELL TELEPHONE COMPANY PURSUANT }
12 TO THE TELECOMMUNICATIONS ACT }
13 OF 1996 }

14 PETITION OF SPRINT } DOCKET NO.
15 COMMUNICATIONS COMPANY OF L.P. } 16455
16 FOR ARBITRATION OF }
17 INTERCONNECTION RATES, TERMS, }
18 CONDITIONS AND PRICES FROM }
19 SOUTHWESTERN BELL TELEPHONE }
20 COMPANY }

21 PETITION OF MAN ACCESS NETWORK, } DOCKET NO.
22 INC. ARBITRATION WITH } 17065
23 SOUTHWESTERN BELL TELEPHONE }
24 COMPANY }

25 APPLICATION OF AT&T } DOCKET NO.
COMMUNICATIONS OF THE SOUTHWEST } 17579
INC. FOR COMPULSORY ARBITRATION }
OF FURTHER ISSUES TO ESTABLISH }
AN INTERCONNECTION AGREEMENT }
BETWEEN AT&T AND SOUTHWESTERN }
BELL TELEPHONE COMPANY }

20 ORAL DEPOSITION OF J. MICHAEL MOORE
Wednesday, October 1, 1997

Page 4

1 APPEARANCES

2

3 MR. ALISTAIR B. DAWSON, Beck,
4 Redden & Secrest, 1221 McKinney Street,
5 Suite 4500, Houston, Texas 77010-2010,
6 (713)951-3700, appearing on behalf of AT&T
7 COMMUNICATIONS OF THE SOUTHWEST.

8

9 MR. L. KIRK KRIDNER, 1616
10 Guadalupe, Room 600, Austin, Texas 78701,
11 (512)870-5700, appearing on behalf of
12 SOUTHWESTERN BELL TELEPHONE COMPANY.

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COMPRESSED TRANSCRIPT
WEDNESDAY, OCTOBER 1, 1997

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DEPO OF J. MICHAEL MOORE
PUC DOCKET NO. 16189, ETC.

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1 therefore that it passed the reasonableness
2 test and used that number. It's 10,000
3 something if I remember correctly. And
4 that then became the basis for dividing the
5 dedicated transport cost by this number
6 using average business days to come up with
7 the common transport minute of use cost.
8 Q So you used the business day only
9 and that gave you a number that was higher
10 than the FCC number?
11 A Correct.
12 Q So presumably if you had used the
13 non-business days, if you had included
14 that, the number would have been even
15 higher?
16 A Correct.
17 Q Okay. What is your basis for
18 asserting that the number used by the FCC
19 in 1994 has any application to the
20 determination of costs in this docket?
21 A Other than that that appears to
22 be a reasonable way of doing it, I don't
23 have any explanation.
24 Q And you recognize that it is
25 likely that AT&T and MCI will be requesting

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1 that is a rate question.
2 Q Have you attempted to determine
3 the nonrecurring costs Southwestern Bell
4 would incur for providing combinations of
5 elements?
6 A No. No, I have not.
7 Q Can you state that the
8 nonrecurring costs that you have developed
9 for individual elements would necessarily
10 apply to combinations of those same
11 elements?
12 A Repeat the question, please.
13 Q Can you state that -- or can you
14 testify that the nonrecurring costs that
15 you have developed for individual elements,
16 that the sum of those individual
17 nonrecurring costs would be the costs that
18 Southwestern Bell would incur in providing
19 a combination of those same network
20 elements?
21 Do you want me to try again?
22 That wasn't a very well worded question.
23 A Go on.
24 Q You want me to try again?
25 A I think I know what --

