DOCKET FILE COPY ORIGINAL 00-65

DOCKET NO. 21622

RECEIVED
PUBLIC UTILITY COMMISSION
FILING CLERK

COMPLAINT OF AT&T	§	PUBLIC UTILITY COMMISSION
COMMUNICATIONS OF	§	
TEXAS, L.P., TELEPORT	§	
COMMUNICATIONS	§	
HOUSTON, INC., AND TCG	§	OF TEXAS
DALLAS AGAINST	§	
SOUTHWESTERN BELL	§	
TELEPHONE COMPANY	§	
TO ELIMINATE NON-	§	
RECURRING CHARGES	§	

RECEIVED
JUN 29 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

ORDER NO. 5

DOCKET NO. 22290

COMPLAINT OF MCI	§	PUBLIC UTILITY COMMISSION
WORLDCOM, INC.	§	
AGAINST	§	OF TEXAS
SOUTHWESTERN BELL	§	
TELEPHONE COMPANY	§	
TO ELIMINATE NON-	§	
RECURRING CHARGES	§	

ORDER NO. 1
CONSOLIDATING TWO DOCKETS,
SETTING FORTH THE LIST OF ISSUES AND
SCHEDULE FOR PHASE I OF THE PROCEEDING

On November 8, 1999, AT&T Communications of Texas, Teleport Communications Houston, and TCG Dallas (AT&T) filed a complaint against Southwestern Bell Telephone Company (SWBT) seeking to modify the Interconnection Agreement between the parties and to eliminate three non-recurring charges for provisioning existing combinations of unbundled

No. of Copies rec'd 2
List A B C D E

network elements. On February 24, 2000, the United States Court of Appeals for the Fifth Circuit remanded PUC Docket No. 16189 *et. al* to the Commission for further proceedings. Following the remand, a March 8, 2000 pre-hearing conference was held with AT&T, SWBT and MCI Worldcom, Inc. (MCIW) to discuss whether the remanded issues were sufficiently similar to those pending in Docket No. 21622 so as to justify consolidation of the two cases. It was the parties' consensus that the issues were sufficiently similar. Thereafter, on March 15, 2000, MCIW filed its Complaint in Docket No. 22290.

The Arbitrators find that the issues in Docket No. 21622 and Docket No. 22290 are sufficiently similar; therefore, the two dockets are consolidated. The following issues, as set forth by the parties, will be addressed in the consolidated proceeding:

1. In light of *AT&T Corp., et al v. Iowa Utilities Board, et al.*, 525 U.S. 366, 119 S. Ct. 721 (1999), and the Federal Communications Commission (FCC) rules affirmed in that decision, is SWBT entitled to impose on AT&T and MCIW, in addition to electronic service order charges, the non-recurring charges for loops, ports, and cross-connects, ordered by the Commission in Docket No. 16266, when AT&T or MCIW orders existing unbundled network elements (UNE) combinations to serve a customer?

2. Is there adequate cost support as required by the federal Telecommunications Act and the FCC's implementing rules, in the record in Docket No. 16266 to support the current non-recurring charges for loops, ports, and cross-connects imposed when AT&T or MCIW orders existing UNE combinations to serve a customer?

3. Should the Interconnection Agreement provisions related to the non-recurring charges be modified to conform to the Commission's decision on Issue Nos. 1 and 2? If so, what should be the effective date of the modification?

4. In light of *AT&T v. Iowa Utilities Board* and the FCC's rules affirmed in that decision, is SWBT obligated to combine UNEs in new combinations as ordered by AT&T or MCIW?

5. Should the Interconnection Agreement provisions related to Issue No. 4 be modified to conform to the Commission's decision on Issue No. 4? If so, what should be the effective date of the modifications?

These issues are to be addressed in Phase I of this proceeding. Other issues relating to cost support may be addressed in Phase II of this proceeding, which will commence after the completion of Phase I. Additionally, as other issues arise in this proceeding, they may be added to the above list.

The following agreed procedural schedule is adopted for the first phase of this proceeding: initial briefs are to be filed by April 5, 2000, and reply briefs are to be filed by April 19, 2000.

SIGNED AT AUSTIN, TEXAS the 4th day of April, 2000.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON
ARBITRATOR

NARA V. SRINIVASA
ARBITRATOR