

WITNESS INDEX

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

WITNESSES

DIRECT CROSS REDIRECT RECROSS

(None.)

P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE MICHAEL C. SCHNIERLE: Let's
3 go on the record. This is the time and place set for a
4 further prehearing conference in the matter of Petition of
5 XO Pennsylvania, Incorporated. The docket number is
6 A-310758, Folder 7000.

7 My name is Michael Schnierle. I am the
8 Administrative Law Judge assigned for this case.

9 I note the appearances of Debra M. Kriete for XO
10 Pennsylvania, Incorporated, and Anthony E. Gay for Verizon
11 Pennsylvania.

12 To recap this thing, XO had opted into -- you can
13 correct me if I am wrong. XO had opted into the MCI
14 Interconnection Agreement. This is about the Reciprocal
15 Comp provision, Reciprocal Compensation provision, vis-a-vis
16 the effect of the FCC's ISP Remand Order.

17 At the last prehearing conference, we were waiting
18 for further news from one of the tribunals.

19 At this point, the news that I am aware of is that
20 the Commission denied WorldCom's Petition for
21 Reconsideration on this issue of whether or not the DC
22 Circuit Court of Appeals' Order, essentially, overturns the
23 ISP Remand Order.

24 To my knowledge, since then, WorldCom has appealed
25 the Commission's Order to Commonwealth Court. My

1 understanding is that that happened on September 24 of '02.

2 I will tell you at this point, Ms. Kriete, I have to
3 say that I don't think that I could rule other than the
4 Commission has in the WorldCom case, given the fact that the
5 provisions are identical.

6 MS. KRIETE: We understand, Your Honor. Also, the DC
7 Circuit Court of Appeals -- just to be fair in terms of
8 developing the record, the DC Circuit Court of Appeals did
9 deny a rehearing, because that matter is also pending.

10 JUDGE SCHNIERLE: Okay.

11 MS. KRIETE: I don't have the date in front of me,
12 but that also subsequently occurred.

13 We are interested in obtaining a ruling as
14 expeditiously as possible from this Commission, so that we
15 can pursue whatever recourse we may have available at the
16 appellate level.

17 We are not interested in wasting the Commission's
18 resources. So, what we were prepared to suggest is to issue
19 a decision as quickly as possible, so that we could move
20 this thing forward to the next step.

21 JUDGE SCHNIERLE: Mr. Gay?

22 MR. GAY: Your Honor, I think Ms. Kriete has, you
23 know, accurately stated the record, you know, that the
24 WorldCom Petition for Reconsideration was denied. And, as
25 Ms. Kriete stated, in the DC Circuit on September 24 and 25,

1 the Petitions for Rehearing of various Intervenors and
2 Petitioners were denied.

3 You know, in our opinion, as you stated, the law
4 before our Commission is pretty clear.

5 I think one issue that was hanging out there -- and
6 this is a separate issue, but it was brought up in this case
7 -- was whether there were any late payments that needed to
8 be resolved. I believe that we have resolved all of those
9 issues.

10 MS. KRIETE: Yes. I was going to address that next.
11 That issue has been resolved, so we wanted to also report
12 that and mention that on the record as well.

13 As I stated, we are not interested in wasting the
14 Commission's resources or Your Honor's resources. We just
15 need to get this matter in a position where we can get a
16 Final Order out of the Commission, so we can move to the
17 next step.

18 JUDGE SCHNIERLE: Let's go off the record for a
19 minute.

20 (Discussion off the record.)

21 JUDGE SCHNIERLE: Let's go back on the record.

22 The parties are going to get back to me in a week or
23 so if they can enter into a stipulation regarding,
24 essentially, the state of the record and the legal
25 ramifications of the most recent Denials of Rehearing and

1 Reconsideration.

2 If they can, they will have additional time to
3 prepare that.

4 If they cannot, I would at least ask the parties --
5 you know, it can be done by letter or something like that --
6 to confirm that, particularly the Petition for Rehearing at
7 the DC Circuit -- you know, acknowledge that those two cases
8 have been decided, so that, you know, it is clear that you
9 are aware that I am taking that into account in whatever
10 decision I make.

11 Is that doable?

12 MS. KRIETE: Yes, Your Honor.

13 MR. GAY: Yes, Your Honor.

14 JUDGE SCHNIERLE: All right. So, I will wait a week.
15 By that time, I will expect that either I will hear that you
16 are going to submit a stipulation or that you will be
17 sending me a letter saying that, you know, these other two
18 cases have been since decided and that, based on that and
19 the record as it stands, I can issue a decision.

20 Is that all right?

21 MS. KRIETE: Yes, Your Honor.

22 JUDGE SCHNIERLE: Mr. Gay?

23 MR. GAY: Yes, Your Honor.

24 JUDGE SCHNIERLE: Okay. Is there anything more we
25 need to talk about this morning, Ms. Kriete?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. KRIETE: No, Your Honor.

JUDGE SCHNIERLE: Mr. Gay?

MR. GAY: No, Your Honor.

JUDGE SCHNIERLE: All right. In that case, the prehearing conference is adjourned. Thank you both very much, and have a good day.

(Whereupon, at 10:12 a.m., the prehearing conference was concluded.)

C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

COMMONWEALTH REPORTING COMPANY, INC.

By: Monta E. Gentile
Monta E. Gentile

RECEIVED
02 OCT 31 PM 1:37
MASS. U. C.
SECRETARY'S BUREAU

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25