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1 common transport on both business and
2 non-business days. Correct?
3 A That may be.
4 Q I mean, that's a reasonable
5 assumption, is it not?
6 A Yeah, it probably is.
7 Q Okay. Let's talk about
8 nonrecurring costs. Turning to Page 32 of
9 your testimony --
10 A Okay.
11 Q -- do you agree that nonrecurring
12 costs should be determined on a TELRIC
13 basis under the Commission's arbitration
14 award?
15 A Yes.
16 Q Do you agree that if costs are
17 not going to be incurred by Southwestern
18 Bell for providing a particular service
19 that it should not be not be allowed to
20 charge a nonrecurring cost for providing
21 that service?
22 MR. KRIDNER: Well, wait a
23 minute. That's a rate question. I mean --
24 Q Do you have an answer, Mr. Moore?
25 A Well, I think like Kirk says,

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1 Q Let's do it by way of example.
2 You have got a recurring cost for providing
3 a loop, and you've got a nonrecurring cost
4 for providing a port. Can you state and
5 testify that if we add those two up that is
6 the nonrecurring cost that Southwestern
7 Bell would incur if it was providing a loop
8 and port in combination?
9 A Unbundled loop and unbundled port
10 in combination?
11 Q Yes, sir. Already existing,
12 already cross-connected.
13 A Well, if something is
14 cross-connected already, you would have to
15 take a look at some of those costs and they
16 may need to be removed, but if you're
17 providing two new unbundled elements
18 together, those costs, I think, would be
19 added together to give you the nonrecurring
20 cost.
21 And in that instance, then, you
22 would only apply one service order charge
23 if both items were included on that same
24 service order. So that's where the
25 economies would come in on the processing

**DEPO OF J. MICHAEL MOORE
PUC DOCKET NO. 16189, ETC.**

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**COMPRESSED TRANSCRIPT
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1 of that service center.
 2 But I believe the work activities
 3 associated with an unbundled loop and
 4 associated with -- those activities
 5 associated with an unbundled switching port
 6 would need to be added together to identify
 7 the total cost, nonrecurring cost.
 8 Q But that's only if you had an
 9 existing -- I mean, a new loop and a new
 10 port that were not already connected.
 11 Correct?
 12 A Right. Now, if it was an
 13 existing loop and port you would still
 14 incur a lot of those costs because of the
 15 unbundled elements and identifying them as
 16 unbundled elements and issuing the
 17 necessary work, administrative papers,
 18 associated with them on an individual
 19 element basis, but there may be some
 20 things -- well, the cross-connect -- let's
 21 go back. Cross-connects are included --
 22 and for the frame are included in that
 23 tariff -- was it 27?
 24 Q Uh-huh.
 25 A So that is what you wouldn't pick

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1 recovered in the recurring rates proposed
 2 by Southwestern Bell?
 3 A Yeah, I've seen that. I've seen
 4 where he has proposed that. I don't
 5 understand that these are activities that
 6 we have not been providing in the past, how
 7 we could be recovering them. But I
 8 understand that that is what he's saying.
 9 Q Has Southwestern Bell done any
 10 analysis to determine whether his assertion
 11 is correct or incorrect?
 12 A No. Alistair, I think -- you
 13 know, we're not providing unbundled -- have
 14 not been providing unbundled elements
 15 particularly in the time period that the
 16 factors have been developed from.
 17 And so I don't know how the
 18 nonrecurring charges associated with
 19 providing unbundled elements could be
 20 included in that. That's what is confusing
 21 me.
 22 Q All right. You state on Page 33,
 23 Line 9 that basically you -- the source of
 24 your information for your time estimates
 25 was from your subject matter experts.

