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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
XO ILLINOIS, INC.)
)
vs.)
) No.01 -0296
NORTHPOINT COMMUNICATIONS, INC.)
)
)
Petition for Emergency Relief.)

Chicago, Illinois
April 6, 2001

Met pursuant to notice at 10:00 a.m.

BEFORE:

MR. TERRANCE HILLIARD, Administrative Law
Judge.

APPEARANCES:

MS. CAROL POMPONIO
303 East Wacker
Chicago, Illinois 60601
Appearing for the XO Illinois;

LATHAM & WATKINS, by
MR. BART EPSTEIN
555 11th Street Northwest
Washington, DC 20004
Appearing on behalf of NorthPoint
(Telephonically).

1 ALSO PRESENT:
MR. MARK KERBER
2 MR. DARRELL S. TOWNSLEY
MR. CHRISTOPHER GRAVES
3 (Telephonically)
MS. NORA NAUGHTON
4 (Telephonically)
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21 SULLIVAN REPORTING COMPANY, by
22 Tracy L. Ross, CSR

1 JUDGE HILLIARD: On behalf of the Illinois
2 Commerce Commission, I call Docket No. 01 -0296,
3 XO Illinois, Inc., versus NorthPoint
4 Communications, Inc., Petition for Emergency
5 Relief.

6 Would the parties identify themselves
7 for the record, please.

8 MS. POMPONIO: Yes. Carol Pomponio, XO
9 Illinois, Inc., 303 East Wacker, Chicago,
10 Illinois 60601.

11 JUDGE HILLIARD: Mr. Epstein?

12 MR. EPSTEIN: Good morning, sir. Bart Epstein
13 from Latham & Watkins, on behalf of NorthPoint,
14 1000 -- I'm sorry. 555 11th Street Northwest,
15 Washington, DC 20004.

16 And I'd like to move for pro hac vice
17 admissions for purposes of this hearing and
18 proceeding.

19 JUDGE HILLIARD: Are there any objections to
20 his motion? Hearing no objections, the motion
21 will be granted.

22 Mr. Epstein, would you state your

1 telephone number for the record, please.

2 MR. EPSTEIN: Yes, sir. My direct dial is
3 (202) 637-1030.

4 JUDGE HILLIARD: Okay. Does anybody else want
5 to appear for the record here?

6 All right. I would note, for the
7 record, that representatives from Staff and
8 Ameritech are present in the room as observers.

9 MR. EPSTEIN: And also I'd like leave from
10 WorldCom, is that correct, sir?

11 JUDGE HILLIARD: WorldCom?

12 MR. TOWNSLEY: Yes.

13 JUDGE HILLIARD: I'm sorry.

14 MR. TOWNSLEY: That's okay.

15 JUDGE HILLIARD: Ms. Pomponio, it's your
16 client's petition. Could you state or reiterate
17 what you told me off the record regarding your
18 present state of your complaint and where you
19 want to go from there.

20 MS. POMPONIO: Yes. The NorthPoint Network is
21 down at this point. It's our belief that it is
22 not technically feasible at that point to bring

1 the network back up and to get these customers
2 back up in service, so we do withdraw that piece
3 of our petition.

4 Additionally, NorthPoint has provided us
5 with a valid LOA, as well as a single point of
6 contact for any ongoing technical issues that we
7 may encounter.

8 There are outstanding, approximately,
9 150 circuit IDs that we are working with
10 NorthPoint on getting.

11 Mr. Epstein has made the commitment that
12 they will get those to us as soon as they can,
13 hopefully, within the next few hours.

14 Additionally, we would ask that the
15 Commission use this petition or use this petition
16 to encourage discussion among Commission Staff,
17 including the industry and SBC Ameritech, in
18 order to get a process in place to handle these
19 types of emergencies in the event that they may
20 happen again as well to encourage the day-to-day
21 normal CLEC to CLEC migration conversions.

22 We would also like to indicate that in

1 the event that we are unable to get valid circuit
2 IDs for our remaining customers from NorthPoint,
3 we will be making a request to get them from SBC
4 Ameritech.

5 JUDGE HILLIARD: Okay. What is your company
6 doing now to service its customers whose IDs that
7 have been obtained from NorthPoint?

8 MS. POMPONIO: We are in the process right now
9 of submitting orders to SBC Ameritech and I
10 understand that the ordering is going well and
11 we're receiving FOC dates back -- our first
12 conversion is actually scheduled to go on
13 April 12th. So our customers are down at this
14 point.

15 JUDGE HILLIARD: Okay. What does FOC mean?

16 MS. POMPONIO: A firm order commitment date,
17 the date on which the conversion will happen.

18 JUDGE HILLIARD: And do you have any
19 projection as to how long it will be before, at
20 least, the 90 percent of your customers whose
21 circuit IDs you do have will be back in service?

