

COPY

FILED

STATE OF INDIANA

MAR 11 2008

INDIANA UTILITY REGULATORY COMMISSION    INDIANA UTILITY  
REGULATORY COMMISSION

IN THE MATTER OF THE INVESTIGATION ON    )  
THE COMMISSION'S OWN MOTION, UNDER    )  
INDIANA CODE § 8-1-2-72, INTO ANY AND ALL    )  
MATTERS RELATING TO THE COMMISSION'S    )  
MIRRORING POLICY ARTICULATED IN CAUSE    )  
NO. 40785 AND THE EFFECT OF THE FCC'S MAG    )    CAUSE NO. 42144  
ORDER ON SUCH POLICY, ACCESS CHARGE    )    (Phase II)  
REFORM, UNIVERSAL SERVICE FUNDING    )  
MECHANISMS RELATIVE TO TELEPHONE AND    )  
TELECOMMUNICATIONS SERVICES WITHIN THE    )  
STATE OF INDIANA    )

**VERIFIED MOTION FOR CLARIFICATION OR WAIVER**

Cincinnati Bell Telephone Company ("CBT") hereby requests, pursuant to 170 IAC 1-1.1-12, a clarification or waiver concerning a requirement of the Phase II Settlement Agreement approved by the Indiana Utility Regulatory Commission ("Commission") in this Cause relating to Indiana Universal Service Fund ("IUSF") surcharges. In support of this request, CBT states:

1.     CBT provides interstate and intrastate retail telecommunications services to approximately 531,695 subscribers in a three-state area, including portions of Ohio, Kentucky and Indiana. As of December 31, 2007, CBT served just 5,519 access lines in Indiana, through its Harrison and Reily exchanges. CBT's principal business offices are located at 221 E. Fourth Street, Suite 103-1290, in Cincinnati, OH 45202

2.     In the Phase II Settlement Agreement entered into on December 5, 2002 and approved by the Commission by its Order dated March 17, 2004, the Settling Parties agreed that the IUSF would be funded via a mandatory contribution requirement imposed on all telecommunications carriers that provide intrastate retail telecommunications services in Indiana. It was further agreed by the Settling Parties that "such contribution assessment shall be passed through as a percentage surcharge to the end user customers of such telecommunications

carriers”.<sup>1</sup> CBT was not one of the Settling Parties, as that term is defined in the Phase II Settlement Agreement.

3. CBT’s existing billing system is unable to calculate and bill IUSF pass-through surcharges. Changes to that system solely to accommodate a pass-through surcharge for the IUSF would be inefficient and unduly burdensome. The necessary changes to the billing system would require substantial modifications, including but not limited to (a) modification of the “customer record” to “flag” certain universal service order codes (“USOCs”) and charges to apply the surcharge; (b) conversion of existing Indiana customer accounts in the customer record database in order to apply the appropriate surcharge settings; (c) modification of the billing “logic” to produce the USF line item charge based upon the calculation involving certain USOCs and other charges; (c) conversion of the rate table to add a setting to those USOCs that are to be used in the calculation of the IUSF surcharge; and (e) modification of the logic in order to calculate the USF charge on usage.

4. In the months of October, November and December 2007, CBT contributed to the IUSF \$938.51, \$918.15, \$895.76, respectively. CBT has received estimates from its information services and billing vendor of the cost to upgrade its system to enable it to bill and collect these amounts through a “pass-through” IUSF surcharge on its Indiana customers’ bills. Depending on the exact nature of the reconfiguration, the estimates range from \$141,000 and \$255,000. CBT believes that the actual cost of a workable reconfiguration is most likely to be at least \$190,000.

5. On June 7, 1995 the Commission issued its Order in Cause No. 39692 exempting CBT from the Commission’s jurisdiction pursuant to IND. CODE §8-1-2-88.5 (“CBT’s 1995 Deregulation Order”). A copy of CBT’s 1995 Deregulation Order is attached hereto as Exhibit A.

---

<sup>1</sup> Phase II Settlement Agreement at 10.

6. Even if the terms of the Phase II Settlement Agreement relative to the IUSF pass-through surcharge were applicable to CBT notwithstanding CBT's 1995 Deregulation Order, it is not in the public interest or efficient to require CBT to undertake a \$190,000.00 modification to its billing system to bill and collect IUSF surcharges from its Indiana customers of approximately just \$900.00 per month. Therefore, CBT requests the Commission to either clarify that, because of its 1995 deregulation, CBT is not required to bill and collect IUSF surcharges or, alternatively, to waive that requirement for CBT.