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1 up. So you probably would pick up both of
 2 the nonrecurring costs for the loop and the
 3 unbundled port.
 4 Q But you haven't examined what it
 5 would cost Southwestern Bell to provision a
 6 loop and port in combination. Right?
 7 A No. We have looked at unbundled
 8 elements, individual unbundled elements.
 9 Q Okay. Do you agree with me that
 10 if there are efficiencies for providing
 11 combinations of elements as opposed to
 12 providing individual elements, that those
 13 efficiencies should be included in the
 14 nonrecurring costs?
 15 A I don't know that they should be
 16 included in the nonrecurring costs. There
 17 may need to be some alternative looked at
 18 that would reflect some bundling
 19 arrangement, but on an unbundled element
 20 standpoint, I think they are appropriate
 21 the way they are.
 22 Q Okay. All right. You're aware
 23 that Mr. Rhinehart takes the position that
 24 the costs that you have included in your
 25 nonrecurring costs have already been

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1 Correct?
 2 A That is correct.
 3 Q So I take it you would defer to
 4 those subject matter experts with respect
 5 to the areas for which they had input into
 6 the cost studies?
 7 A That is correct.
 8 Q Okay. So to the extent that they
 9 have acknowledged that certain changes
 10 should be made or certain adjustments
 11 should be made, then you would defer to
 12 them on that?
 13 A Yeah, I think so. I mean, if the
 14 question was, if a subject matter expert
 15 who said that it would take him 15
 16 minutes -- let's say it would take him 30
 17 minutes to perform a function and now says
 18 it will only take 15 minutes to perform
 19 that function, yes, I mean, that's what I
 20 would defer to that individual.
 21 Q Okay. Look at Page 34, and if
 22 you would read to yourself the answer that
 23 is on the question at the stop of the
 24 page.
 25 A Okay.

**REPLY DECLARATION OF
DANIEL P. RHINEHART
ON
BEHALF OF AT&T CORP.**

ATTACHMENT 9

10-21-02

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HEARING ON THE MERITS

DOCKET NO. 16189, ET AL

COMPRESSED TRANSCRIPT

OCTOBER 17, 1997

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**HEARING ON THE MERITS
DOCKET NO. 16189, ET AL**

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**COMPRESSED TRANSCRIPT
OCTOBER 17, 1997**

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

REQUEST OF MCI TELECOMMUNICATIONS CORPORATION AND ITS AFFILIATE, MCI METRO ACCESS TRANSMISSION SERVICES, INC. FOR CONTINUING ARBITRATION OF CERTAIN UNRESOLVED PROVISIONS OF THE INTERCONNECTION AGREEMENT BETWEEN MCI AND SOUTHWESTERN BELL TELEPHONE COMPANY } DOCKET NO. 17587

ARBITRATION HEARING ON THE MERITS
(Friday, October 17, 1997)

BE IT REMEMBERED THAT AT 1:30 p.m., on Friday, October 17, 1997, the above-entitled matter came on for continued hearing at the offices of the Public Utility Commission of Texas, Commissioners Hearing Room, 1701 N. Congress Avenue, Austin, Texas 78701, before CHAIRMAN PATRICK HENRY WOOD III and COMMISSIONER JUDY WALSH; and the following proceedings were reported by: Randall N. Finch, Certified Court Reporter of:

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

PETITION OF AMERICAN COMMUNICATIONS SERVICES, INC. AND ITS LOCAL EXCHANGE OPERATING SUBSIDIARIES FOR ARBITRATION WITH SOUTHWESTERN BELL TELEPHONE COMPANY PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996 } DOCKET NO. 16290

PETITION OF SPRINT COMMUNICATIONS COMPANY OF L.P. ARBITRATION OF INTERCONNECTION RATES, TERMS, CONDITIONS AND PRICES FROM SOUTHWESTERN BELL TELEPHONE COMPANY } DOCKET NO. 16455

PETITION OF MAN ACCESS NETWORK, INC. ARBITRATION WITH SOUTHWESTERN BELL TELEPHONE COMPANY } DOCKET NO. 17065

APPLICATION OF AT&T COMMUNICATIONS OF THE SOUTHWEST INC. FOR COMPULSORY ARBITRATION OF FURTHER ISSUES TO ESTABLISH AN INTERCONNECTION AGREEMENT BETWEEN AT&T AND SOUTHWESTERN BELL TELEPHONE COMPANY } DOCKET NO. 17579

