

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Cbeyond Communications, LLC)	
)	
-vs-)	
)	Docket No. 10-0188
Illinois Bell Telephone Company d/b/a)	
AT&T Illinois)	
)	
Formal Complaint and Request for)	
Declaratory Ruling pursuant to)	
Sections 13-515 and 10-108 of the)	
Illinois Public Utilities Act)	

Cbeyond Communications, LLC Response Brief

Exhibit B

Cbeyond response to Staff Discovery QL 2.01

Public

Illinois Commerce Commission
Cbeyond Communications LLC v. Illinois Bell Telephone Company
Case No. 10-0188

Cbeyond Responses to Staff's Discovery Requests

QL-2.01 Please confirm if Cbeyond takes the position that Parties' (AT&T and Cbeyond's) Interconnection Agreement ("ICA") provides for reconfiguration (or "rearrangement") of existing UNE combinations.

(A) If the answer is "yes:"

(1) Please provide the specific **terms and conditions** in Parties' ICA under which AT&T is required to provide Cbeyond rearrangement services to reconfigure existing UNE combinations.

(2) Please also provide the complete list of **non-recurring rate elements and rates** in Parties' ICA at which AT&T is required to provide Cbeyond the following reconfigurations, respectively:

(i) DS1/DS1 EEL → DS1/DS3 EEL.

(ii) DS1/DS1 EEL → DS1 Loop (with third party-provided or self-provisioned transport).

(B) If the answer is "no:"

(1) Please confirm if Cbeyond has made any attempts to negotiate "rearrangement" amendment to Parties' ICA. If the answer is "yes:"

(i) Please provide all written communications between Cbeyond and AT&T regarding Cbeyond's attempts to negotiate "rearrangement" amendment to Parties' ICA.

(2) If Cbeyond has made attempts, but has failed, to reach an agreement with AT&T regarding "rearrangement" amendment, please confirm if Cbeyond has ever filed a petition for arbitration with the Commission under Section 252 of the Federal Telecommunication Act.

CBEYOND RESPONSE:

(A) Cbeyond objects to Staff's request to the extent that the request implies or assumes that there is a single service called an "Enhanced Extended Link" or "EEL". An EEL is a combination of UNE Loops and UNE Transport. Subject to and without waiver of the General Objections listed above, Cbeyond responds as follows: The Request cannot be answered "yes" or "no" as it is phrased. It is Cbeyond's position that the parties' ICA requires Illinois Bell

(“Illinois Bell” or “AT&T”) to alternatively provision or rearrange UNE transport that is cross connected to UNE Loops without being compelled to disconnect and reinstall the UNE Loops. Illinois Bell improperly compels Cbeyond to disconnect the UNE Loop when requesting only the disconnection of the UNE transport portion of a combination of UNEs that together comprise an EEL.

- (1) Article 9.1.1 of the ICA states as follows: “SBC Illinois shall provide CLEC nondiscriminatory access to Unbundled network Elements, upon request, at any technically feasible point on just, reasonable and nondiscriminatory rates, terms and conditions...in accordance with the federal Telecommunications Act of 1996, applicable FCC orders, rules and regulations and, applicable state statutes, orders, rules and regulations.”

Article 9.1.2 of the ICA states as follows: “SBC Illinois shall provide CLEC with Combinations of Unbundled Network Elements that it “ordinarily combines” for itself pursuant to Section 9.3 herein.”

Article 9.1.3 of the ICA states as follows: “Prices for UNEs and combinations are set forth in the attached Pricing Schedule. SBC Illinois shall price each UNE separately, and shall offer each Unbundled Network Element individually, and in Combinations as defined in this Article 9. In no event shall SBC Illinois require CLEC to purchase any Unbundled Network Element in conjunction with any other service or element.”

Article 9.3.3.4 of the ICA states as follows: “For a new UNE combination listed on Table 1, CLEC shall issue appropriate service requests. These requests will be processed by SBC ILLINOIS, and CLEC will be charged pursuant to the Pricing Schedule.”

Cbeyond contends that pursuant to Article 9.3.3.4, Illinois Bell is only permitted to charge Cbeyond for “appropriate service requests” and service requests to disconnect and reinstall loops in order to change the Connecting Facility Assignment (CFA) on previously installed unbundled loops are not “appropriate service requests.” The appropriate service request to change the CFA on a previously installed unbundled loop is a change order. The Pricing Schedule in the ICA does not contain a nonrecurring provisioning charge associated with UNE Loop CFA change orders. Further, the Pricing Schedule in the ICA should not contain any nonrecurring provisioning charges associated with UNE Loop CFA change orders because UNE Loop CFA changes can be done without any work done by SBC Illinois.

Section 5.6 of the parties’ TRO/TRRO Amendment further provides that “[w]hen CLEC purchases Commingled Arrangements from SBC, SBC shall charge CLEC element-by-element and service-by-service rates.” This provision prohibits Illinois Bell from compelling Cbeyond to disconnect a UNE loop when only the UNE transport is being changed.