22 MS. POMPONIO: I don't have a prediction on

1 that. I do believe it will be sometime as we're,
2 you know, dealing with customers -- about 8700
3 customers nationally.

4 JUDGE HILLIARD: All right. For your Illinois
5 customers, you don't have any estimate either; is
6 that right?

7 MS. POMPONIO: That's correct.

8 JUDGE HILLIARD: Does this -- commencing on
9 the 12th of April, is this -- do you have any
10 indication of whether this is going to be a
11 matter of days or a matter of weeks; any
12 parameters at all?

13 MS. POMPONIO: I would believe it would be at
14 least a matter of weeks.

15 JUDGE HILLIARD: Oh, okay. And do these
16 people have any options other than waiting for
17 weeks to get new service?

18 MS. POMPONIO: XO really has a three-pronged
19 outlook to our customers being down and we're
20 working as quickly as we can to turn them back
21 up.

22 What we're trying to do is, those

1 customers that can technically feas - --
2 technically feasible to get on our own network,
3 we are converting them to our network. Where
4 it's not technically feasible, if we're not
5 collocated in a specific CO and there is another
6 DSL provider who is, such as Covad, we are
7 working to move those customers to another DSL
8 provider where --

9 JUDGE HILLIARD: Okay. Go ahead.

10 MS. POMPONIO: -- the last prong is, if it's
11 not technically feasible to get the customers
12 back up on DSL, we will be providing those
13 customers with 60 days of free dial up Internet
14 access.

15 Now, all of this does take a period of
16 time to process each of these orders and,
17 unfortunately, I can't give you a definitive time
18 line on that, but I do know that it will be
19 probably a matter of weeks, at least.

20 JUDGE HILLIARD: For each one of these
21 services to kick in?

22 MS. POMPONIO: That's correct.

1 JUDGE HILLIARD: Are the people in the third
2 category the ones that are going to be
3 reconnected through Ameritech?

4 MS. POMPONIO: No. They will not be
5 reconnected through Ameritech. I mean, it would
6 still be XO customers with -- well, we would
7 probably in that case, use an unbundled local
8 loop to get to them, but, you know, we will be
9 obtaining that as a UNE.

10 JUDGE HILLIARD: And the unbundled local loop
11 is through who?

12 MS. POMPONIO: We purchase that loop from
13 Ameritech, but it would then be considered an XO
14 facility.

15 JUDGE HILLIARD: All right. Some of your
16 customers, as I understand it, are hospitals and
17 other people that need this service.

18 MS. POMPONIO: That's correct.

19 JUDGE HILLIARD: What -- what's happening in
20 regard to those customers?

21 MS. POMPONIO: Customers that are in that type
22 of business where there are emergency

1 circumstances surrounding them are handled on a
2 priority basis and it's my understanding from an
3 industry call that SBC Ameritech was on, that
4 they will also handle those customers on an
5 emergency basis to try and get them up as quickly
6 as possible.

7 JUDGE HILLIARD: And what are the -- do you
8 have any idea what the time parameters are for
9 this emergency basis treatment?

10 MS. POMPONIO: Unfortunately I don't.

11 JUDGE HILLIARD: Does Ameritech have any
12 indication how long it will take?

13 MR. KERBER: I don't.

14 JUDGE HILLIARD: Is there some method maybe --
15 this is directed to anybody who knows the answer,
16 is there some method by -- if emergency
17 situations where these -- or these people who
18 need emergency services can get this on an ad hoc
19 basis by some dial in or dial up service or
20 something else?

21 I mean, what are these people doing in
22 the meantime if somebody's life is on the line or

1 something, what's going on? Does anybody know?

2 Chris, do you know?

3 MR. GRAVES: No, I don't know the answer to
4 that, but, you know, they -- there are some
5 services that they could use, you know, a dial-up
6 connection to make that connection but, you know,
7 for some brands of DSL, if they're using, you
8 know, if they're using heavy volumes of traffic,
9 probably the dial-up connection wouldn't be
10 sufficient to meet their needs.

11 JUDGE HILLIARD: Okay.

12 MR. GRAVES: But, you know, I was on that same
13 call that Ms. Pomponio talked about where
14 Ameritech committed to, you know, handling any of
15 those orders in an expedited manner.

16 MS. POMPONIO: Ameritech also stated on that
17 call that they were committed to a five-day
18 interval.

19 JUDGE HILLIARD: Five-day interval for what?

20 MS. POMPONIO: For turning the customers back
21 up.

22 JUDGE HILLIARD: All right. And was that

1 conference on March 30th?