ARBITRATION HEARING ON THE MERITS
(Friday, October 17, 1997)

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

PETITION OF MFS COMMUNICATIONS COMPANY, INC., FOR ARBITRATION OF PRICING OF UNBUNDLED LOOPS } DOCKET NO. 16189

PETITION OF TELEPORT COMMUNICATIONS GROUP, INC., FOR ARBITRATION TO ESTABLISH AN INTERCONNECTION AGREEMENT } DOCKET NO. 16196

PETITION OF AT&T COMMUNICATIONS OF THE SOUTHWEST, INC. FOR COMPULSORY ARBITRATION TO ESTABLISH AN INTERCONNECTION AGREEMENT BETWEEN AT&T AND SOUTHWESTERN BELL TELEPHONE COMPANY } DOCKET NO. 16226

PETITION OF MCI TELECOMMUNICATIONS CORPORATION AND ITS AFFILIATE MCI METRO ACCESS TRANSMISSION SERVICES, INC. FOR ARBITRATION AND REQUEST FOR MEDIATION UNDER THE FEDERAL TELECOMMUNICATIONS ACT OF 1996 } DOCKET NO. 16285

ARBITRATION HEARING ON THE MERITS
(Friday, October 17, 1997)

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1 at that point, then, to go on and take oral
2 argument on the implications of the Eighth
3 Circuit decision on the combination issue.
4 I did notify the parties earlier
5 this week that we would be asking for oral
6 argument, and I indicated to the parties that
7 we would take about 20 minutes per side on
8 that issue.
9 And then we also need to take up
10 this afternoon the -- TCG has filed a motion
11 for an amendment of the arbitration award with
12 respect to the three-tier pricing for
13 collocation. And I do have a staff
14 recommendation on that motion, so I would like
15 to make that at -- for that -- for your
16 consideration.
17 And then I think there's -- Mcena
18 Thomas has some clarifying questions on EAS,
19 and she had asked for an opportunity to ask
20 some questions. I don't know if the
21 particular witnesses are here that would need
22 to answer those questions, but if not, we can
23 have -- we can request a written filing
24 sometime next week if they're not here for
25 that.

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1 P R O C E E D I N G S
2 FRIDAY, OCTOBER 17, 1997
3 (1:30 p.m.)
4
5 (Whereupon, documents were
6 marked "AT&T/MCI EXHIBIT NOS.
7 1D and 56A" for
8 identification.)
9
10 CHAIRMAN WOOD: This meeting
11 of the Public Utility Commission of Texas will
12 come to order to consider matters which have
13 been duly posted with the Secretary of State
14 for October 17th, 1997.
15 Judge Hamilton?
16 JUDGE HAMILTON: Thank you.
17 Commissioners, this afternoon we have a number
18 of items that -- I've got a mic here, and I'm
19 reeling it in. We have a number of items that
20 we need to take up, and I have a suggested
21 order of presentation for this afternoon.
22 What I would suggest is that we
23 hear back from the parties first off to find
24 out the status on the best and final offers,
25 and we'd indicated that we wanted to hear that
at the conclusion of the hearing. Then I
think it would be appropriate at this point --

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1 I would also indicate that there
2 might be some clarifying questions that our
3 staff on costing and pricing would have after
4 the oral arguments, so we might want to
5 entertain some -- some clarifying questions,
6 as you-all might have some clarifying
7 questions as well.
8 And then, finally, the staff has
9 prepared a preliminary staff recommendation on
10 recurring costs, and I'd like to go ahead and
11 distribute that, have you-all look at that and
12 then discuss that with the parties.
13 CHAIRMAN WOOD: All right.
14 JUDGE HAMILTON: All right?
15
16 REPORTS ON BEST AND FINAL OFFERS
17
18 CHAIRMAN WOOD: Why don't we
19 start with a report back in from the parties
20 on best and final offers. Who would like to
21 go first?
22 MR. WITCHER: Good afternoon,
23 Chairman Wood and Commissioner Walsh. Mark
24 Witcher for AT&T.
25 Mr. Wren, who was here for the

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1 argue what impact they thought the opinion
2 had, asking that they would reserve five
3 minutes if that was agreeable with you, Your
4 Honor.