Section 5.9 of the parties' TRO/TRRO Amendment further requires Illinois Bell "to connect an unbundled Network Element or a Combination of unbundled Network Elements with wholesale (i) services obtained from SBC, (ii) services obtained from third parties or (iii) facilities provided by CLEC." This requires Illinois Bell to disconnect the UNE Transport, without requiring Cbeyond to disconnect the UNE Loop.

(2) For the scenarios described by Staff, there are no rate elements in the parties' ICA to change from a "DS1 Loop / DS1 Transport EEL" to a "DS1 Loop / DS3 Transport EEL," or a DS1 Loop (with transport provided by a third-party carrier.) The ICC does provide for independent rate elements to disconnect the DS1 transport, and does provide a rate to connect DS3 transport to previously provisioned UNE Loops. However, these DS3 transport connection rates are not specifically for connecting DS3 transport to a UNE Loop to comprise an EEL.

(i) DS1 Loop / DS1 Transport EEL → DS1 Loop / DS3 Transport EEL (where both DS1 loop and DS3 transport are provided by Illinois Bell).

There are Ordering and Provisioning nonrecurring charges that are applicable to this type of network change.

Electronic Ordering

Non-Channelized DS1 EEL Service Ordering Disconnections: \$8.63 for each LSR or ASR associated with a UNE DS1 Dedicated Transport facility disconnected. (Pricing Appendix, line 156.)¹

UNE DS3 Dedicated Transport Service Ordering Connection: \$11.44. (Pricing Appendix, line 139.)

Therefore, the total Ordering charge to replace 28 UNE DS1 Dedicated Transport facilities with one UNE DS3 Dedicated Transport facility would be $(28 \times \$8.63) + \$11.44 = \$253.08$.

Provisioning

UNE DS1 Loop to UNE DS1 Dedicated Transport Collocated Disconnection(s): \$17.20 First (Pricing Appendix, line 207) and \$12.13 Additional (Pricing Appendix, line 210).

¹ The Non-Channelized DS1 EEL Service Ordering disconnection nonrecurring charge (Pricing Appendix, Line 156) is the same as the DS1 Transport Service Ordering Disconnection Charge (Pricing Appendix, line 132). This pricing recognizes that the SBC Illinois work involved to disconnect the transport portion of an EEL is the same as the work involved to disconnect UNE transport that is not connected to a UNE Loop.

DS3 Interoffice UDT Collocated Connection: \$139.71 to install the new DS3 UDT connected to the previously installed UNE DS1 Loops (Pricing Appendix, line 218). The UNE DS3 Dedicated Transport Collocated Connection cost includes the nonrecurring cost incurred by Illinois Bell when making the cross connections to the termination point of the loops.

Therefore, the total Non-Recurring Provisioning Cost/Charge for 28 UNE DS1 Loop→28 UNE DS1 Dedicated Transport EELs reconfigured to 28 UNE DS1 Loop→1 UNE DS3 Dedicated Transport EEL is \$484.42. Further, the Total Nonrecurring Cost/Charge (i.e. Ordering plus Provisioning) for this type of EEL rearrangement (i.e. 28 DS1 Loop→28 DS1 Dedicated Transport being replaced by 28 DS1 Loop→one DS3 UDT) should be \$737.50 (i.e. \$253.08 + \$484.42).

(ii) DS1/DS1 EEL→DS1 Loop (with third party-provided or self-provisioned transport).

Ordering

Non-Channelized DS1 EEL Service Ordering Disconnections: \$8.63 per ASR or LSR (Pricing Appendix, line 156.).

Provisioning

DS1 Digital Loop to DS1 Dedicated Transport Collocated Disconnection(s): \$17.20 First (Pricing Appendix, line 207) and \$12.13 Additional (Pricing Appendix, line 210).

The Total Nonrecurring Cost/Charge for this type would be dependent upon how many UNE DS1 Dedicated Transport facilities are disconnected.

Cbeyond does not take the position that a rearrangement amendment is necessary or required for it to rearrange UNEs under the terms of its ICA, and as such, no request for arbitration has been made. Under the terms of the ICA, Loop provisioning NRCs are not applicable to change the Connecting Facility Assignment (“CFA”) of a previously installed UNE loop because orders to disconnect and reconnect UNE loops are not appropriate to change the CFA on an existing UNE Loop. While Illinois Bell may wish to have an ICA amendment so that it may impose UNE Loop charges, there is no current authority for Illinois Bell to do so.

After Illinois Bell began to wrongfully bill Cbeyond for charges to disconnect the DS1 Loop and to reconnect the Loop to change the transport portion of an EEL, Cbeyond challenged Illinois Bell’s charges. These discussions were a part of the dispute resolution process under the parties’ ICA.

(B) Cbeyond objects to Staff's request to the extent that the request implies or assumes that there is a single service called an "Enhanced Extended Link" or "EEL". An EEL is a combination of UNE Loops and UNE Transport.. Subject to and without waiver of the General Objections listed above, Cbeyond states as follows for its response. See response to (A) above.

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