

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION 8-12-00 Reporter CB

Illinois Independent Telephone Association)
)
Petition for initiation of an investigation of the)
necessity of and the establishment of a)
Universal Service Support Fund in)
accordance with Section 13-301(d) of)
The Public Utilities Act)
)
)
Illinois Commerce Commission)
On Its Own Motion)
)
Investigation into the necessity of and,)
if appropriate, the establishment of an universal)
support fund pursuant to Section 13-301(d))
of the Public Utilities Act.)

Docket No. 00-0233

Cons.

Docket No. 00-0335

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COMMUNICATIONS
DIVISION

TESTIMONY OF
CATHLEEN M. CONWAY
ON BEHALF OF
AT&T COMMUNICATIONS OF ILLINOIS, INC.

AT&T Exhibit 1.0

June 22, 2000

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ICC DOCKET NOS. 00-0233 and 00-0335 (Consol.)

1

2

3 Q. Please state your name and business address.

4 A. My name is Cathleen M. Conway. My business address is 222 West Adams St.,

5 Suite 1500, Chicago, IL 60606.

6

7 Q. **By whom are you employed and in what capacity?**

8 A. I am employed by AT&T as a District Manager - Government Affairs.

9

10 Q. **Describe your education and professional background.**

11 A. I received a B.A. degree in Mathematics from Benedictine College in Atchison,

12 Kansas. In December 1974, I began my telecommunications career in the

13 Network Operations Department of AT&T Long Lines in Omaha, Nebraska. My

14 responsibilities included the provisioning and maintenance of the switched and

15 special services network. In 1977, I joined the Regulatory Department of

16 Northwestern Bell Telephone Company (NWB), where I performed cost and rate

17 studies used in connection with private line, ENFIA and related services. In 1983,

18 I returned to AT&T, joining what became the Marketing Plans Implementation

19 organization of AT&T Communications in Omaha. In that position, I was

20 primarily responsible for analyzing Local Exchange Carrier ("LEC") access

21 filings within the five NWB states.

22

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1 In 1986, I accepted a position with the AT&T Communications staff organization
2 in New Jersey. My duties included the analysis of regulatory issues and the
3 development of positions related to AT&T's intrastate services.

4
5 In 1988, I joined AT&T Corp.'s External Affairs organization in Chicago, where
6 my job duties included contracting and liaison activities between AT&T and
7 several large independent telephone companies in AT&T's ten Central Region
8 states. In 1990, I assumed responsibility for the analysis and administration of
9 access-related issues and LEC regulatory issues affecting AT&T's intrastate
10 operations in several Central Region states, including Illinois. In January 1997, I
11 accepted the position of District Manager-Regulatory Matters.

12
13 **Q. Have you previously filed testimony before the Illinois Commerce**
14 **Commission ("ICC") or (the "Commission")?**

15
16 **A.** Yes. I have testified before the Commission in ICC Docket No. 93-0044 (MCI
17 and LDDS Complaint against Illinois Bell), ICC Docket No. 93-0409 (MFS
18 Application for an Amended Certificate), ICC Docket Nos. 93-0301/94-0041
19 (GTE North Rate Case), ICC Docket Nos. 94-0042 through 94-0046
20 (Investigation of Switched Access Local Transport Restructure Rates), ICC
21 Docket Nos. 94-0048, 94-0049, 94-0117 and 94-0146 (Rulemakings for
22 Presubscription and Line Side Interconnection, Ameritech Customers First Plan,
23 AT&T Petition), ICC Docket No. 94-0480 (Investigation into Physical
24 Collocation), ICC Docket Nos. 95-0458/95-0531 (Petition for Wholesale Service
25 Tariffs of Ameritech and Centel Companies), ICC Docket Nos. 95-0135/ 95-0179

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1 (Illinois Bell Reclassification of Bands B and C Usage/Increase to Business Band
2 C Rates), ICC Docket No. 96-AB-005 (AT&T/GTE North Arbitration), ICC
3 Docket No. 97-0621 (DEM Stipulation), Phase I of ICC Docket Nos. 97-0516/97-
4 0601/97-0602, ICC Docket No. 98-0321 (Gallatin River Acquisition Application),
5 ICC Docket No. 98-0866 (Bell Atlantic/GTE Merger), ICC Docket No. 99-
6 0038/99-0039 (Ameritech Access Refund Complaint), ICC Docket No. 98-0860
7 (Competitive Classification of Ameritech Services) and Phase II of ICC Docket
8 Nos. 97-0601/97-0602. I have also represented AT&T in a number of Illinois
9 workshop proceedings including those convened in ICC Docket No. 90-0425
10 (Access Charges), ICC Docket No. 92-0210 (Imputation Rulemaking), ICC
11 Docket No. 92-0211 (Cost of Service Methodology and Rulemaking) and ICC
12 Docket No. 92-0398 (Interconnection Rulemaking).