7. The names and addresses of CBT's counsel upon whom all correspondence, communications, pleadings, orders and other documents concerning this Petition should be sent and upon whom all documents filed or issued for this Cause should be sent are as follows:

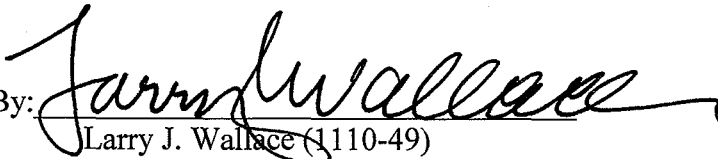
Larry J. Wallace  
Jeremy R. Comeau  
PARR RICHEY OBREMSKEY & MORTON  
201 N. Illinois Street, Suite 300  
Indianapolis, IN 46204  
Telephone: (317) 269-2500  
Facsimile: (317) 269-2514  
E-mail: lwallace@parrlaw.com

Christopher J. Wilson  
CINCINNATI BELL TELEPHONE COMPANY  
221 E. Fourth Street, Suite 103-1290  
Cincinnati, OH 45202  
Telephone: (513) 397-6351  
Facsimile: (513) 721-7358  
E-mail: christopher.wilson@cinbell.com

WHEREFORE, Cincinnati Bell Telephone Company respectfully requests the Commission to issue an order or docket entry clarifying that CBT is not subject to the

requirement of the Phase II Settlement Agreement to bill customers an IUSF surcharge, or  
waiving that requirement.

Respectfully submitted,

By: 

Larry J. Wallace (1110-49)

Jeremy R. Comeau (26310-53)

PARR RICHEY OBREMSKEY & MORTON

201 N. Illinois Street, Suite 300

Indianapolis, IN 46204-1904

Telephone: (317)269-2500

Facsimile: (317)269-2514

Christopher J. Wilson

CINCINNATI BELL TELEPHONE COMPANY

221 E. Fourth Street, Suite 103-1290

Cincinnati, OH 45202

Telephone: (513) 397-6351

Facsimile: (513) 721-7358

E-mail: christopher.wilson@cinbell.com

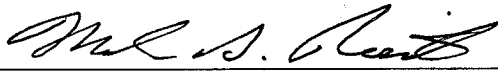
Attorneys for Cincinnati Bell Telephone Company

## VERIFICATION

I affirm under penalties of perjury that the foregoing representations are true to the best of my knowledge, information and belief.

CINCINNATI BELL TELEPHONE COMPANY

Dated: 3/7/08

  
Mark A. Romito, Director – Government Relations

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Verified Petition for Clarification or Waiver was served upon the following counsel by United States Mail, first class postage prepaid, on this 11 day of March, 2008.

Richard E. Aikman, Jr.  
Stewart & Irwin, P.C.  
Two Market Square, Suite 1100  
251 E. Ohio Street  
Indianapolis, IN 46204

Nikki G. Shoultz  
Bose McKinney & Evans  
2700 First Indiana Plaza  
135 N. Pennsylvania St.  
Indianapolis, IN 46204

Rick D. Doyle  
Law Office of Rick D. Doyle  
1905 Country Club Road  
Martinsville, IN 46151

Gilbert E. Snider  
Stark, Doninger, Smith  
50 S. Meridian Street, Suite 700  
Indianapolis, IN 46204

Robert K. Johnson  
P. O. Box 329  
Greenwood, IN 46143

Dale E. Sporleder  
Verizon  
One N. Capitol Avenue, Suite 515  
Indianapolis, IN 46204

William B. Powers  
Boberschmidt & Powers, P.A.  
Bank One Tower  
111 Monument Circle, Suite 4560  
Indianapolis, IN 46204

Clayton C. Miller  
Baker & Daniels  
300 N. Meridian Street, Suite 2700  
Indianapolis, IN 46204

A. Randall Vogelzang  
Verizon  
P. O. Box 152092  
Irving, TX 75038  
MS: HQEO2H37

Brian D. Robinson  
AT&T Indiana  
240 N. Meridian Street, Room 1830  
Indianapolis, IN 46204

Thomas J. Moorman  
Kraskin, Lesse & Cosson, LLC  
2120 "L" Street, N.W., Suite 520  
Washington, D.C. 20037

Karol H. Krohn  
Assistant Consumer Counselor  
Indiana Office of Utility Consumer Counselor  
115 W. Washington St., 1500 South  
Indianapolis, IN 46204

Michael B. Cracraft  
Hackman Hulett & Cracraft, LLP  
One Indiana Square, Suite 2400  
Indianapolis, IN 46204-2030

Anne E. Hoskins  
Verizon Wireless  
1300 Eye Street NW, Suite 400 West  
Washington, DC 20005

Alan M. Hux  
Kortepeter McPherson Hux Freihofer &  
Minton  
320 N. Meridian Street, Suite 500  
Indianapolis, IN 46204

Christopher M. York  
Bingham McHale LLP  
2700 Market Tower  
10 W. Market Street  
Indianapolis, IN 46204-4900


Pamela H. Sherwood  
Time Warner Telecom  
4625 W. 86<sup>th</sup> Street, Suite 500  
Indianapolis, IN 46268

Brian Kickey  
Solix Inc.  
100 S. Jefferson Road  
Whippany, NJ 07981

Michael A. Mullett  
Mullett & Associates  
309 W. Washington Street, Suite 233  
Indianapolis, IN 46204-2721

Martin C. Rothfelder  
Rothfelder Stern LLC  
625 Central Ave.  
Westfield, NJ 07090

Teresa E. Morton  
Barnes & Thornburg  
11 S. Meridian Street  
Indianapolis, IN 46204

  
Jeremy R. Comeau

PARR RICHEY OBREMSKEY & MORTON  
201 N. Illinois Street, Suite 300  
Indianapolis, IN 46204  
Telephone: (317) 269-2500  
Facsimile: (317) 269-2514  
lwallace@parrlaw.com

253916v2