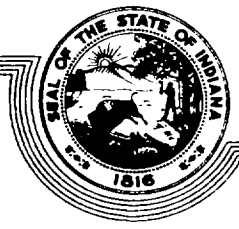
STATE of INDIANA



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COMPLAINT OF TIME WARNER TELECOM AGAINST AMERITECH INDIANA REGARDING ITS UNLAWFUL MARKET PRACTICE OF ISSUING EQUIPMENT VOUCHERS IN VIOLATION OF THE INDIANA CODE AND OPPORTUNITY INDIANA II AND PETITION FOR EMERGENCY SUSPENSION OF ANY AND ALL AMERITECH INDIANA EQUIPMENT VOUCHER MARKETING PRACTICES PENDING COMMISSION INVESTIGATION	)	**CAUSE NO. 42236**
RESPONDENT: INDIANA BELL TELEPHONE COMPANY, INCORPORATED D/B/A AMERITECH INDIANA	)	

FILED

APR 1 5 2003

INDIANA UTILITY
REGULATORY COMMISSION

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") makes the following entry in this Cause:

On April 3, 2003, Time Warner Telecom of Indiana, L.P. ("TWTC"), pursuant to 170 IAC 1-1.1-4, filed its *Motion for Confidential Treatment of Confidential Portions of Kevin Killworth's Deposition Transcript* ("Motion"). The Motion seeks a confidentiality determination as to certain portions of a deposition transcript that TWTC plans to submit as evidence in this Cause. Accompanying the Motion was the *Sworn Statement of Pamela H. Sherwood* ("Sworn Statement"). The deposition that is the subject of the Motion was taken in this Cause on October 2, 2002.

The Motion states that TWTC has already filed a redacted version of Kevin Killworth's deposition transcript as part of its prefiled testimony in this Cause. A redacted version has been filed insofar as the Respondent in this proceeding, Indiana Bell Telephone Company, Incorporated ("Ameritech Indiana"), considers the redacted portions to be confidential. The Motion and/or Sworn Statement assert that Ameritech Indiana considers the redacted portions of the deposition transcript to be confidential because they contain information relating to the negotiated pricing of various elements of The Care Group's contract with Ameritech Indiana, thereby qualifying the redacted portions as trade secrets of Ameritech Indiana and exempt from public disclosure pursuant to Indiana Code 24-2-3 and 5-14-3.

The redacted portions are found in the deposition transcript of Kevin Killworth on page 24 in lines 18 and 19; page 25 in lines 12, 13, and 24; page 26 in line 3; page 30 in line 9; page

37 in line 16; and page 46 in lines 9, 11, and 12. Attached to this Docket Entry is a copy of the pages of Kevin Killworth's deposition transcript filed in this Cause that have redactions thereto. These attached pages show, specifically, the redacted portions of the deposition transcript claimed as confidential.

Having considered TWTC's Motion and Sworn Statement, the Presiding Officers find there is a sufficient basis for a preliminary confidentiality determination as to the redacted portions of Kevin Killworth's deposition transcript. Accordingly, TWTC shall hand deliver to the Presiding Administrative Law Judge, in a sealed envelope that is clearly marked confidential and with the Cause Number noted thereon, an unredacted copy of Kevin Killworth's deposition transcript. The portions of Kevin Killworth's deposition transcript that have been redacted, as indicated in the attachment to this Docket Entry, shall be maintained as confidential.

IT IS SO ORDERED.

Judith G. Ripley

Judith G. Ripley, Commissioner

William G. Divine

William G. Divine, Administrative Law Judge

Date: 4/15/03

Nancy E. Manley

Nancy E. Manley, Secretary to the Commission

1 Q Was the equipment piece of the proposal quoted
2 to you separate from the --
3 A Yes.
4 Q -- service club?
5 A For Time Warner, yes.
6 Q Do you recall offhand what that piece of it was?
7 A The equipment portion?
8 Q Yes.
9 A Around about a quart- -- well, between 200-,
10 $250,000, give or take.
11 Q Okay. Now I'd like to move to a discussion of
12 the history of your relationship with Ameritech
13 and just kind of walk you through the same kinds
14 of issues. How did you first become acquainted
15 with or get into contact with folks at Ameritech
16 relative to your offer?
17 A They were already a service provider for the
18 Care Group. They already had circuits, voice
19 and data. I already had an account rep with
20 Ameritech, so we basically called our account
21 rep and said here's what we plan on doing.
22 Q And you initiated the contact?
23 A No, I think I probably had one of my guys
24 initiate that contact.
25 Q Do you know who within the Ameritech