13

14 **Q. Have you testified before other state commissions?**

15 A. Yes. I testified before the Michigan Public Services Commission in Case No. U-
16 10647 (City Signal Complaint), Case No. U-10860 (Generic Interconnection
17 Investigation), Case No. U-11053 (ACI Application), Case Nos. U-11151/U-
18 11152 (Ameritech Arbitration), Case No. U-11165 (GTE North Arbitration), Case
19 No. U-11660 (AT&T Complaint Against Ameritech Access PICC Rates), Case
20 No. U-11831 (Ameritech Michigan TSLRIC review), Case No. U-11832 (GTE
21 North TSLRIC review), Case No. U-11899 (USF Investigation) and Case No. U-
22 12287 (AT&T Complaint Against Ameritech Access Rates). I have testified
23 before the Indiana Regulatory Utility Commission in Cause No. 39369 (Access

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1 Investigation), Cause No. 39385 (Special Access CSOs), Cause No. 40571-INT-
2 02 (GTE North Arbitration), Cause No. 40785 (Universal Service and Access
3 Charge Restructure Investigation) and Cause No. 41255 (Ameritech/SBC Merger
4 Application). I also testified before the Public Utilities Commission of Ohio in
5 Case Nos. 92-1525-TP-CSS/92-1149-TP-ALT (Western Reserve Alternative
6 Regulation), Case No. 96-832-TP-ARB (GTE North Arbitration), Case No. 96-
7 336-TP-CSS (Ameritech Access Service Rate Complaint), and Case No. 98-1398-
8 TP-AMT (Bell Atlantic/GTE Merger) and before the Public Service Commission
9 of Wisconsin in Docket Nos. 265-MA-102/2180-MA-100 (GTE Arbitration),
10 Docket No. 6050-TI-101 (Frontier Alt. Reg.), Docket No. 05-TI-174 (Price
11 Regulation Review), Docket Nos. 6720-TI-156/6720-TI-157 (PICC Complaint
12 against Ameritech Wisconsin), Docket Nos. 1910-T1-101/2050-T1-100/3070-T1-
13 100/6040-T1-100/5530-T1-100/4590-T1-100 (CenturyTel Company (6)
14 Alternative Regulation Applications) and Docket Nos. 2055-NC-100; 2055-TR-
15 100, et al. (CenturyTel Purchase of GTE Exchanges).

16
17 **Q. What is the purpose of the your testimony?**

18 A. The purpose of my testimony is to provide to the Commission AT&T's
19 recommendation for a competitively neutral funding mechanism for the interim
20 fund that is the subject of these consolidated dockets.

21
22 **Q. Will you be testifying as to AT&T's position regarding the "interim fund"**
23 **requested by the small independent ILECs?**
24

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1 A. No. On May 2, 2000, AT&T filed jointly with the Illinois Independent Telephone
2 Association ("IITA") and other parties a motion to conduct an investigation of the
3 necessity of establishing a state universal service fund in two phases. Attached to
4 that Motion as Exhibit A is a Stipulated Agreement signed by AT&T. As stated
5 in the Agreement, AT&T supports the Petition and believes that the Commission,
6 pursuant to the investigation criteria contained in 13-301(d) of the Illinois statute,
7 will be able to make a determination regarding the establishment of an interim
8 state universal service fund.

9

10 **Q. What competitively neutral funding mechanism does AT&T recommend the**
11 **Commission adopt?**

12
13 A. AT&T recommends funding for the appropriate carriers be based upon the
14 carriers' intrastate retail revenues. This method is consistent with that adopted by
15 the FCC in connection with the funding mechanism for the federal universal
16 service fund, and therefore consistent with the requirements of the federal
17 Telecommunications Act ("TA96").

18

19 **Q. Does AT&T recommend that the Commission utilize this method for the**
20 **purposes of the interim fund petitioned for by the IITA?**

21
22 A. Yes. Beyond this, the parties signing the stipulated agreement have also agreed
23 that the method adopted by the Commission in this proceeding will be the basis
24 by which the parties will true-up their contributions to the DEM Weighting Fund
25 for 1998 through current contributions.

26

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1 In the Stipulated Agreements adopted by the Commission in Docket Nos. 97-0621
2 and 98-0679, the parties agreed to a limited true-up of contributions to the DEM
3 Weighting Fund based upon an eventual determination of a competitively neutral
4 funding mechanism by the Commission. Per the Order adopting the initial
5 Stipulated Agreement, “[t]hose parties will have the opportunity to propose
6 intrastate universal service funding methodologies, which they believe to be
7 consistent with the federal Act and relevant FCC Orders.” (ICC Docket 97-0621,
8 Order approved July 8, 1998, page 8, emphasis added)

9
10 **Q. What does TA96 require concerning the funding of a universal service fund?**

11
12 **A.** Section 254(b) of TA96 states as follows:

13 UNIVERSAL SERVICE PRINCIPLES. – The Joint Board and the
14 Commission shall base policies for the preservation and
15 advancement of universal service on the following principles:

16 ...

17 (4) Equitable and Nondiscriminatory Contributions. – All
18 providers of telecommunications services should make an
19 equitable and nondiscriminatory contribution to the
20 preservation and advancement of universal service.