5 JUDGE HAMILTON: That's fine.
6 I saw some head-shaking, though. I don't
7 know --

8 MS. CAVANAUGH: We had no
9 such agreement.

10 MS. HUNT: No, I -- yes.

11 MS. CAVANAUGH: Oh, you did?
12 Well, okay. (Laughter)

13 MS. HUNT: Sorry. Part of us
14 did.

15 MR. WITCHER: Merrie and I
16 will talk in the hall.

17 JUDGE HAMILTON: Thank you.

18 All right, so, Barbara, you're going to go
19 first?

20 MS. HUNT: Yes.

21 JUDGE HAMILTON: Okay. And
22 you want 15 minutes?

23 MS. HUNT: Yes, please. In
24 fact, if you could give me about 12 minutes so
25 that I can wind down, that would be helpful.

1 Southwestern Bell through Mr. Loehman's fine
2 prefiled testimony made its best and final
3 offer under our baseball style arbitration.

4 We offered a package deal that if
5 the commission would give us that package of
6 rates which we have worked through and tried
7 to work down just as low as we thought we
8 could, and -- and that did include access and
9 intraLATA toll on UNES, that those rates would
10 provide the lowest possible rates to allow
11 LSPs who really wanted to enter the local
12 market in Texas every opportunity to compete,
13 and would satisfy the 271 requirements for
14 cost-based rates.

15 Now, that doesn't necessarily mean
16 that they could come in and serve just
17 residential customers with local service and
18 maybe one or two features and make a profit.
19 Neither can we. The way that rates have been
20 set in Texas, you can't make a profit on just
21 local across the board, across the state, with
22 maybe one or two features, because the
23 residually rated local exchange rates don't
24 allow for that for us or for anyone else.

25 But if you look at overall the

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1 JUDGE HAMILTON: All right.

2 MS. HUNT: May I sit down?

3 CHAIRMAN WOOD: I want y'all
4 all to sit down, please.

5 MS. HUNT: Thank you.

6
7 RESPONDENT'S ORAL ARGUMENT ON THE IMPLICATIONS
8 OF THE DECISION OF THE EIGHTH CIRCUIT
9

10 MS. HUNT: In the first phase
11 of this arbitration it became clear through
12 the process here that the commission, on the
13 basis of rules already put in place by the
14 FCC, intended to give the LSPs the benefit of
15 the fact that UNES existing in our network
16 already bundled to serve a particular customer
17 could be transferred over to them on a
18 cost-based basis. Southwestern Bell didn't
19 believe that allowing such statutory arbitrage
20 was appropriate, as I argued in our final
21 argument in the costing and pricing phase.

22 But in the interest of getting us
23 all out of this costing morass and hastening
24 the advent of true competition in Texas for
25 both local and long-distance services,

1 average amount that customers pay for local
2 service including the -- all of the extra
3 features that they get, including the -- the
4 Custom Calling features and Caller ID and all
5 of the other services that you provide them
6 along with that local service and over that
7 local loop, then you can make a profit. They
8 can as well as we can.

9 Southwestern Bell's best and final
10 offer allowed the entire platform of UNES to
11 be transferred over unchanged to an LSP. And
12 Mr. Loehman had even offered a 75 percent
13 discount on the nonrecurring charges when
14 those services were already bundled in our
15 switch and no additional work was required in
16 the switch to transfer them over.