1 organization, you or someone in your
2 organization talked with?
3 A Yeah, Leah Georgiani.
4 Q Can you spell the first and last name?
5 A No.
6 Q It's Leah?
7 A Well, L-E-A-H. I would have to pull her card to
8 spell her last name.
9 Q Can you say it one more time for me?
10 MR. WALTERS: G-E-O-R-G-I-A-N-I, Georgiani.
11 Q And do you remember roughly about the time
12 that --
13 A Same time frames that I was talking with Time
14 Warner.
15 Q So talks started and ended in roughly the same
16 time frame?
17 A Same time.
18 Q And like the Time Warner situation you
19 described, where the offer was somewhat -- or
20 the proposal was fluid as facts came into
21 light --
22 A Same thing.
23 Q -- same thing happened here?
24 A Same thing.
25 Q Now, under Ameritech's -- what I'd like to talk

1 about now is the same kind of context we talked
2 with you about before in terms of Time Warner.
3 I'd like to talk to you about the final
4 proposal, if you will, that was before you maybe
5 in the May 9th time frame from Ameritech and
6 actually talk about -- when I ask you this line
7 of questions, the proposal that you ended up
8 accepting and that you're operating under today.
9 Under that proposal, from whom was the Care
10 Group supposed to be getting its equipment?
11 A Ameritech.
12 Q And their proposal, did it have components -- a
13 component for the equipment and a component for
14 the network services in dollar amounts?
15 A Yes.
16 Q And do you recall what the figure was for the
17 equipment piece?
18 A About the same as [redacted] was at, around
19 [redacted]
20 Q And what was their proposal for the network
21 services piece?
22 A It was -- it's in pieces.
23 MS. EARLS: And do we have people in here
24 from Time Warner who are marketing people?
25 MS. SHOULTZ: Yes.

1 MS. EARLS: That number I think is
2 confidential. We've been treating it
3 confidential, so I would ask that whoever is in
4 here from marketing leave while you ask those
5 questions.
6 MS. SHOULTZ: If you want to step out.
7 A I mean, I'll try to do this off the top of my
8 head. I mean, there's -- everybody's was priced
9 in pieces. You had equipment. You had what we
10 call the DS1s or my regional circuits, and then
11 you had the sonet ring. So the sonet ring
12 pricing, if I remember right, was around [redacted]
13 a month, maybe [redacted] somewhere in there. I
14 wouldn't know unless I pulled the papers back
15 out. But then there was a DS1 pricing and then
16 there's equipment pricing.
17 Q Maybe it would help to talk about it more in the
18 aggregate like we had talked about before. You
19 mentioned when you had to make the presentation
20 to the board.
21 A The original proposal -- I mean to cut to the
22 chase, the original proposal between Time Warner
23 and Ameritech in total were about the same. I
24 don't think they were more than [redacted] a month
25 apart in price. Different components, though.

1 The sonet ring was cheaper from Time Warner, but
2 the DS1 circuits were cheaper from Ameritech,
3 and the equipment [redacted]
4 Q And at some point, then, after you made the
5 phone call on May 9th to Time Warner Telecom --
6 MS. SHOULTZ: Let's go off the record for a
7 second.
8 (A discussion was held off the record.)
9 Q At some point after the May 9th date when you
10 called Time Warner and said we're going to go
11 with your proposal, that changed and you decided
12 to go with the Ameritech proposal; is that
13 correct?
14 A Yes.
15 Q Do you remember when that happened?
16 A What day was the 9th? Was that a Friday or a
17 Monday?
18 Q I believe it was a Monday, but I could check.
19 A I think it was a Monday.
20 Q Actually I show it was a Thursday. And let me
21 back up and correct one of my earlier questions.
22 Would you have any reason to doubt that the date
23 when you called Time Warner to accept their
24 proposal was Friday, May 3rd?
25 A No.

1 Q Your first phone call to them.
2 A No, I wouldn't have -- no. That actually, my
3 mind tells me that it was a Friday that I did it
4 because if I remember right, doing it on a
5 Friday, well, at least I got the weekend before
6 everybody that didn't get the deal calls back on
7 Monday. That's why Friday sticks in my head.
8 Q So you made the call to Time Warner Telecom
9 initially on a Friday, and then do you recall,
10 what happened to change your decision?
11 A Every -- well, what I'm saying, typical in this
12 industry, every vendor who was not selected
13 basically got on the phone and asked for an
14 opportunity to work their numbers, change,
15 address whatever concerns I had that -- for
16 whatever reasons I did not choose them.
17 Ameritech made that phone call and made some
18 changes in their overall structure of that deal
19 which were too good to walk away from.
20 Q When did Ameritech make that phone call?
21 A I had spoke with Ameritech I think on Friday,
22 that Friday when they were told that I was
23 probably going to go with Time Warner. And
24 there were phone calls the following week. Now,
25 I can't -- I couldn't tell you if I had one