2 MS. POMPONIO: I believe that's correct. It
3 was on a Friday at about 3:00 o'clock.

4 JUDGE HILLIARD: So those customers with a
5 five-day interval ought to be -- is that implied
6 that they out to be back up in service by now?

7 MS. POMPONIO: Well, we were not permitted to
8 submit orders until Monday -- late Monday
9 morning, April 2nd. I'm not -- I don't have
10 specifics as to when our first Ameritech orders
11 were actually submitted to the Ameritech SLC, but
12 I can tell you that our first FOC date, firm
13 order commitment date, is April 12th.

14 JUDGE HILLIARD: Who was it that made this
15 representation on behalf of Ameritech?

16 MS. POMPONIO: I believe her name was Kathy
17 Wilkenson (phonetic).

18 JUDGE HILLIARD: Mark, are you familiar with
19 this person?

20 MR. KERBER: I've heard the name. I'm not
21 sure exactly who she is.

22 MR. GRAVES: This is Chris Graves again. I've

1 spoken with Kathy Wilkenson, she's Ameritech's
2 person at the CLEC customer service center in
3 Wisconsin.

4 JUDGE HILLIARD: Okay.

5 MR. GRAVES: And as I understand it, the
6 five-day commitment is from when the order is
7 turned in and is validated and an FOC is sent out
8 and it's five business days, it's not five
9 calendar days.

10 JUDGE HILLIARD: All right. Is it five
11 days -- from what point, though, Chris? Is it
12 five days from the date on the FOC or five days
13 from the date that the thing is validated?

14 MR. GRAVES: Five days from when the FOC is
15 sent.

16 JUDGE HILLIARD: Okay. So that sounds like in
17 XO's case they've got a window of time from
18 April 12th to April 17th?

19 MR. KERBER: No. I think it's -- the date on
20 the FOC is the turn-up date, so if you issue a
21 FOC on, you know, let's say the first -- pick,
22 you know, days, the first of the month and it's a

1 five-day commitment, it's going to be the 8th.

2 JUDGE HILLIARD: Okay. All right.

3 Mr. Epstein, do you have anything you'd
4 like to say?

5 MR. EPSTEIN: No. Only that the remaining
6 NorthPoint employees are working extremely
7 diligently to help all of their former customer's
8 transition to the best of their ability and if
9 there's anything further that I can do to assist
10 in that process, please, Carol, don't hesitate to
11 contact me.

12 MS. POMPONIO: Thank you. I will.

13 And if I could just add that NorthPoint
14 has been very cooperative. I know it's a
15 difficult situation for them and we just have
16 these remaining IDs that we're looking for and
17 I'm confident that they will get them to us as
18 soon as they can.

19 JUDGE HILLIARD: Okay. I'm going to be
20 unavailable on the 12th and the 13th of next
21 week, but I think it's probably appropriate to
22 reconvene to see that this is proceeding a pace

1 as soon as we can. How about Monday at 11:00,
2 Monday the 16th at 11:00?

3 MS. POMPONIO: I actually, am unavailable
4 through early afternoon on Monday.

5 JUDGE HILLIARD: Want to make it on the 17th?

6 MS. POMPONIO: That would work for me.

7 JUDGE HILLIARD: All right. Is that all
8 right, Mr. Epstein?

9 MR. EPSTEIN: Yes. Monday the 17th, at what
10 time?

11 JUDGE HILLIARD: 10:00 a.m. central standard
12 time.

13 MR. EPSTEIN: Sure. And what I understand is
14 that if NorthPoint is able to provide the circuit
15 IDs before then, then there's really nothing
16 further to proceed with on the petition; is that
17 correct?

18 MS. POMPONIO: That's correct.

19 MR. EPSTEIN: Okay.

20 MS. POMPONIO: At least on XO's side.

21 JUDGE HILLIARD: The only other potential
22 avenue is Ms. Pomponio's suggestion that this be

1 used as a vehicle to come up with or initiate
2 some sort of a contact or procedure for this sort
3 of difficulty in the future and I guess that
4 wouldn't concern NorthPoint too much.

5 MR. EPSTEIN: Unfortunately, no.

6 MS. NAUGHTON: May I ask for a clarification.

7 JUDGE HILLIARD: Sure.

8 MS. NAUGHTON: You said Monday the 17th?

9 JUDGE HILLIARD: No. Tuesday, April 17th.

10 MR. KERBER: 10:00 a.m., right?

11 JUDGE HILLIARD: 10:00 a.m.

12 All right. I guess that's all for
13 today, thank you very much.

14 (Whereupon the hearing in the
15 above-entitled matter was
16 continued until April 17, 2001
17 at 10:00 a.m.)

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