21 ...

22 (7) Additional Principles. – such other principles as the Joint
23 Board and the Commission determine are necessary and
24 appropriate for the protection of the public interest,
25 convenience, and are consistent with this Act.

26
27 Furthermore, Section 254(f) restricts State Authority as follows:

28 A State may adopt regulations not inconsistent with the
29 Commission’s rules to preserve and advance universal service.
30 Every telecommunications carrier that provides intrastate
31 telecommunications services shall contribute, on an equitable and
32 nondiscriminatory basis, in a manner determined by the State to
33 the preservation and advancement of universal service in that State.
34 A State may adopt regulations to provide for additional definitions

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1 and standards to preserve and advance universal service within that
2 State only to the extent that such regulations adopt additional
3 specific, predictable, and sufficient mechanisms to support such
4 definitions or standards that do not rely on or burden Federal
5 universal service support mechanisms.
6

7 **Q. How has the FCC interpreted the requirement contained in Section 254(b)(4)**
8 **of TA96?**

9
10 A. This principle has been interpreted by the FCC as follows:

11 Universal service support mechanisms and rules should be
12 competitively neutral. In this context, competitive neutrality means
13 that universal service support mechanisms and rules neither unfairly
14 advantage nor disadvantage one provider over another, and neither
15 unfairly favor nor disfavor one technology over another.
16

17 CC Docket No. 96-45, Report and Order rel. May 8, 1997, ¶47. The FCC adopted
18 the Joint Board's recommendation to assess contributions on retail revenues.

19 Specifically, the FCC stated:

20 We agree with the Joint Board's recommendation that we must
21 assess contributions in a manner that eliminates the double
22 payment problem, is competitively neutral and is easy to
23 administer. To address the Joint Board's concerns, we find that
24 contributions should be based on end-user telecommunications
25 revenues.
26

27 Id., ¶843. The FCC further rejected "commenters' suggestions that contributions
28 be calculated entirely on non-revenue-based measures, such as a per-minute of
29 use or per-line basis at this time." (Id., ¶852)

30
31
32 **Q. What does the Illinois Public Utilities Act require for funding a state**
33 **universal service fund?**

34
35 A. Section 13-301 of the Illinois Public Utilities Act mandates that the Commission

36 (1) require that all costs of the Fund be recovered from all local exchange and

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1 interexchange carriers certificated in Illinois on a competitively neutral and
2 nondiscriminatory basis; and (2) not permit universal service support cost
3 recovery from another certificated carrier for any service purchased and used
4 solely as an input to a service provided to such certificated carrier's retail
5 customers.

6
7 **Q. How has the current Illinois High Cost Funding ("IHCF") been assessed in**
8 **the past?**

9
10 A. The current IHCF is currently assessed on Illinois intrastate toll providers.
11 Because it is an expense incurred in connection with a provider's toll usage, it is
12 treated as an incremental cost of toll, and eventually recovered from toll
13 customers only. Thus, this mechanism has required only toll customers to fund
14 the maintenance of universal service in Illinois.

15
16 **Q. Would continuing this method of assessment for the interim state universal**
17 **service fund satisfy the criteria of TA96 and the Illinois statute?**

18
19 A. No. In addition to the inequity to end users discussed above, assessment based
20 upon toll usage is not competitively neutral because it advantages a provider that
21 provides little or no intrastate toll service, such as the ILECs included in the
22 stipulated agreement. As discussed above, the FCC specifically rejected such an
23 approach, despite the fact that previous subsidies were collected from toll
24 providers on a per minute-of-use basis. Furthermore, the Illinois statute requires
25 any Section 13-301(d) state universal service funds be recovered from all
26 interexchange carriers and local exchange carriers certificated by the

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1 Commission. By specifically including "local exchange carriers" as a group from
2 whom universal service funds should be recovered, the legislature clearly
3 intended that funding be assessed on more than just toll carriers.

4
5 **Q. The instant Stipulated Agreement states that all issues determined by the**
6 **Commission are available for revisiting in Phase II of this docket. Do you**
7 **believe the Commission need revisit this issue?**

8
9 A. If, after other factors are investigated, a state fund is eventually determined by the
10 Commission to be necessary, the Commission may want to consider a direct
11 assessment on all end user customers in Illinois. If not, and the Commission
12 adopts a competitively neutral funding mechanism like I recommend here, it may
13 not need to revisit this issue. If a mechanism is determined to be competitively
14 neutral now, it will still be competitively neutral in Phase II of this proceeding.

15
16 **Q. Do you wish to comment on a competitively neutral mechanism for recovery**
17 **of universal service fund obligations by providers?**

18
19 A. Each provider should be allowed to recover its obligations by passing them on to
20 its end users, similar to the way any other cost of doing business is passed on to
21 end users. However, the Commission should ensure that any method
22 implemented by a provider does not have an anti-competitive impact. I will
23 respond to specific suggestions in my rebuttal testimony, as appropriate.

24
25 **Q. Does this conclude your testimony?**

26 A. Yes, it does.

27