1 phone call on Monday, none on Monday, two on
2 Wednesday or how -- where all those came in, but
3 it was within the next four or five days after
4 that, and there were several phone calls.
5 Q During that time frame, did you meet with
6 anybody from Ameritech?
7 A Yes.
8 Q Who did you meet with?
9 A I met with Bob, Leah, Brian somebody, and I
10 can't --
11 MR. WALTERS: Mike.
12 A And Mike.
13 Q If you know, just of your own recollection, the
14 last names, Bob -- is it Walters?
15 A Bob Walters, Leah Georgiani, Brian -- I can't
16 remember Brian's last name.
17 Q And do you know Mike's last name?
18 A Not off the top of my head.
19 Q That's fine. What were their positions?
20 A I'm not sure what Brian's position was. I think
21 Mike is the president of Ameritech.
22 Q And Mr. Walters?
23 A I think he's director of sales for the
24 healthcare, Indiana. And Leah is my account
25 manager.

1 Q And were these meetings separate meetings with
2 certain people or were these meetings --
3 A No, one meeting with all of us together.
4 Q Do you know when that happened?
5 A I think it was Friday the 10th.
6 Q And after your phone conversation with Time
7 Warner Telecom on Friday the 3rd, do you recall
8 instructing or during the conversation do you
9 recall instructing Time Warner Telecom to send
10 the contracts over for you?
11 A Send contracts for me to review.
12 Q Did you receive those?
13 A No.
14 Q Do you remember when you called Time Warner
15 Telecom back and said, I've changed my mind?
16 A Well, I'm basing this all off the 3rd date. It
17 would have been the 13th, I think the following
18 Monday after the 10th. 13th.
19 Q So it's your testimony, then, just to be clear,
20 that from the 3rd until the 13th, Time Warner
21 Telecom was under the belief that you were
22 accepting its proposal?
23 A Yes. In lieu of review of contracts, which I
24 had -- as of the 10th, I did not have contracts
25 yet. As of the 13th I did not have contracts,

so --
Q What was it about the revised Ameritech offer, I think to use your words, you just said it was too good to walk away from?
MS. EARLS: And again, if what you're going to talk about is price, I would ask that the gentleman from Time Warner leave the room.
A Ameritech had offered me a credit voucher in the amount of about [redacted]
Q How did this offer get conveyed to you?
A It was conveyed verbally and then in writing.
Q Who conveyed it to you verbally?
A I think Bob Walters did.
Q And when did that verbal communication take place?
A That would have been -- I can't say for sure. It would have been like the 8th or the 9th verbally, and I had it in writing I believe on the 10th.
Q The verbal communication with Mr. Walters on the 8th or the 9th, was that in a face-to-face meeting or over the phone?
A Telephone.
Q And can you explain to me what your understanding of this voucher was going to be?

A They were working on something that would be beneficial to the Care Group, but they had some work to do to see if they could provide it. And it had some -- I don't know exactly if I knew what it was going to be. I had some idea they were working on something. And they were at least -- they were convincing me that it was worth having a meeting to sit down when they came back in as to what that would be.
Q Did they mention a dollar figure?
A I don't think they mentioned a specific dollar figure on the phone. I think they mentioned -- I don't think they did. I mean, it's possible, but I think it was more in lieu of saying we might be able to help relieve some of my capital expenditure, which in my mind, I'm sitting there thinking about all the equipment that I need to buy, okay. That's a capital expenditure, not a monthly recurring cost as network services.
Q Was there any -- during that conversation, any discussion of a range of money that might be on the table, or was it just your --
A No. I don't think there was any range that was -- I don't remember any specific range. I didn't know what a number would be. When they

had that, I mean, I had some idea what might be in my mind, but until I got the document on the 10th, I mean, I didn't have it.
Q And did you receive the document, then, on the 10th at the meeting that you discussed earlier --
A Uh-huh.
Q -- with the four Ameritech folks?
A Yes.
Q And then describe for me your understanding of what that voucher was going to be when you actually saw it in writing.
A It was a voucher that I could use for credit for equipment or net -- I'm not even sure I'm going to use the right word. I call it managed services, I think they call it monitoring, where they basically -- it's a service they provide to watch my routers and 24-by-7 support on those routers. And if they go down, they dispatch a technician or whatever, an additional service that I would buy, which was quoted by each of the providers. In Time Warner's case, Broadwing had quoted it. With theirs, I had lump -- Broadwing had quoted that service which they offer, which Time Warner doesn't offer.