17 Mr. Loehman, you heard him say
18 while ago, is now offering a 100 percent
19 discount on those nonrecurring charges. We
20 are essentially giving up voluntarily the
21 right to insist upon full charges on that
22 transfer as the Eighth Circuit order would
23 clearly give us the right to do. I don't know
24 how any local exchange company could put out a
25 bigger welcome mat for competition than what

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<p>1 Mr. Loehman has just done. 2 Two events that have impacted or 3 could have impacted our best and final offer 4 have already been addressed by Mr. Loehman. 5 The first was that petitioners have finally 6 and unmistakably shown their true colors in 7 their brief that they filed Wednesday 8 afternoon. They don't want to compete in 9 Texas. There is no set of rates you can offer 10 that will satisfy them, because their 11 objective is really to protect their toll 12 market, not to enter the local market. 13 In their brief, they sent the 14 message that no matter what prices you offer, 15 even if it is the prices in their own best and 16 final offer, they will contend that those 17 prices are negotiated prices and not 18 cost-based prices that will satisfy 271 19 requirements to allow Southwestern Bell 20 interLATA relief. They want the lowest prices 21 they can get, while sandbagging the process to 22 block interLATA relief for Southwestern Bell. 23 If it was not clear before, it's 24 now crystal clear that their primary objective 25 is not to open the door to local competition</p>	<p>1 rates is to be based on the assumption that 2 each UNE is being provided on a stand-alone 3 basis and costed out on that basis. There's 4 no assumption that those things are already 5 sitting there combined in our network and just 6 have to be handed over and you calculate the 7 costs on that basis. 8 All of the petitioners' arguments 9 in this proceeding as to the amount of actual 10 work that's required to be done by 11 Southwestern Bell to transfer over that 12 customer's services on a UNE basis are out the 13 window with the Eighth Circuit order. It 14 doesn't matter whether in this particular case 15 those things are sitting there already 16 combined or not. The court is saying there 17 are two avenues for competition in the local 18 exchange. One is resale, and under resale 19 everything stays combined, you take away all 20 of our avoided costs by handing them over, and 21 they get the benefits of that sitting there 22 already combined in our network. 23 On UNEs, you look at the cost of 24 providing each individual element, the loop, 25 the switching, the port, and they pay the full</p>
<p>1 in Texas, but to continue to bar the door to 2 long-distance competition in Texas. Why else 3 would they take the position that any rates 4 that Southwestern Bell has offered are not 5 arbitrated, cost-based rates for 271 purposes, 6 even though those rates were offered in the 7 context of this arbitration process. 8 Southwestern Bell has made it 9 clear in all settlement negotiations that the 10 one nonnegotiable point is that all parties 11 would have to agree that they would not take 12 the position that the resulting rates did not 13 meet 271 requirements. Petitioners have now 14 made it clear that they will not accept that 15 condition. Their motivation here is to 16 protect their high-margin long-distance 17 market, not to enter our local market. 18 The effect of the Eighth Circuit 19 order is really very clear, and it affirms our 20 position that LSPs are not legally entitled to 21 purchase an assembled platform of combined 22 network elements at cost-based rates. If they 23 want an assembled platform, that's resale and 24 they get the avoided cost discount. 25 Development of cost-based UNE</p>	<p>1 price for each one of those elements whether 2 they want to use them together or they don't 3 want to use them together. 4 Thus, it's now very clear that 5 Southwestern Bell has the legal right to 6 insist that the costs, including the full 7 nonrecurring costs of providing each one of 8 those unbundled network elements, is a part of 9 the price for providing that unbundled network 10 element. 11 Our cost studies are in the record 12 in this case, and they were performed on the 13 assumption that each element would be ordered 14 individually. That's what a lot of the 15 arguments you heard during the case were 16 about. Because they were attacking our cost 17 studies and saying, "Yes, but you won't really 18 have to perform this function because, in 19 reality, those things are already combined." 20 They went back and forth between 21 what's actually out there and the theoretical 22 network, and this was a part of that mismatch 23 of concepts. 24 Southwestern Bell is now in a 25 legal position to rely on the law which has</p>