Q Under the Ameritech proposal, I think you stated earlier it was your belief that Ameritech was going to be the actual entity that provided you with the equipment.
A Uh-huh.
Q Is that, in fact, what happened?
A Yes.
Q Do you know whether there were any other vendors involved?
A There were no other vendors involved in the purchase of the equipment. In the proposal stage, there was a reseller who was quoting equipment with Ameritech service as well, of which I did not choose that particular -- I didn't want to buy my Ameritech services through a reseller.
Q And who was that reseller?
A VanAusdall & Farrar.
Q So to your knowledge they were not a part of the ultimate equipment purchase?
A No, I bought -- no. I bought no equipment from them.
Q So was this equipment voucher that was presented to you on the 10th the reason, then, that you ended up changing your mind and going with

1 Ameritech?
2 A Yes.
3 Q And I think you mentioned sometime subsequent to
4 that meeting, then, you called Time Warner
5 Telecom back, you think it was on the 13th, to
6 let them know you changed your mind?
7 A Yes.
8 Q Do you know who you talked with that day?
9 A Yes. I've just drawn a blank on his name.
10 David Mills.
11 Q And at that time or at any time after that, did
12 Time Warner Telecom ask you, could we have
13 another shot or is there something else that we
14 can do to try to win your business?
15 A I mean, we talked a couple of times, you know,
16 in or around the day or two that all this
17 happened. I mean, it's not the biggest deal in
18 the world, but it was large enough that I think
19 everybody wanted to make sure that there was
20 nothing left out there on the table. We talked
21 a couple of times, but there was no real strong
22 conversation to, you know, hey, is there -- we
23 can come in and we'll beat that or -- I mean, it
24 was more about -- I think the conversation was
25 more about are you sure, are you sure you want

1 to work with Ameritech on this.
2 Q Do you recall a phone conversation either with
3 Mr. Mills or with Steve Jacob where Time Warner
4 Telecom asked you, would it be possible for you
5 to still get the equipment voucher from
6 Ameritech but use us for the network service?
7 A I don't know if -- that could have very well
8 been in the conversation. I don't know that I
9 specifically remember having that with David or
10 anyone, but that could have very well come up in
11 a conversation. There were a bunch of
12 conversations going around in those few days.
13 Q What about that proposition? Was that a
14 possibility?
15 A I didn't -- I said no. If something like that
16 would have come up, I would say no. I wouldn't
17 do that. I was looking -- and I think I was
18 fair with everybody up front, I said, I want to
19 do this with one -- I'm not going to split this
20 [illegible] I didn't want to buy, you know,
21 [illegible] have cherry picked the whole --
22 everything and said I want this circuit from
23 this vendor and this circuit from this vendor
24 and this from a this vendor and got to a lower
25 price, but I also knew that my service would be

1 worse in trying to do that.
2 I wanted to buy from what I felt like was
3 one -- or as best as I could, one area, although
4 knowing that not every vendor offers all the
5 same services. So I tried to keep it simple.
6 So in my mind, it would have been no, who I'm
7 going with is who I'm going with when I went
8 down this proposal.
9 Q Did you ever ask Ameritech if that would be a
10 possibility?
11 A No.
12 Q And I think you mentioned before, when the Time
13 Warner Telecom proposal was given to you,
14 Broadwing was going to be the equipment vendor.
15 A Yes.
16 Q Was there any -- to your knowledge, was there
17 any business affiliation between Time Warner
18 Telecom and Broadwing?
19 A Not that I know of. I mean, Broadwing got the
20 same phone conversation that Time Warner got
21 because, you know, I used to work with those
22 guys, they're friends of mine, they lost a lot
23 of money not getting that deal as well, okay.
24 So that same time I called David, I'm also
25 calling Broadwing and saying I'm going with

1 Ameritech and buying the equipment from them.
2 Q Just trying to clean up some details on what
3 you've talked to us about so far before we go
4 on, when you talked about the -- how you were
5 able to sort of get to a monthly amount that you
6 presented to the board and the overall cost,
7 when you amortized your capital cost for the
8 equipment, did you amortize that over a
9 five-year period in order to get to --
10 A Uh-huh.
11 Q -- your figure?
12 A I think I did. Either three or five.
13 Q And I think you said that both the Ameritech and
14 Time Warner Telecom equipment quotes were -- or
15 I'm sorry, the Broadwing quote and the Ameritech
16 quotes were roughly [redacted] Do you know
17 whether the iQuest quote was in that ballpark?
18 A IQuest was a little less. They were using a
19 little bit different gear, that I didn't --
20 which was -- I mean, I didn't want to use that
21 type of equipment.
22 Q Tell us how this equipment voucher, now that it
23 is up and running and is in use, how is it
24 working for you?
25 A It's fine. I actually used it for the network

1 DS1s, and in that they bundle services together,
2 which part of that, in using the two PRIs,
3 lowered my cost on DS1s in this package.
4 So free, not really free, I've got a line
5 item for them, but it's just like anything, if
6 you step up and buy the next size up, it
7 actually in the end washes out and you get
8 better service. To me, the value to me is I'm
9 spending [redacted] a month on Centrex lines. I can
10 now replace those for -- with these PRIs for --
11 which cost me roughly around [redacted] so I net out
12 [redacted] a month by doing that, but it's part of the
13 package.
14 Q During the time that you met with the Ameritech
15 folks, did they discuss with you, first of all,
16 that they had a healthcare team?
17 A Yes.
18 Q And was it your understanding that the folks you
19 met with, the four people that you mentioned,
20 were they all members of the healthcare team?
21 A No. Bob is a member of the healthcare team and
22 Leah is, but other than that, I don't know that
23 anybody is in that healthcare team specifically,
24 just those two that I know were in the team.
25 Q Are those the only two folks that you've talked

1 with that you know of that are in the healthcare
2 team?
3 A I've spoken with one other person on a
4 nonrelated issue, but I don't even remember her
5 name.
6 Q At one point or another, did someone from the
7 Ameritech healthcare team indicate to you that
8 there would be funds available to support
9 infrastructure development for healthcare
10 organizations that might make this equipment
11 voucher work?
12 A Yeah, that -- yeah, that could have been in the
13 conversation. I don't know. It's hard for me
14 to pinpoint, you know, all those conversations.
15 There had been -- there had been some -- I
16 think, some -- and I don't know, I'm not the
17 right person to ask, but yeah, there was some
18 conversation about some funds for upgrading
19 healthcare, yes.
20 Q Just if you can recall, what did you take away
21 from those? What did you understand that to
22 mean?
23 A Nothing. I didn't take anything away from it
24 other than the fact that I'm very centrally
25 focused on, A, I have a problem I need to take

1 care of, I'm trying to find a solution. I
2 didn't take anything away from it other than I
3 let Time Warner Broadwing do whatever they
4 needed to do to get to their best price. I let
5 Ameritech do whatever they needed to do to get
6 to their best price. I don't -- I didn't take
7 anything away other than that. My comment would
8 have been, okay, whatever you guys feel you can
9 do to earn my business is fine.
10 Q And do you know whether -- have you ever had any
11 talks or conversations with anybody at Ameritech
12 about the infrastructure support to The Heart
13 Hospital?
14 A No. I don't have any decision-making in that.
15 I mean, I think a couple conversations may have
16 occurred with, hey, have they made a decision or
17 choice, which I think the answer is no. But no,
18 I don't -- I don't make those calls for the
19 hospital.
20 MS. SHOULTZ: Thank you. I have no further
21 questions.
22
23 CROSS-EXAMINATION,
24 QUESTIONS BY MR. DAVID AGNEW:
25 Q I just want to kind of clarify. These credits

1 that we're talking about here, what exactly were
2 they permitted to go towards? I mean, I'm not
3 sure I understand if it goes towards the
4 equipment itself, maintenance of the equipment,
5 or service, or what are we --
6 A The equipment itself, the monitoring of the
7 equipment, and the maintenance contract -- or
8 I'm going to call it that, of the equipment,
9 okay. In other words, if I buy it from Cisco --
10 I mean, the hardest part for me, the easiest way
11 to explain it, just like if I buy, you know,
12 going anywhere, I buy that router and I pay a
13 fee to Cisco and they say they'll replace it for
14 free for the next three years as long as I buy
15 this, okay. With -- Ameritech does not use or
16 did not resell the Cisco piece for that, they
17 have a separate function inside of Ameritech.
18 It could go for that piece, the monitoring of my
19 network, or the equipment itself.
20 Q And were you actually given a piece of paper, an
21 actual document that was a credit?
22 A I was given a piece of paper with a -- that had
23 the dollar figures on it, yes.
24 Q And that was obtained from whom?
25 A Ameritech, Bob Walters.